

**U.S. \$65,000,000,000 Euro Medium-Term Note Program**

This Offering Circular, which replaces the Offering Circular dated July 22, 2009, describes the Euro Medium-Term Note Program (the “**Program**”) operated by Bank of America Corporation (the “**Issuer**”) and the notes issued under the Program after the date of this Offering Circular (the “**Notes**”).

Under the Program, the Issuer periodically may issue Notes denominated in any currency (subject to compliance with all applicable legal and regulatory requirements relating to such currency) and having terms as may be agreed upon between the Issuer and the relevant Dealers (as defined below). The Issuer will disclose any additional terms and conditions of the Notes in a supplement (the “**Final Terms**”) to this Offering Circular. The Final Terms in respect of the Notes to be admitted to the official list of the UK Listing Authority (as defined below) (the “**Official List**”) and to be admitted to trading on the Regulated Market of the London Stock Exchange plc (the “**London Stock Exchange**”) will be delivered to the Financial Services Authority in its capacity as competent authority under the Financial Services and Markets Act 2000 (the “**FSMA**”) (the “**UK Listing Authority**”) and the London Stock Exchange on or before the issue date of the Notes. The Issuer may agree with any Dealer that Notes may be issued in a form not contemplated by the Terms and Conditions (as defined herein) of the Notes, in which case a supplementary Offering Circular, if appropriate, will be made available, which will describe the effect of the agreement reached in relation to such Notes.

The maximum principal amount of Notes that may be outstanding at any one time under the Program will not exceed U.S. \$65,000,000,000, provided that the Issuer reserves the right to increase this amount. The Program provides that Notes may be listed or, as the case may be, admitted to trading on such other or further stock exchange(s) or market(s) as may be agreed between the Issuer and the relevant Dealers. The Issuer also may issue unlisted Notes that are not admitted to trading on any market.

The Notes are unsecured and may be senior notes (“**Senior Notes**”) or subordinated notes (“**Subordinated Notes**”). The Senior Notes will rank equally with all other unsubordinated and unsecured indebtedness of the Issuer. The Subordinated Notes will be subordinated and junior in right of payment to all Senior Indebtedness (as defined herein) of the Issuer (including the Senior Notes).

The Notes will be issued on a continuing basis to one or more of the Dealers listed below and any additional Dealer appointed under the Program from time to time (each, a “**Dealer**” and together, the “**Dealers**”).

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 the Notes to be admitted to trading on the London Stock Exchange’s Regulated Market. In this Offering Circular, references to Notes being listed shall mean that such Notes have been admitted to the Official List and have been admitted to trading on the London Stock Exchange’s Regulated Market. The London Stock Exchange’s Regulated Market is a regulated market for the purposes of the Markets in Financial Instruments Directive (2004/39/EC).

Each tranche of Notes (“**Tranche of Notes**”) in bearer form (“**Bearer Notes**”) will initially be represented by a temporary global note in bearer form (“**Bearer Temporary Global Note**”). The Bearer Temporary Global Note will be delivered on or prior to the issue date of the relevant Tranche of Notes to (1) a common safekeeper (the “**Common Safekeeper**”) (if the Bearer Temporary Global Note is intended to be issued in new global note (“**NGN**”) form, as stated in the applicable Final Terms) for Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, société anonyme (“**Clearstream, Luxembourg**”) or any other clearing system located outside the United States and its possessions, specified by the Issuer and the Dealers (each, an “**Alternative Clearing System**”) and each of Euroclear, Clearstream, Luxembourg, and any Alternative Clearing System being a “**Relevant Clearing System**”) or (2) a common depository (the “**Common Depository**”) (if the Bearer Temporary Global Note is not intended to be issued in NGN form but is to be issued in the classic global note (“**CGN**”) form) for the Relevant Clearing System. Beneficial interests in a Bearer Temporary Global Note will be exchangeable for beneficial interests in a permanent global note in bearer form (“**Bearer Permanent Global Note**”) upon certification as to non-United States beneficial ownership. Under certain circumstances, beneficial interests in a Bearer Temporary Global Note or a Bearer Permanent Global Note will be exchangeable for definitive notes in bearer form (“**Bearer Definitive Notes**”), in each case as further described in “Terms and Conditions of the Notes”.

Each Tranche of Notes to be issued in registered form (“**Registered Notes**”) will initially be represented by a registered global certificate (“**Registered Global Certificate**”) or by a registered certificate in definitive form (“**Registered Definitive Certificate**”), one Registered Certificate (as defined herein) being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series (as defined herein). The Registered Global Certificate will be delivered on or prior to the issue date of the relevant Tranche of Notes to (1) a Common Safekeeper (if the Registered Global Note is intended to be held under the New Safekeeping Structure (the “**NSS**”) for the Relevant Clearing System or (2) a Common Depository (if the Registered Global Note is not intended to be held under the NSS) on behalf of the Relevant Clearing System. Beneficial interests in a Registered Global Note will be exchangeable for Registered Definitive Notes only in limited circumstances, as further described in “Terms and Conditions of the Notes”.

*The Notes have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”), and, except as stated under “Subscription and Sale”, may not be offered, sold, or delivered, directly or indirectly, in the United States of America, its territories, its possessions, and other areas subject to its jurisdiction (the “**United States**”) or to a U.S. person (as defined in Regulation S under the Securities Act). Bearer Notes will be subject to United States tax law requirements and Registered Notes will be subject to certain restrictions on transfer – see “Subscription and Sale”.*

The Notes are unsecured and are not and will not be savings accounts, deposits, obligations of, or otherwise guaranteed by, Bank of America, N.A. (“**BANA**”) or any other bank. The Notes do not evidence deposits of BANA or any other banking affiliate of the Issuer and are not insured by the Federal Deposit Insurance Corporation (the “**FDIC**”) or any other insurer or governmental agency or instrumentality.

**The Notes are subject to investment risks, including possible loss of the principal amount invested. See “Risk Factors” on pages 16 - 39 of this Offering Circular.**

**Arranger**  
**BofA Merrill Lynch**

**Dealers**  
**Barclays Capital**  
**BofA Merrill Lynch**  
**Credit Suisse**  
**Goldman Sachs International**  
**Morgan Stanley**  
**UniCredit Bank**

**BNP PARIBAS**  
**Citi**  
**Deutsche Bank**  
**ING Wholesale Banking**  
**The Royal Bank of Scotland**

## IMPORTANT NOTICE

This Offering Circular must be read in conjunction with all documents deemed to be incorporated by reference (see “Incorporation by Reference”) and shall be construed accordingly. This Offering Circular shall be read and construed on the basis that such documents are so incorporated and form part of the Offering Circular. This Offering Circular comprises a base prospectus for the purposes of Article 5.4 of the Directive 2003/71/EC (the “**Prospectus Directive**”).

No person has been authorized to give any information or to make any representation not contained or incorporated by reference in this Offering Circular and, if given or made, such information or representation must not be relied upon as having been authorized by the Issuer or any Dealer. This Offering Circular does not relate to any securities other than the Notes or constitute an offer to any person in any jurisdiction where such offer would be unlawful. Delivery of this Offering Circular at any time does not imply that the information in this Offering Circular is correct as of any time subsequent to its date.

The Issuer accepts responsibility for the information contained in this Offering Circular. To the Issuer’s best knowledge and belief (having taken all reasonable care to ensure that such is the case) the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Dealers have not separately verified the information contained herein. Accordingly, no representation, warranty, or undertaking, express or implied, is made and no responsibility is accepted by the Dealers as to the accuracy or completeness of the information contained in this Offering Circular or any Final Terms or any other information provided by the Issuer. The Dealers do not accept any liability in relation to the information contained in this Offering Circular or any Final Terms or any other information provided by the Issuer in connection with the Program.

The price and amount of the Notes to be issued under the Program will be determined by the Issuer and the relevant Dealers at the time of issue in accordance with prevailing market conditions.

Copies of the applicable Final Terms will be available from the specified office set out below of each of the Paying Agents (as defined below).

Neither the delivery of this Offering Circular nor the offer, sale, or delivery of any Notes shall imply in any circumstance that there has been no material adverse change, or any event reasonably likely to involve any material adverse change, in the condition (financial or otherwise) of the Issuer or any of its subsidiaries since the date hereof.

The Issuer has undertaken, in connection with the listing of the Notes, that, while Notes are outstanding and listed on the London Stock Exchange, in the event of any significant new factor, material mistake, or inaccuracy relating to information included in this Offering Circular which is capable of affecting the assessment of any Notes, the Issuer will prepare an amendment or supplement to this Offering Circular or publish a new Offering Circular for use in connection with any subsequent offering of Notes to be listed on the London Stock Exchange.

Neither this Offering Circular nor any other information supplied in connection with the Program is intended to provide the basis of any credit or other evaluation, and any recipient of this Offering Circular should not consider such receipt to be a recommendation to purchase any Notes. Each investor contemplating purchasing any Notes should make its own independent investigation of the financial condition and affairs of the Issuer, and its own appraisal of the creditworthiness of the Issuer. None of the Dealers undertakes to review the financial condition or affairs of the Issuer during the life of the arrangements contemplated by this Offering Circular or to advise any investor or potential investor in the Notes of any information coming to the attention of any of the Dealers.

In respect of Dual Currency Notes, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s), and Physical Delivery Notes (all as defined below), the applicable Final Terms will specify the nature of the responsibility taken by the Issuer for the information relating to any underlying equity security, index, debt security, credit, currency exchange rate, commodity, commodity index, or other asset(s) (each, an “**Underlying Asset**”) (if applicable) to which the relevant Notes relate and which is contained in such Final Terms. However, unless otherwise expressly stated in the applicable Final Terms, any information contained therein relating to an Underlying Asset(s) will only consist of extracts from, or summaries of, information contained in financial and other information released publicly by the issuer, owner, or sponsor, as the case may be, of such Underlying Asset(s) or which is otherwise publicly available. The Issuer will, unless otherwise expressly stated in the applicable Final Terms, accept responsibility for accurately reproducing such extracts or summaries (insofar as it is applicable) and will state in the applicable Final Terms that such information has been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by such issuer, owner, or sponsor, as the case may be, no facts have been omitted which would render the reproduced information relating to such Underlying Asset(s) inaccurate or misleading, but the Issuer will not accept any further or other responsibility (express or implied) in respect of such information. Unless otherwise stated in the applicable Final Terms, the Issuer does not intend to provide post-issuance information in relation to the Underlying Asset(s).

In making an investment decision with respect to any Dual Currency Notes, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s), and Physical Delivery Notes, an investor should, where relevant, give consideration to the Underlying Asset(s) relating to such Notes, and, accordingly, an investor should conduct an independent investigation of the relevant Underlying Asset(s) and the risks related to an investment in such Notes. In such investigation, an investor should (i) obtain copies of all the documents that are publicly available to the potential and actual investors in such Underlying Asset(s) and review all such documents carefully, (ii) ask questions of the respective managements of the issuers, owners, guarantors, or sponsors of such Underlying Asset(s) in respect of such documentation and in respect of such other matters as such an investor deems necessary or appropriate to making an informed investment decision with respect to such Underlying Asset(s), (iii) request from the issuers, owners, guarantors, or sponsors of the Underlying Asset(s) all additional information considered by such an investor to be necessary or appropriate to verify the accuracy of, or to supplement the information contained in, the applicable Final Terms or in the documents otherwise obtained by such an investor, (iv) consult such investor’s own legal counsel and business, investment, financial, accounting, regulatory, tax, and other professional advisors to determine the consequences of the investment in such Notes, and (v) not rely on the Issuer, any Dealer(s), or any of their Affiliates (as defined herein) in connection with such investor’s investigation of the accuracy of such information or such investor’s investment decision. Investors in Notes linked to Underlying Assets should be aware that, other than in certain circumstances in relation to Physical Delivery Notes as specified in the relevant Final Terms, the Underlying Asset will not be held by the Issuer for the benefit of investors, and as such, investors will not obtain any rights of ownership, including without limitation, any voting rights, any rights to receive dividends or other distributions or any other rights with respect to the Underlying Asset. For the avoidance of doubt, other than in certain circumstances in relation to Physical Delivery Notes, no affiliate of the Issuer is under any obligation whatsoever to acquire and hold any Underlying Asset.

An investment in Dual Currency Notes, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s), and Physical Delivery Notes is subject to a very high degree of complex risks that may arise without warning and may at times be volatile, and losses may occur quickly and in unanticipated magnitudes. Such Notes may be extremely speculative and investors

bear the risk of losing all of their investment. No person should acquire any such Notes unless (i) that person understands the nature of the relevant transaction and the terms of the relevant Notes and the extent of that person's exposure to potential loss, (ii) that person has a valid business purpose for acquiring such Notes, and (iii) any investment in such Notes is consistent with such person's overall investment strategy. Each prospective investor should consider carefully whether any Notes issued under the Program which it considers acquiring are suitable for it in the light of such prospective investor's investment objectives, financial capabilities, and expertise. See "Risk Factors" on pages 16 to 39 of this Offering Circular.

The Notes have not been, and will not be, registered under the Securities Act. The Notes may not be offered, sold, or delivered within the United States or to U.S. persons, except as provided herein. Bearer Notes will be subject to United States tax law requirements as further described under "Subscription and Sale".

Neither this Offering Circular nor any Final Terms constitute, nor may be used for or in connection with, an offer or solicitation by anyone in any jurisdiction in which that offer or solicitation is not authorized or to any person to whom it is unlawful to make such an offer or solicitation.

The distribution of this Offering Circular and the offer of Notes may be restricted by law in certain jurisdictions. Neither the Issuer nor any of the Dealers represents that this Offering Circular may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer or any Dealer which would permit a public offering of any Notes outside the European Economic Area or distribution of this Offering Circular in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Offering Circular nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations, and the Dealers have represented that all offers and sales by them will be made on the same terms. Persons into whose possessions this Offering Circular or any Notes come must inform themselves about, and observe, any such restrictions. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of Notes in the United States, the European Economic Area, and certain other jurisdictions. See "Subscription and Sale" below.

The Issuer may use this Offering Circular in the initial sale of any Notes. In addition, Merrill Lynch International ("MLI") or any other affiliate of the Issuer may use this Offering Circular in market-making transactions with respect to any Notes after their initial sale.

Nothing herein should be considered to impose on the recipient of this Offering Circular any limitation on disclosure of the tax treatment or tax structure of the transactions or matters described herein.

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

Offering Circular references to “**U.S. Dollars**”, “**\$**”, “**U.S. \$**”, “**U.S.D.**”, and “**U.S. Cents**” refer to the currency of the United States of America, those to “**Sterling**”, “**Pounds Sterling**”, and “**£**” refer to the currency of the United Kingdom, those to “**Japanese Yen**”, “**Yen**”, and “**¥**” refer to the currency of Japan and those to “**EUR**”, “**euro**”, and “**€**” refer to the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to Article 109g of the Treaty establishing the European Community, as amended by the Treaty on European Union, as amended by the Treaty of Amsterdam (the “**EC Treaty**”).

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**SUMMARY OF THE PROGRAM**

*This summary must be read as an introduction to this Offering Circular and any decision to invest in the Notes should be based on a consideration of the Offering Circular as a whole, including the documents incorporated by reference. Following the implementation of the relevant provisions of the Prospectus Directive in each Member State of the European Economic Area, no civil liability will attach to the Issuer in any such Member State solely on the basis of this summary, including any translation thereof, unless it is misleading, inaccurate, or inconsistent when read together with the other parts of this Offering Circular. Where a claim relating to the information contained in this Offering Circular 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 Offering Circular before the legal proceedings are initiated. Words and expressions defined under “Form of the Notes” and “Terms and Conditions of the Notes” below shall have the same meanings in this summary.*

<b>Issuer:</b>	Bank of America Corporation.
<b>Description:</b>	Euro Medium-Term Notes.
<b>Arranger:</b>	Merrill Lynch International.
<b>Dealers:</b>	Barclays Bank PLC BNP Paribas Citigroup Global Markets Limited Credit Suisse Securities (Europe) Limited Deutsche Bank AG, London Branch Goldman Sachs International ING Bank N.V. Merrill Lynch International Morgan Stanley & Co. International plc The Royal Bank of Scotland plc UniCredit Bank AG  and any other Dealer appointed in accordance with the Program Agreement.
<b>Calculation Agents:</b>	Bank of America, N.A., Merrill Lynch Capital Services, Inc., Merrill Lynch International and such other calculation agents as the Issuer may appoint from time to time.
<b>Principal Agent:</b>	Bank of America, N.A., London Branch.
<b>Registrar:</b>	Merrill Lynch International Bank Limited.
<b>Delivery Agent:</b>	One or more delivery agents as may be appointed from time to time by the Issuer, and specified in the applicable Final Terms.
<b>Size:</b>	Up to U.S. \$65,000,000,000 (or the equivalent in any other currency), subject to the right of the Issuer to increase such limit in accordance with the terms of the Program Agreement.
<b>Regulatory Matters:</b>	The Issuer will only issue Notes denominated in a currency with respect to which particular laws, guidelines,

	regulations, restrictions, or reporting requirements (“ <b>Regulations</b> ”) apply if the Issuer determines that it may reasonably comply with such Regulations.
<b>Distribution:</b>	Notes may be distributed privately or publicly either on a syndicated or non-syndicated basis.
<b>Selling Restrictions:</b>	The United States, the European Economic Area (including Luxembourg, the United Kingdom, France, Italy, and The Netherlands) Argentina, Australia, China, Hong Kong, Indonesia, Israel, Japan, Malaysia, the Netherlands Antilles, Panama, Philippines, Russia, Singapore, Switzerland, Taiwan, and Uruguay, and such other restrictions as may be required in connection with the offering and sale of a particular Tranche of Notes.
<b>Currencies:</b>	Subject to compliance with all applicable legal and regulatory requirements, Notes may be issued in such currencies as the Issuer and the relevant Dealers may agree.
<b>Issue Price:</b>	Notes may be issued on a fully-paid or partly-paid basis and at an issue price which is at par or at a discount to, or at a premium over, par.
<b>Form of Notes:</b>	<p>Unless otherwise agreed to by the Issuer and the relevant Dealers, each Tranche of Notes to be issued in bearer form will initially be represented by a Bearer Temporary Global Note. The Bearer Temporary Global Note will be delivered on or prior to the issue date, to (1) the Common Safekeeper (if the Bearer Temporary Global Note is intended to be issued in NGN form, as stated in the applicable Final Terms) for the Relevant Clearing System or (2) the Common Depository (if the Bearer Temporary Global Note is intended to be issued in CGN form) for the Relevant Clearing System. Interests in the Bearer Temporary Global Note will be exchangeable for interests in a Bearer Permanent Global Note or, under certain circumstances, for Bearer Definitive Notes on or after the date determined in accordance with the Agency Agreement, which generally is 40 calendar days after a Bearer Temporary Global Note is issued (the “<b>Exchange Date</b>”), provided that certificates as to non-United States beneficial ownership of interests in the Bearer Temporary Global Note have been received by the Principal Agent.</p> <p>Unless otherwise agreed to by the Issuer and the relevant Dealers, each Tranche of Notes to be issued in registered form will initially be represented by a Registered Global Certificate or by a Registered Definitive Certificate, one Registered Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series. The Registered Global Certificate will be delivered</p>

on or prior to the issue date to (1) the Common Depository for the Relevant Clearing System in the case of Registered Global Certificates not intended to be issued under the NSS or (2) a Common Safekeeper for the Relevant Clearing System in the case of Registered Global Certificates intended to be issued under the NSS. Beneficial interests in a Registered Global Note will be exchangeable for Registered Definitive Notes only in limited circumstances.

**Denomination of Notes:**

Such denominations as the Issuer may agree upon with the relevant Dealers and indicated in the applicable Final Terms. However, the minimum denomination of each Note will be such amount as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the Specified Currency, and the minimum denomination of each Note admitted to trading on a European Economic Area exchange and/or offered to the public within the European Economic Area in circumstances which require the publication of a prospectus under the Prospectus Directive will be €1,000 (or the equivalent amount in another currency).

Unless otherwise permitted by applicable laws and regulations, Notes (including Notes denominated in Sterling) in respect of which the proceeds are to be accepted by the Issuer in the United Kingdom and which have a maturity of less than one year from the date of issue must (a) have a minimum redemption value of £100,000 (or its equivalent in other currencies), and be issued only to persons (1) whose ordinary activities involve them in acquiring, holding, managing, or disposing of investments (as principal or agent) for the purposes of their businesses or (2) who it is reasonable to expect will acquire, hold, manage, or dispose of investments (as principal or agent) for purposes of their businesses or (b) be issued in other circumstances which do not constitute a contravention of section 19 of the FSMA.

**Redenomination:**

The Issuer may specify in the applicable Final Terms that Notes may be redenominated into euro.

**Fixed-Rate Notes:**

Notes bearing interest at a fixed rate (the “**Fixed-Rate Notes**”) will pay interest on such dates as the Issuer and the relevant Dealers agree and on the Maturity Date, and such interest will be calculated on the basis of the Fixed Day Count Fraction specified in the applicable Final Terms.

**Floating-Rate Notes:**

Notes bearing interest at a floating rate (the “**Floating-Rate Notes**”) will bear interest at a rate determined (a) on the same basis as the floating rate under a notional interest rate swap transaction in the relevant Specified Currency, governed by an agreement incorporating the ISDA

	<p>Definitions, (b) on the basis of a reference rate appearing on the agreed screen page of a commercial quotation service, or (c) on such other basis as the Issuer and the relevant Dealers may agree, as indicated in the applicable Final Terms.</p> <p>The Issuer and the relevant Dealers for each issue of Floating-Rate Notes will agree on the margin, if any, relating to such floating rate. The amount of interest payable on the Floating-Rate Notes will be calculated using the method specified in the applicable Final Terms.</p> <p>Payments (whether in respect of principal or other amounts payable upon redemption and/or interest) may be calculated by reference to:</p> <ul style="list-style-type: none"> <li>• an index or a basket of indices (“<b>Index Linked Notes</b>”)</li> <li>• a share or a basket of shares (“<b>Share Linked Notes</b>”)</li> <li>• a global depository receipt (“<b>GDR</b>”) or American depository receipt (“<b>ADR</b>”) or a basket of GDRs and/or ADRs (“<b>GDR/ADR Linked Notes</b>”)</li> <li>• one or more foreign exchange rate or rates (“<b>FX Linked Notes</b>”)</li> <li>• a commodity or a basket of commodities, or one or more commodity indices (“<b>Commodity Linked Notes</b>”)</li> <li>• a fund or a basket of funds (“<b>Fund Linked Notes</b>”)</li> <li>• one or more consumer price indices and/or formula(e) (“<b>Inflation Linked Notes</b>”)</li> <li>• one or more other Underlying Asset(s) (“<b>Notes Linked to other Underlying Asset(s)</b>”)</li> <li>• any combination of Underlying Asset(s) and/or formula(e) (“<b>Hybrid Notes</b>”)</li> </ul>
<p><b>Notes Linked to Underlying Asset(s):</b></p>	
<p><b>Physical Delivery Notes:</b></p>	<p>Notes in which the payment of principal or other amounts payable upon redemption and/or interest, may be made by delivery of any Underlying Asset(s) are “<b>Physical Delivery Notes</b>”. Provisions regarding such payments will be specified in the applicable Final Terms.</p>
<p><b>Amortizing Notes:</b></p>	<p>Notes in which the payment of principal and interest is based on an amortization table are “<b>Amortizing Notes</b>”. The Issuer and the relevant Dealers will agree on the applicable amortization table which will be specified in the applicable Final Terms.</p>

	<p>Payments on Amortizing Notes will be applied first to interest due and then to the reduction of the unpaid principal amount, unless otherwise indicated in the applicable Final Terms.</p>
<b>Dual Currency Notes:</b>	<p>Notes in which the payment of principal or interest (whether at maturity or otherwise) may be payable in more than one Specified Currency are “<b>Dual Currency Notes</b>”. The denomination of such Notes (the “<b>Specified Denomination</b>”) will be based on such rates of exchange as agreed between the Issuer and the relevant Dealers, as specified in the applicable Final Terms.</p>
<b>Zero Coupon Notes:</b>	<p>Notes issued on a non-interest bearing basis (“<b>Zero Coupon Notes</b>”) will be offered and sold at a discount to their principal amount or at a discount to par and will not bear interest other than in the case of late payment.</p>
<b>Partly Paid Notes:</b>	<p>Notes in which the interest will accrue on the paid-up amount of such Notes are “<b>Partly Paid Notes</b>”.</p>
<b>Installment Notes:</b>	<p>Notes redeemable in installments are “<b>Installment Notes</b>”.</p>
<b>Principal Protected Notes:</b>	<p>Notes as to which the amount of cash and fair market value of property delivered at maturity or upon early redemption may not be less than the Specified Denomination of such Note (“<b>Principal Protected Notes</b>”).</p>
<b>Non-Principal Protected Notes:</b>	<p>Notes which are not Principal Protected Notes.</p>
<b>Redemption:</b>	<p>The applicable Final Terms will indicate either that (a) a Tranche of Notes cannot be redeemed prior to their Maturity Date (other than in specified installments, if any, or for tax reasons or following an Event of Default) or (b) the Notes will be redeemable at the option of the Issuer and/or Noteholders upon not less than 30 nor more than 60 calendar days’ irrevocable notice (or such other notice period, if any, as may be specified in the applicable Final Terms) to Noteholders or the Issuer, as the case may be, on the specified date(s) prior to their Maturity Date and, at a price or prices and on such other described terms.</p>
<b>Market Disruption Events:</b>	<p>In respect of Index Linked Notes, Share Linked Notes, Commodity Linked Notes, Hybrid Notes, Fund Linked Notes, GDR/ADR Linked Notes, and certain other types of Notes, if the Calculation Agent determines that a Market Disruption Event has occurred or exists on a Reference Date, such date may be postponed and alternative provisions in respect of the relevant Underlying Asset(s) may apply.</p>
<b>Adjustments to Index Linked Notes for Certain Events:</b>	<p>In respect of Index Linked Notes, the occurrence of an Index Adjustment Event or Additional Disruption Event</p>

**Adjustments to Share Linked Notes for Certain Events:**

may result in adjustments to the terms of such Notes and calculations as described in the Conditions and could lead to such Notes being redeemed early.

In respect of Share Linked Notes, the occurrence of a Potential Adjustment Event, Merger Event, Tender Offer, Additional Disruption Event, Nationalization, Insolvency, or De-listing may result in adjustments to the terms of such Notes as described in the Conditions and could lead to such Notes being redeemed early.

**Settlement Disruption Events:**

In respect of Share Linked Notes which are Physical Delivery Notes, if a Settlement Disruption Event occurs or exists on the Maturity Delivery Date, settlement may be postponed until the next day on which no Settlement Disruption Event (essentially an event beyond the control of the Issuer or other hedging entity as a result of which, (i) in the opinion of the Calculation Agent, delivery of the Entitlement by or on behalf of the Issuer, in accordance with the Conditions, is not practicable, or (ii) the Relevant Clearing System cannot clear the transfer of the relevant Underlying Asset(s)). The Issuer in these circumstances may also have the right to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price Amount, as the case may be, in lieu of delivering the Underlying Asset(s).

**Status of Notes:**

The applicable Final Terms will specify whether the Notes are Senior Notes or Subordinated Notes. Senior Notes will rank equally with all other unsubordinated and unsecured indebtedness of the Issuer. Subordinated Notes shall be subordinated in right of payment to all existing and future Senior Indebtedness of the Issuer as provided in Condition 3. There is no limitation on the amount of additional indebtedness that the Issuer may incur.

Payment of principal of and interest accrued on (and any Additional Amounts) the Subordinated Notes may not be accelerated in the case of a default in the payment of principal or interest by the Issuer or the performance of any other covenant of the Issuer, but may be accelerated only in the case of bankruptcy or insolvency.

**Listing:**

Application has been made to the UK Listing Authority for Notes to be admitted to the Official List and to trading on the London Stock Exchange's Regulated Market.

Notes also may be listed or admitted to trading, as the case may be, on other or additional stock exchanges or markets as agreed between the Issuer and the relevant Dealers. Unlisted Notes may also be issued. The applicable Final Terms will state whether the Notes are to be listed (and the stock exchanges, if applicable).

<b>Governing Law of the Notes:</b>	Laws of the State of New York, United States.
<b>Withholding Tax:</b>	<p>With respect to Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Physical Delivery Notes, Notes Linked to other Underlying Asset(s) (the “<b>Linked Notes</b>”), and Dual Currency Notes, the applicable Final Terms will state whether (i) the Issuer or its agent will withhold United States tax on such Notes, or (ii) except as provided in “United States Taxation”, the Issuer does not intend to withhold tax with respect to payments to a United States Alien.</p>
<b>Additional Amounts:</b>	<p>All payments to a United States Alien in respect of Notes other than any Linked Notes or Dual Currency Notes will be made free and clear of any withholdings or deduction for or on account of any United States taxes, as provided and subject to the limitations contained in Condition 8.</p> <p>With respect to any Linked Notes that are Non-Principal Protected Notes, and with respect to Dual Currency Notes, payments to a United States Alien will be made subject to any withholding or deduction for or on account of any United States taxes, without obligation on the Issuer to pay additional amounts in respect of such withholding or deduction unless otherwise specified in the applicable Final Terms.</p> <p>With respect to Linked Notes that are Principal Protected Notes, payments to a United States Alien will be made free and clear of any withholding or deduction for or on account of any United States taxes, as provided and subject to the limitations contained in Condition 8, unless otherwise specified in the applicable Final Terms.</p>
<b>Re-opening:</b>	<p>Subject to compliance with all U.S. applicable selling restrictions, including, in respect of Bearer Notes, the restrictions set forth in Treasury Regulations Section 1.163-5 under the U.S. Internal Revenue Code of 1986, as amended (the “<b>Code</b>”) the Issuer may issue additional Tranches of Notes under an existing Series of Notes, without notice, by selling additional Notes with the same terms of the existing Series. Any such additional Tranche of Notes will be treated, for all purposes, like the Notes originally issued, except that the new Tranche of Notes may begin to bear interest at a different date and have a different issue date and price.</p>
<b>Risk Factors:</b>	<p>There are certain factors that (i) may affect the Issuer’s ability to fulfill its obligations under the Notes, including liquidity, credit, and event risks, and (ii) are material for the</p>

purpose of assessing the market risks associated with the Notes, including the structure of an issue of Notes and general market risks. There are additional risks relating to Dual Currency Notes and Linked Notes.

**Cross Default:**

None

## INCORPORATION BY REFERENCE

The following documents which have been filed with the United States Securities and Exchange Commission (the “SEC”) and which have previously been approved by, or filed with, the Financial Services Authority, shall be deemed to be incorporated by reference in, and form part of, this Offering Circular:

- (i) the Issuer’s Current Reports on Form 8-K filed on January 15, 2010, January 20, 2010, February 2, 2010, February 5, 2010, February 24, 2010, March 9, 2010, April 16, 2010 (2 filings), May 3, 2010, and July 16, 2010 (other than, with respect to these reports, information that is furnished but deemed not to have been filed under the rules of the SEC);
- (ii) the Issuer’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 (the “**First Quarter 2010 Form 10-Q Quarterly Report**”);
- (iii) the Issuer’s Annual Report on Form 10-K for the year ended December 31, 2009 (the “**2009 Form 10-K Annual Report**”); and
- (iv) for the purpose of any issue of Notes under the Program which are to be consolidated and form a single Series with an existing Tranche or Series of Notes, the terms and conditions of the Notes (which are not set out in this Offering Circular) on the specified pages of the offering circulars of the Issuer as set out below:
  - (A) pages 41 to 84 of the offering circular dated July 22, 2009;
  - (B) pages 49 to 82 of the offering circular dated July 25, 2008;
  - (C) pages 29 to 57 of the offering circular dated July 26, 2007; and
  - (D) pages 34 to 61 of the offering circular dated August 21, 2006,

provided that for the purposes of the prospectus rules enacted under section 73A of the FSMA, any documents incorporated by reference into the above documents do not form part of this Offering Circular.

The historical financial information of the Issuer on a consolidated basis for the two years ended December 31, 2009, has been incorporated by reference in the 2009 Form 10-K Annual Report.

Investors in the Notes shall be deemed to have notice of all information contained in the documents incorporated by reference into this Offering Circular, as if all such information were included in this Offering Circular. Investors who have not previously reviewed such information should do so in connection with their purchase of Notes. Copies of all such reports will be available for inspection without charge at the office of the Principal Agent in London.

The Issuer will provide, without charge, to each person to whom a copy of this Offering Circular has been delivered, upon the oral or written request of such person, a copy of any or all of the documents incorporated herein by reference. Written requests for such documents should be directed to: Bank of America Corporation, Bank of America Corporate Center, 100 North Tryon Street, NC1-007-07-13, Charlotte, North Carolina 28255-0065, Attention: Corporate Treasury – Governance and Control, securities.administration@bankofamerica.com. Telephone requests may be directed to (980) 388-2654. The Issuer’s filings with the SEC are available through (1) the SEC’s website at [www.sec.gov](http://www.sec.gov) or the SEC’s Public Reference Room, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, and (2) the Issuer’s website at [www.bankofamerica.com](http://www.bankofamerica.com). References to web addresses in this Offering Circular are included as inactive textual references only. Except as specifically incorporated by reference into this Offering Circular, information on these websites is not part of this Offering Circular.

## RISK FACTORS

*The following section does not describe all of the risks and investment considerations (including those relating to the prospective investor's particular circumstances) with respect to an investment in the Notes. Prospective investors should consult their own financial, legal, tax, and other professional advisors as to the risks arising from an investment in an issue of Notes (in particular, to evaluate the sensitivity of an investment to changes in economic conditions, interest rates, exchange rates, or other indices or factors which may have a bearing on the merits and risk of an investment), and the suitability of the investment for the investor. The Issuer believes that the factors described below and in the Issuer's 2009 Form 10-K Annual Report under the caption "Item 1A Risk Factors" represent the principal risks inherent in an investment in the Notes.*

The Issuer believes that the following factors may affect its ability to fulfill its obligations under the Notes issued under the Program. In addition, factors which are material for the purpose of assessing the market for Notes under the Program are also described below.

### **Risks relating to the Issuer's business**

As a large, international financial services company, the Issuer faces risks that are inherent in the business and market places in which it operates. Factors that could affect the Issuer's business and future financial performance include the general business, economic, and political conditions in the United States and in other countries, competition in the Issuer's industry, credit risks, changes in applicable laws or regulations, governmental fiscal and monetary policies and liquidity of global markets. These and other factors or risks relating to the Issuer's business are described in the Issuer's 2009 Form 10-K Annual Report, under the caption "Item 1A. Risk Factors".

### **Risks relating to Notes generally**

#### *Investors risk losing all of their investment in the Notes*

**Potential investors should be aware that depending on the terms of the relevant Notes and in the case of Notes linked to Underlying Asset(s), (i) they may receive no or a limited amount of interest, (ii) payments may occur at a different time than expected, and (iii) except in the case of Principal Protected Notes, they may lose all or a substantial portion of their investment if the value of the Underlying Asset(s) does not move in the anticipated direction.**

**Investors in Principal Protected Notes may still be subject to loss of some or all of their investment if the Issuer is subject to bankruptcy or insolvency proceedings or some other event occurs which impairs the ability of the Issuer to meet its obligations under the Notes. An investor may also lose some or all of its investment if it seeks to sell the relevant Notes prior to their scheduled maturity, and the sale price of the Notes in the secondary market is less than the initial investment or the relevant Notes are subject to certain adjustments in accordance with the terms and conditions of such Notes that may result in the scheduled amount to be paid or asset(s) to be delivered upon redemption being reduced to or being valued at an amount less than an investor's initial investment.**

*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:

- (a) have sufficient knowledge and experience to evaluate the Notes, the merits and risks of investing in the Notes, and the information contained or incorporated by reference in this

Offering Circular or any applicable supplement and all the information contained in the applicable Final Terms;

- (b) 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;
- (c) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including Notes with amounts payable in one or more currencies, or where the Specified Currency of the Notes is different from the potential investor's currency;
- (d) have knowledge of and access to appropriate analytical resources to analyze quantitatively the effect (or value) of any redemption, cap, floor, or other features of the Notes, and the resulting impact upon the value of the Notes;
- (e) understand thoroughly the terms of the Notes and be familiar with any relevant indices and financial markets; and
- (f) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate, and other factors that may affect its investment and its ability to bear the applicable risks.

Some Notes are complex financial instruments. A potential investor should not invest in Notes which are complex financial instruments unless it has the expertise (either alone or with a financial adviser) to evaluate how such Notes will perform under changing conditions, the resulting effects on the value of those Notes, and the impact this investment will have on the potential investor's overall investment portfolio.

In addition, an investment in Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, or other Notes linked to other Underlying Asset(s) ("**Underlying Asset Linked Notes**") may entail significant risks not associated with investments in conventional securities such as debt or equity securities, including, but not limited to, the risks set out in "Risks related to the structure of a particular issue of Notes" set out below.

***The Notes are unsecured obligations.*** The Notes constitute direct, unsubordinated, unconditional, and unsecured obligations of the Issuer and rank equally among themselves and rank equally (subject to exceptions as are from time to time provided by applicable laws) with all other present and future direct, unsubordinated, unconditional, and unsecured indebtedness of the Issuer.

Since the Issuer is a holding company, the right of the Issuer, and hence the right of creditors of the Issuer (including the Noteholders), to participate in any distribution of the assets of any subsidiary of the Issuer upon its liquidation or reorganization or otherwise is necessarily subject to the prior claims of creditors of the subsidiary, except to the extent that claims of the Issuer itself as a creditor of the subsidiary may be recognized. In addition, dividends, loans and advances from certain subsidiaries to the Issuer are restricted by net capital requirements under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") and under the rules of certain exchanges and other regulatory bodies.

***The Issuer may make certain modifications to the Notes without the consent of the Noteholders.*** The Terms and Conditions provide that the Principal Agent and the Issuer may, without the consent of Noteholders, agree to (i) any modification (subject to certain specific exceptions) of the Notes or the Agency Agreement which is not prejudicial to the interests of the Noteholders or (ii) any modification of the Notes or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest error or proven error or to comply with mandatory provisions of law.

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

***The secondary market price of the Notes may be less than the Issue Price.*** Investors should note that, in certain circumstances immediately following the issue of the Notes, the secondary market price of the Notes may be less than the Issue Price in the event that the Issue Price included the fees to be paid to distributor(s).

***Failure by an investor to pay installments in respect of Partly Paid Notes may result in the investor losing all of his investment.*** The Issuer may issue Notes where the Issue Price is payable in more than one installment. Failure to pay the Issuer any subsequent installment could result in an investor losing all of his investment.

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

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

***The yield on the Notes may be less than the yield on a conventional debt security of comparable maturity.*** Any yield that an investor may receive on the Notes, which could be negative, may be less than the return an investor would earn if the investor purchased a conventional debt security with the same maturity date. As a result, an investment in the Notes may not reflect the full opportunity cost to an investor when factors that affect the time value of money are considered.

***Movements in the level or price of an Underlying Asset will affect the performance of the Notes.*** The level or price of the Underlying Asset may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies or indices and the timing of changes in the relevant level or price of the Underlying Asset. This may affect the actual yield to investors, even if the average level or price of the Underlying Asset during the life of the Notes is consistent with investors' expectations. In general, the earlier the change in the level or price of an Underlying Asset or result of a formula, the greater the effect on the yield of the Notes.

***Leverage will magnify the effect of changes in the Underlying Asset.*** If the formula used to determine any amount payable and/or non-cash consideration deliverable contains a multiplier or leverage factor, then the percentage change in the value of the Note will be greater than any positive and/or negative performance of the Underlying Asset(s). Any Notes which include such multiplier or leverage factor represent a very speculative and risky form of investment since any change in the value of the Underlying Asset(s) carries the risk of a correspondingly higher change in the value of the Notes.

***A postponement of valuation or determination due to a Market Disruption Event and Disrupted Day may have an adverse effect on the value of the Notes.*** If the Notes include provisions dealing with the occurrence of a Market Disruption Event or a failure of an exchange or related exchange to open on a Valuation Date, an Averaging Date, or a Pricing Date and the Calculation Agent determines that a Market Disruption Event or other such failure has occurred or exists on any relevant date, any consequential

postponement of the relevant date or any alternative provisions for valuation provided in the Notes may have an adverse effect on the value of the Notes or of any amounts payable under the Notes.

*The occurrence of a Payment Disruption Event may lead to a delayed and/or reduced payment.* If Payment Disruption Event is applicable to a Note, as specified in the applicable Final Terms, then, in the event that the Calculation Agent determines, in its sole discretion, that an event that (i) prevents, restricts, or delays the Issuer from converting or delivering relevant currencies, (ii) imposes capital controls, or (iii) implements changes to laws relating to foreign investments (a “**Payment Disruption Event**”) has occurred or is likely to occur, then either (a) the relevant payment date in respect of the Notes or (b) the Issuer’s obligation to make a payment in respect of such payment date may be postponed to a date falling five Business Days (or such other date as may be determined by the Calculation Agent and notified to Noteholders) after the date on which the Payment Disruption Event is no longer occurring. No accrued interest will be payable in respect of any such postponement and no Event of Default in respect of the Notes will result from such postponement. Partial payments or physical delivery of shares in lieu of cash settlement of Share Linked Notes may, in the Issuer’s sole discretion, be made during such period (after deduction for any expenses). In the event that a Payment Disruption Event is still continuing on the date which is one year after the last date on which amounts are due under the Notes (the “**Payment Event Cut-Off Date**”), then (1) such final payment date shall be extended to the Payment Event Cut-Off Date and (2) the remaining amounts payable under the Notes shall be deemed to be zero and the Issuer shall have no obligations whatsoever under the Notes. Therefore, in a case where Payment Disruption Event is relevant as specified in the applicable Final Terms, the Noteholder could lose all or part of its investment in the Notes.

In the event that the Issuer satisfies its obligation to make a cash payment by the delivery of shares following the occurrence of a Payment Disruption Event, Noteholders may be unable to sell such shares, or may be unable to sell them at a price equal to the cash payment that would have been payable but for the occurrence of the Payment Disruption Event.

*There may be conflicts of interest between the Issuer, its Affiliates and the Noteholders.* The Issuer and/or any of its Affiliates or agents may engage in activities that may result in conflicts of interest between its and its Affiliates’ or agents’ financial interests on the one hand and the interests of the Noteholders on the other hand. The Issuer and/or any of its Affiliates or agents may also engage in trading activities (including hedging activities) related to the Underlying Asset(s) underlying any Notes and other instruments or derivative products based on or related to the Underlying Asset(s) underlying any Notes for their proprietary accounts or for other accounts under their management. The Issuer and/or any of its Affiliates or agents may also issue other derivative instruments in respect of the Underlying Asset(s) underlying any Notes. The Issuer and/or any of its Affiliates or agents may also act as underwriter in connection with future offerings of shares or other securities related to an issue of Notes or may act as financial adviser to certain companies whose shares are included in a basket of shares, or in a commercial banking capacity for any such companies. Such activities could present certain conflicts of interest, could influence the prices of such shares or other securities and could adversely affect the value of such securities. The Issuer also may enter into arrangements with Affiliates or agents to hedge market risks associated with its obligations under the securities. Any such Affiliate or agent would expect to make a profit in connection with such arrangements. The Issuer would not seek competitive bids for such arrangements from unaffiliated parties.

Where the Notes are offered to the public, as the Dealer(s) and any distributors act pursuant to a mandate granted by the Issuer and they receive fees on the basis of the services performed and the outcome of the placement of the Notes, potential conflicts of interest could arise.

Any additional risk factors relating to additional conflicts of interest with respect to a specific series of Notes will be specified in the applicable Final Terms.

In addition, unless otherwise specified in the applicable Final Terms, in the case of Underlying Asset Linked Notes, the Calculation Agent is an Affiliate of the Issuer and in such capacity may make certain determinations and calculate amounts payable or deliverable to Noteholders. Under certain circumstances, the Calculation Agent, as an Affiliate of the Issuer, and its responsibilities as calculation agent for the Notes could give rise to potential conflicts of interest between the Calculation Agent and the Noteholders.

In addition, a Merrill Lynch proprietary index will generally be developed, owned, calculated and maintained by a Merrill Lynch Affiliate, which would be responsible for the composition, calculation and maintenance of such index. In such circumstances, Merrill Lynch, as the index sponsor, would be under no obligation to take into account the interests of the Noteholders of any Notes referenced by such index. In such capacity as index sponsor, Merrill Lynch will have the authority to make determinations that could materially and adversely affect the value of the Note.

***A Noteholder may not receive the Entitlement relating to a Physical Delivery Note if it fails to deliver the required notice and pay Expenses relating to such Physical Delivery Note.*** In order to receive the Entitlement in respect of a Physical Delivery Note, the holder of such Note must (i) duly deliver to the Relevant Clearing System and/or Paying Agents, as specified in the Final Terms, a duly completed Asset Transfer Notice on or prior to the relevant time on the Cut-Off Date and (ii) pay the relevant Expenses. As defined in the Terms and Conditions, “**Expenses**” includes any applicable depositary charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities transfer, and/or other taxes arising from the redemption of such Notes and/or the delivery of the Entitlement.

Failure by a Noteholder to properly complete and deliver an Asset Transfer Notice or to procure that its agent does so on its behalf, may result in such notice being treated as null and void. This may result in a delay in delivery of the Entitlement, or the Issuer being unable to deliver the Entitlement. Failure to pay the Expenses will have the same consequences to a Noteholder.

***In the case of Physical Delivery Notes, settlement may be delayed or made in cash if certain events arise.*** In the case of Physical Delivery Notes, if a Settlement Disruption Event occurs or exists on the Maturity Delivery Date, settlement will be postponed until the next date on which no Settlement Disruption Event occurs. The Issuer in these circumstances has the right to pay the Disruption Cash Settlement Price in lieu of delivering the Entitlement. Such a determination may have an adverse effect on the value of the relevant Notes. In addition, if “Failure to Deliver due to Illiquidity” is specified as applying in the applicable Final Terms, and in the opinion of the Calculation Agent it is impossible or impracticable to deliver some or all of the Relevant Assets comprising the Entitlement when due as a result of illiquidity in the market for the Relevant Assets, the Issuer has the right to pay the Failure to Deliver Settlement Price in lieu of delivering those Relevant Assets. Any Disruption Cash Settlement Price or Failure to Deliver Settlement Price may be significantly less than Noteholders expected to receive prior to such Settlement Disruption Event or Calculation Agent determination.

***Noteholders have no claim against any Underlying Asset(s), and the return on an Underlying Asset Linked Note, if any, may be less than the return on an investment directly in the Underlying Asset(s).*** A Note will not represent a claim against any Underlying Asset(s) and, in the event of any loss, a Noteholder will not have recourse under a Note to any Underlying Asset(s). The investment return on the Notes, if any, may be less than a comparable investment directly in the Underlying Asset(s), or the components included in any Underlying Asset(s). In contrast to an investment in the Notes, a direct investment in the Underlying Asset(s) or the components of the Underlying Asset(s) would allow an investor to receive the full benefit of any appreciation or depreciation, as the case may be, in the value of these components.

***The Issuer may have the right to vary settlement.*** If so indicated in the applicable Final Terms, the Issuer has an option to vary settlement in respect of the Notes. If exercised by the Issuer, Physical Delivery Notes may be cash settled or Cash Settled Notes may be physically settled. Exercise of such option may affect the value of the Notes.

***If the Issuer determines that the performance of its obligations under the Notes has or will become illegal in whole or in part for any reason, the Issuer may redeem or cancel the Notes, as applicable.*** If the Issuer determines that the performance of its obligations under the Notes has or will become illegal in whole or in part for any reason, the Issuer may redeem or cancel the Notes, as applicable.

If, in the case of illegality and to the extent permitted by applicable law, the Issuer redeems or cancels the Notes, then the Issuer will redeem each Note at the Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the date of redemption less hedging costs, which may be less than the purchase price of the Notes and may in certain circumstances be zero.

### **Risks relating 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 that may have an impact on an investment in the Notes.

***Many factors will determine the price of the Notes in the secondary market and such market may be illiquid.*** It is not possible to predict the price at which Notes will trade in the secondary market or whether such market will be liquid or illiquid. The Issuer may, but is not obliged to, list or admit to trading Notes on a stock exchange or market. If the Notes are not listed or admitted to trading on any stock exchange or market, pricing information for the Notes may be more difficult to obtain and the liquidity of the Notes may be adversely affected. If the Issuer does list or admit to trading an issue of Notes, there can be no assurance that at a later date, the Notes will not be delisted or that trading on such stock exchange or market will not be suspended. In the event of a de-listing or suspension of listing or trading on a stock exchange or market, the Issuer will use its reasonable efforts to list or admit to trading the Notes on another stock exchange or market, unless it concludes it would be unduly burdensome to do so.

The Issuer cannot assure holders of the Notes that a trading market for their Notes will ever develop or be maintained. Many factors independent of the creditworthiness of the Issuer affect the trading market of the Notes. These factors include:

- (a) the complexity and volatility of the Underlying Asset(s) or formula or other basis of reference applicable to the Notes;
- (b) the method of calculating amounts payable, including any dividend rates or yield or other Notes or financial instruments applicable to the Notes payable and/or deliverable, or other consideration, if any, in respect of the Notes;
- (c) the time remaining to redemption of the Notes;
- (d) the aggregate amount of Notes outstanding;
- (e) any redemption feature of the Notes;
- (f) the value of other securities linked to the Underlying Asset(s) or formula or other basis of reference applicable to the Notes;
- (g) the level, direction, and volatility of market interest rates generally;

- (h) the general economic conditions of the capital markets, as well as geopolitical conditions and other financial, political, regulatory, and judicial events that affect the financial markets generally, may affect the value of the Underlying Asset(s) and the Notes; and
- (i) the possibility that investors may be unable to hedge their exposure to risks relating to their Notes.

In addition, certain Notes may be designed for specific investment objectives or strategies and, therefore, may have a more limited secondary market and experience more price volatility. Noteholders may not be able to sell such Notes readily or at prices that will enable them to realize their anticipated yield. No investor should purchase Notes unless such investor understands and is able to bear the risk that such Notes may not be readily saleable, that the value of such Notes will fluctuate over time, that such fluctuations may be significant, and that such investor may lose all or a substantial portion of the purchase price of the Notes.

The Issuer or any of its Affiliates may, but is not obliged to, at any time purchase Notes at any price in the open market or by tender or private treaty for their own account for business reasons or in connection with their hedging arrangements. Any Notes so purchased may be held or resold or surrendered for cancellation. The Issuer or any of its Affiliates may, but is not obliged to, be a market-maker for an issue of Notes. Even if the Issuer or such other entity is a market-maker for an issue of Notes, the secondary market for such Notes may be limited. These activities may affect the price of such obligations or Notes in a manner that would be adverse to a Noteholder's investment in the Notes. The Issuer and its Affiliates have not considered, and are not required to consider, the interest of investors as Noteholders in connection with entering into any of the above mentioned transactions.

There may be less liquidity in the market for Notes if the Notes are exclusively offered to retail investors without any offer to institutional investors. To the extent that an issue of Notes becomes illiquid, an investor may have to wait until the Maturity Date of such Notes to realize value.

***Investors may be subject to foreign exchange exposure and the Notes may become subject to exchange controls.*** In the case of Cash Settled Notes, the Issuer will pay the Final Redemption Amount in respect of the Notes in the Specified Currency specified in the applicable Final Terms. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than the 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 (i) the Investor's Currency equivalent yield on the Notes, (ii) the Investor's Currency equivalent value of the Final Redemption Amount in respect of the Notes and (iii) the Investor's Currency equivalent market value of the Notes.

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

***In certain circumstances the Issuer will not be obliged to maintain the listing of Notes which are specified as being listed in the applicable Final Terms.*** When the Issuer specifies in the applicable Final Terms that a Series of Notes is to be admitted to trading on the London Stock Exchange's Main Market and admitted to listing on the Official List of the Financial Services Authority and/or listed on or admitted to trading by any other relevant stock exchange or market within the European Union ("**EU**"), which qualifies as a regulated market within the meaning of Article 4(14) of the Markets in Financial Instruments Directive (Directive 2004/39/EC) (each an "**EU Exchange**"), the Issuer expects, but is not obliged, to

maintain such listing of the Notes on such EU Exchange(s). Changed circumstances, including changes in listing requirements, could result in a suspension or removal of any such listing, or cause the Issuer to conclude that continued listing of the Notes on such EU Exchange(s) is unduly burdensome.

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

***Payments on the Notes are subject to the credit risk of the Issuer, and the value of the Notes will be affected by a credit rating reduction of the Issuer.*** The amount payable or deliverable on the Notes at maturity or upon earlier redemption is dependent upon the ability of the Issuer to repay its obligations on the applicable maturity date, or earlier redemption date. In relation to Underlying Asset Linked Notes, this will be the case even if the value of the Underlying Asset increases (or decreases, as the case may be) after the pricing date. No assurance can be given as to what the Issuer's financial condition will be on the applicable maturity date or earlier redemption date. The value of the Notes is expected to be affected, in part, by investors' general appraisal of the Issuer's creditworthiness and actual or anticipated changes in the Issuer's credit ratings prior to the maturity date or earlier redemption date may affect the value of the Notes. Such perceptions are generally influenced by the ratings accorded to the Issuer's outstanding Notes by standard statistical rating services, such as Moody's Investors Service Inc. and Standard & Poor's, a division of The McGraw-Hill Companies, Inc. A reduction (or anticipated reduction) in the rating, if any, accorded to outstanding debt securities of the Issuer by one of these rating agencies could result in a reduction in the trading value of the Notes. As the return on the Notes depends upon factors in addition to the Issuer's ability to pay its respective obligations, an improvement in these credit ratings will not reduce the other investment risks related to the Notes. A credit rating is not a recommendation to buy, sell, or hold any of the Notes and may be subject to suspension, change, or withdrawal at any time by the assigning rating agency.

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

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

### **General risks relating to Underlying Asset Linked Notes**

Underlying Asset Linked Notes will represent an investment linked to the economic performance of the relevant Underlying Asset(s) and potential investors should note that the return (if any) on their investment in such Notes will depend upon the performance of such Underlying Asset(s). Potential investors should also note that whilst the market value of such Notes is linked to such Underlying Asset(s) and will be influenced (positively or negatively) by such Underlying Asset(s), any change in the market value of such Notes may not be comparable to changes in the market value of the Underlying Asset(s). It is impossible to predict how the market value of the relevant Underlying Asset(s) will vary over time. In addition, in contrast to a direct investment in the relevant Underlying Asset(s), such Notes represent the right to receive payment or delivery, as the case may be, of the Final Redemption Amount(s) or the Entitlement, as the case may be, as well as periodic payments of interest or additional amounts, all or some of which and the value of which will be determined by reference to the performance of the relevant Underlying Asset(s) but which are likely to differ from and may be less than the return on a direct investment in the same Underlying Assets(s).

As the amounts payable and/or non-cash consideration deliverable in respect of Underlying Asset Linked Notes are linked to the performance of the relevant Underlying Asset(s), a purchaser of such a Note must generally be correct about the direction, timing and magnitude of an anticipated change in the value of the relevant Underlying Asset(s). Assuming all other factors are held constant, the lower the value of such a Note and the shorter the remaining term to maturity or earlier redemption (if applicable), the greater the risk that purchasers of such Note will lose all or part of their investment.

Underlying Asset Linked Notes may be principal protected or non-principal protected. Investors in Underlying Asset Linked Notes that are non-principal protected may risk losing their entire investment if the value of the relevant Underlying Asset(s) does not move in the anticipated direction. Whether or not a Note is principal protected, all payments on such Note are subject to the Issuer's credit risk and its ability to pay their relevant obligations on the applicable payment dates.

**POTENTIAL INVESTORS MUST REVIEW THE APPLICABLE FINAL TERMS TO ASCERTAIN WHAT THE RELEVANT UNDERLYING ASSET(S) ARE AND TO SEE HOW THE FINAL REDEMPTION AMOUNT OR THE ENTITLEMENT, AS THE CASE MAY BE, AND ANY PERIODIC INTEREST PAYMENTS ARE DETERMINED AND WHEN SUCH AMOUNTS OR ENTITLEMENTS ARE PAYABLE AND/OR DELIVERABLE, AS THE CASE MAY BE, BEFORE MAKING ANY DECISION TO PURCHASE ANY NOTES.**

#### **Risks relating to Notes which are linked to emerging market Underlying Asset(s).**

Where the terms and conditions of the Notes reference one or more emerging market Underlying Asset(s), investors in such Notes should be aware that the political and economic situation in countries with emerging economies or stock markets may be undergoing significant evolution and rapid development, and such countries may lack the social, political, and economic stability characteristics of more developed countries, including a significant risk of currency value fluctuation. Such instability may result from, among other things, authoritarian governments, or military involvement in political and economic decision-making, including changes or attempted changes in governments through extra-constitutional means; popular unrest associated with demands for improved political, economic, or social conditions; internal insurgencies; hostile relations with neighboring countries; and ethnic, religious, and racial disaffections or conflict. Certain of such countries may have in the past failed to recognize private property rights and have at times nationalized or expropriated the assets of private companies. As a result, the risks from investing in those countries, including the risks of nationalization or expropriation of assets, may be heightened. In addition, unanticipated political or social developments may affect the values of an Underlying Asset investment in those countries. The small size and inexperience of the securities markets in certain countries and the limited volume of trading in securities may make the emerging market Underlying Asset(s) illiquid and more volatile than investments in more established markets. There may be little financial or accounting information available with respect to local issuers, and as a result it may be difficult to assess the value or prospects of the Underlying Asset(s).

#### **Risks associated with baskets comprised of various components as Underlying Assets**

*Exposure to performance of basket and its components.* Where the Notes are linked to or reference a basket of assets, the investors in such Notes are exposed to the performance of such basket. The investors will bear the risk of the performance of each of the basket components. See, as applicable, the risk factors relating to such components set out in the sections entitled "Index Linked Notes", "Share Linked Notes", "GDR/ADR Linked Notes", "FX Linked Notes", "Commodity Linked Notes", "Fund Linked Notes" and "Inflation Linked Notes".

*A high correlation of basket components may have a significant effect on amounts payable.* Some Notes are linked to baskets of Underlying Assets where the performance of such Underlying Assets tends

to move in the same direction, or correlate, as a result of changes in market conditions, such as a change in interest rates. Correlation of basket components indicates the level of interdependence among the individual basket components with respect to their performance. If, for example, all of the basket components originate from the same sector and the same country, a high positive correlation may generally be assumed. Past rates of correlation may not be determinative of future rates of correlation, but investors should be aware that, though basket components may not appear to be correlated based on past performance, it may be that they suffer the same adverse performance following a general downturn or other economic or political event. Where the basket components are subject to high correlation, any move in the performance of the basket components will exaggerate the performance of the Notes.

***The negative performance of a single basket component may outweigh a positive performance of one or more other basket components.*** Investors in Notes must be aware that even in the case of a positive performance of one or more basket components, the performance of the basket as a whole may be negative if the performance of the other basket components is negative to a greater extent, subject to the terms and conditions of the relevant Notes.

***A small basket, or an unequally weighted basket, will generally leave the basket more vulnerable to changes in the value of any particular Underlying Asset.*** The performance of a basket that includes a smaller number of Underlying Assets will generally, subject to the terms and conditions of the relevant Notes, be more affected by changes in the value of any particular Underlying Asset included therein than a basket that includes a greater number of Underlying Assets.

The performance of a basket that gives greater weight to some Underlying Assets will generally, subject to the terms and conditions of the relevant Notes, be more affected by changes in the value of any such particular Underlying Asset included therein than a basket that gives relatively equal weight to each Underlying Asset.

***A change in composition of a basket may have an adverse effect on basket performance.*** Where the Notes grant the Calculation Agent the right, in certain circumstances, to adjust the composition of the basket, investors should be aware that any replacement basket component may perform differently from the original basket component, which may have an adverse effect on the performance of the basket which will in turn have an adverse effect on the value of the Notes.

## **Risks relating to Notes linked to certain Underlying Asset(s)**

### **Index Linked Notes**

***Factors affecting the performance of Indices may adversely affect the value of the Notes.*** Indices are comprised of a synthetic portfolio of shares, bonds, currency exchange rates, commodities, property, or other assets, and as such, the performance of an Index is dependent upon the performance of components of such Index, which may include interest rates, currency developments, political factors, market factors such as the general trends in capital markets or broad based indices, and (in the case of shares) company-specific factors such as earnings position, market position, risk situation, shareholder structure, and distribution policy. If an Index does not perform as expected, this will materially and adversely affect the value of Index Linked Notes.

***Returns on the Notes do not reflect a direct investment in underlying shares or other assets comprising the Index.*** The return payable on Notes that reference Indices may not reflect the return a potential investor would realize if it actually owned the relevant assets comprising the components of the Index or owned a different form of interest in the relevant Index. For example, if the components of the Indices are shares, Noteholders will not receive any dividends paid or distributions made on those shares and will not participate in the return on those dividends or distributions unless the relevant Index takes such dividends into account for purposes of calculating the relevant level. Similarly, Noteholders will not

have any voting rights in the underlying shares or any other assets which may comprise the components of the relevant Index. Accordingly, holders of Notes that reference Indices as Underlying Assets may receive a lower payment upon redemption of such Notes than such investor would have received if he or she had invested in the components of the Index directly or other comparable instruments linked to the Index.

***A change in the composition or discontinuance of an Index could adversely affect the market value of the Notes.*** The sponsor of any Index can add, delete, or substitute the components of such Index or make other methodological changes that could change the level of one or more components. The changing of components of any Index may affect the level of such Index as a newly added component may perform significantly worse or better than the component it replaces, which in turn may affect the payments made by the Issuer to the Noteholders of the Index Linked Notes. The sponsor of any such Index may also alter, discontinue or suspend calculation or dissemination of such Index. The sponsor of an Index will have no involvement in the offer and sale of the Index Linked Notes and will have no obligation to any Noteholder. Accordingly, the sponsor of an Index may take any actions in respect of such Index without regard to the interests of a Noteholder, and any of these actions could adversely affect the market value of the Index Linked Notes.

***Exposure to Index Modification, Index Cancellation, Index Disruption, and correction of Index levels.*** The Calculation Agent has broad discretion to make certain determinations and adjustments, to replace the original Underlying Asset with another and/or to cause early redemption of the Notes, any of which may be adverse to Noteholders in connection with Index Modification, Index Cancellation, and Index Disruption. The Calculation Agent may determine that the consequence of any such event is to make adjustments to the Notes, or to replace such Index with another or to cause early redemption of the Notes. The Calculation Agent may (subject to the terms and conditions of the relevant Notes) also amend the relevant Index level due to corrections in the level reported by the Index Sponsor. The consequences of such amendments could adversely affect the market value of the Index Linked Notes.

***There are additional risks in relation to “Proprietary Indices” or “Strategies”.*** See “There may be conflicts of interest between the Issuer, its Affiliates, and the Noteholders” above.

***There are additional risks in relation to Commodity Indices.*** See “Additional risks in relation to the “rolling” of commodity futures contracts (including commodity futures contracts which are Components of a Commodity Index)” below.

## **Share Linked Notes**

***No issuer of the relevant Share(s) will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Share Linked Notes.*** No issuer of the relevant Share(s) will have participated in the preparation of the applicable Final Terms or in establishing the terms of the Share Linked Notes and neither the Issuer nor any Dealer will make any investigation or enquiry in connection with such offering with respect to any information concerning any such issuer of Shares contained in such Final Terms or in the documents from which such information was extracted. The Issuer does not control any issuer of the relevant Share(s) and is not responsible for any disclosure made by any issuer of the relevant Share(s). Consequently, there can be no assurance that all events occurring prior to the relevant issue date (including events that would affect the adequacy, accuracy or completeness of the publicly available information described in this paragraph or in any applicable Final Terms) that would affect the trading price of the relevant Share(s) will have been publicly disclosed. Subsequent disclosure of any such events or the disclosure of or failure to disclose material future events concerning such an issuer of relevant Share(s) could affect the trading price of the Share(s) and therefore the trading price of the Notes.

***Factors affecting the performance of Shares may adversely affect the value of the Notes.*** The performance of Shares is dependent upon macroeconomic factors, such as interest and price levels on the capital markets, currency developments, political factors, and company-specific factors such as earnings position, market position, risk situation, shareholder structure, and distribution policy. These factors are not within the Issuer's control and may result in a decline in the value of the Notes.

***Noteholders have no claim against the issuer of the relevant Share(s) or recourse to the Shares.*** Share Linked Notes do not represent a claim against or an investment in any issuer of the relevant Share(s) and investors will not have any right of recourse under the Share Linked Notes to any such company or the Shares. Share Linked Notes are not in any way sponsored, endorsed, or promoted by any issuer of the relevant Share(s) and such companies have no obligation to take into account the consequences of their actions for any Noteholders. Accordingly, the issuer of a Share may take any actions in respect of such Share without regard to the interests of the investors in the Share Linked Notes, and any of these actions could adversely affect the market value of the Share Linked Notes.

***Determinations made by the Calculation Agent in respect of Potential Adjustment Events, Merger Events, Tender Offers, De-listing, Nationalizations, Insolvencies, and Additional Disruption Events may have an adverse effect on the value of the Notes.*** Upon determining that a Potential Adjustment Event, Merger Event, Tender Offer, De-listing, Nationalization, Insolvency, or Additional Disruption Event has occurred in relation to an underlying Share or Share Issuer, the Calculation Agent has broad discretion to make certain determinations to account for such event including to (i) make adjustments to the terms of the Notes and/or (ii) (in the case of a Merger Event, Tender Offer, De-listing, Nationalization, Insolvency, or an Additional Disruption Event) cause early redemption of the Notes, any of which determinations may have an adverse effect on the value of the Notes.

Potential Adjustment Events include (a) a sub-division, consolidation, or re-classification of the Shares, (b) an extraordinary dividend, (c) a call of the Shares that are not fully paid, (d) a repurchase by the issuer, or an affiliate thereof, of the Shares, (e) a separation of rights from the Shares, or (f) any event having a dilutive or concentrative effect on the value of the Shares. Additional Disruption Events include (a) a change in applicable law since the Issue Date that makes it illegal to hold, acquire or dispose of the Shares or more expensive for the Issuer to hedge its obligations under the relevant Notes or (b) if specified to be applicable in the applicable Final Terms, (i) an insolvency filing by or on behalf of any issuer of the relevant Share(s) or (ii) Hedging Disruption.

***Noteholders may receive physical delivery of Shares in lieu of payment of cash amounts.*** Where the Share Linked Notes include the right of the Issuer, subject to the fulfillment of a particular condition, to redeem the Share Linked Notes at their maturity by delivering Shares to the investor, the investors will receive such Shares rather than a monetary amount upon maturity. Noteholders will, therefore, be exposed to the issuer of such Shares and the risks associated with such Shares. The investor should not assume that he or she will be able to sell such Shares for a specific price after the redemption of the Notes, and in particular not for the purchase price of the Share Linked Notes. Under certain circumstances the Shares may only have a very low value or may, in fact, be worthless, in which case see "Investors risk losing all of their investment in the Notes" above. Noteholders may also be subject to certain documentary or stamp taxes in relation to the delivery and/or disposal of such Shares.

***Noteholders will have no voting rights or right to receive dividends or distributions in respect of the relevant Shares.*** Except as provided in the relevant Conditions in relation to Physical Delivery Notes, Noteholders of Share Linked Notes will not have voting rights or rights to receive dividends or distributions or any other rights with respect to the relevant Shares to which such Notes relate. As a result, the return on the Notes may not reflect the return an investor would realize if the investor actually owned those relevant Shares and received the dividends paid or other distributions made in connection with them.

## GDR/ADR Linked Notes

***Exposure to risk that redemption amounts do not reflect direct investment in the shares underlying the Depositary Receipts.*** There are important differences between the rights of holders of ADRs or GDRs (ADRs and GDRs, together, “**Depositary Receipts**”) and the rights of holders of the stock of the underlying share issuer represented by such Depositary Receipts. A Depositary Receipt is a security that represents capital stock of the relevant underlying share issuer. The relevant Deposit Agreement for the Depositary Receipt sets out the rights and responsibilities of the Depositary (being the issuer of the Depositary Receipt), the underlying share issuer, and holders of the Depositary Receipt which may be different from the rights of holders of the underlying shares. For example, the underlying share issuer may make distributions in respect of its underlying shares that are not passed on to the holders of its Depositary Receipts. Any such differences between the rights of holders of the Depositary Receipts and holders of the underlying shares of the underlying share issuer may be significant and may materially and adversely affect the value of the relevant GDR/ADR Linked Notes.

***Exposure to the risk of non-recognition of beneficial ownership of the underlying shares represented by Depositary Receipts and restrictions on the disposition of such underlying shares.*** The legal owner of the underlying shares represented by Depositary Receipts is the custodian bank which at the same time is the issuing agent of the Depositary Receipts. Depending on the jurisdiction under which the Depositary Receipts have been issued and the jurisdiction to which the custodian agreement is subject, it is possible that the corresponding jurisdiction would not recognize the purchaser of the Depositary Receipts as the actual beneficial owner of the underlying shares. Particularly in the event that the custodian becomes insolvent or that enforcement measures are taken against the custodian, it is possible that an order restricting free disposition could be issued with respect to the underlying shares represented by Depositary Receipts or that such shares are realized within the framework of an enforcement measure against the custodian. If this is the case, the holder of the Depositary Receipt loses the rights under the underlying shares and the GDR/ADR Linked Notes would become worthless. See “Investors risk losing all of their investment in the Notes”.

***Potential exposure to risks of emerging markets.*** Depositary Receipts often represent shares of underlying shares issuers based in emerging market jurisdictions. In such case, see “Risks relating to Notes which are linked to emerging market Underlying Asset(s)” above.

***Distributions on the underlying shares may not be passed on to the Depositary Receipts.*** The issuer of the underlying shares represented by Depositary Receipts may make distributions in respect of such shares that are not passed on to the purchasers of its Depositary Receipts which may materially and adversely affect the value of the GDR/ADR Linked Notes.

***Adjustment to the terms and conditions or replacement of the Underlying Asset following certain corporate events in relation to the underlying shares may materially and adversely affect the value of the Notes.*** Following certain corporate events specified in the terms and conditions of the relevant GDR/ADR Linked Notes relating to the underlying shares represented by Depositary Receipts or the issuer of such underlying shares, such as a merger where the relevant company is not the surviving entity, the amount Noteholders of GDR/ADR Linked Notes will receive, if any, at maturity of such Notes may be adjusted by the Calculation Agent or the affected underlying shares and Depositary Receipts may be replaced by another Underlying Asset. The occurrence of such corporate events and the consequential amendments may materially and adversely affect the value of the GDR/ADR Linked Notes.

***Exposure to changes in the rate of exchange between the currency of the Depositary Receipt and the underlying share.*** Where the currency of the Depositary Receipt is different from that of the underlying share represented by a Depositary Receipt, holders of Notes linked to such Depositary Receipt may be exposed not only to the performance of the Depositary Receipt but also to the performance of the

relevant foreign currency of the underlying share, which cannot be predicted. See “Factors affecting the performance of the relevant foreign exchange rate may adversely affect the value of the Notes” below.

### **FX Linked Notes**

***Factors affecting the performance of the relevant foreign exchange rate may adversely affect the value of the Notes.*** The foreign exchange rate(s) to which the Notes are linked will affect the nature and value of the investment return on the FX Linked Notes (or any other Notes which expose the investor to foreign exchange risks). The performance of foreign exchange rates is dependent upon the supply and demand for currencies in the international foreign exchange markets, which are subject to international and domestic political factors, economic factors (including inflation rates in the countries concerned, interest rate differences between the respective countries), economic forecasts, currency convertibility and safety of making financial investments in the currency concerned, speculation and measures taken by governments and central banks. Measures taken by governments and central banks include, without limitation, imposition of regulatory controls or taxes, issuance of a new currency to replace an existing currency, alteration of the exchange rate or exchange characteristics by devaluation or revaluation of a currency, or imposition of exchange controls with respect to the exchange or transfer of a Specified Currency that would affect exchange rates and the availability of a Specified Currency which would affect return on FX Linked Note or ability of the Issuer to make delivery in the Specified Currency.

***The Issuer is a major foreign exchange dealer and is subject to conflicts of interest.*** Investors should note that the Issuer and its Affiliates (including Merrill Lynch International) are regular participants in the foreign exchange markets and in the ordinary course of their business may effect transactions for their own account or for the account of their customers and hold long and short positions in currencies and related derivatives, including in the currencies of the relevant foreign exchange rate(s). Such transactions may affect the relevant foreign exchange rate(s), the market price, liquidity or value of the Notes and could be adverse to the interests of Noteholders. No Affiliate of the Issuer has any duty to enter into such transactions in a manner which is favorable to Noteholders.

***Currencies of emerging markets jurisdictions pose particular risks.*** FX Linked Notes linked to emerging market currencies may experience greater volatility and less certainty as to the future levels of such emerging market currencies or their rate of exchange as against other currencies. See “Risks relating to Notes which are linked to emerging market Underlying Asset(s)” above.

### **Commodity Linked Notes**

An investment in Commodity Linked Notes entails significant risks in addition to those associated with investments in a conventional debt security.

***Ownership of the Notes will not entitle an investor to any rights with respect to any futures contracts or commodities included in or tracked by the Underlying Asset(s).*** An investor will not own or have any beneficial or other legal interest in, and will not be entitled to any rights with respect to, any of the commodities or commodity futures included in such Underlying Asset(s). The Issuer will not invest in any of the commodities or commodity futures contracts included in such Underlying Asset(s) on behalf or for the benefit of the Noteholders.

***Factors affecting the performance of Commodities may adversely affect the value of the Notes; Commodity prices may be more volatile than other asset classes.*** The prices of Commodities may be volatile and may fluctuate substantially if, for example, natural disasters or catastrophes, such as hurricanes, fires, or earthquakes, affect the supply or production of such Commodities. Commodity prices also fluctuate due to general macro-economic forces and general market movements. The price of Commodities may also fluctuate substantially if conflict or war affects the supply or production of such

Commodities. If any amount payable in respect of a Note is linked to the price of a Commodity, any change in the price of such Commodity may result in the reduction of the amount of such payment in respect of a Note. The reduction in the amount payable on the redemption of the Note may result, in some cases, in a Noteholder receiving a smaller sum on redemption of the Note than the amount originally invested in such Commodity Linked Note.

***Commodities may reference physical Commodities or Commodity contracts, and certain Commodity contracts may be traded on unregulated or “under-regulated” exchanges.*** Commodities comprise both (i) “physical” Commodities, which need to be stored and transported, and which are generally traded at a “spot” price, and (ii) Commodity contracts, which are agreements either to (a) buy or sell a set amount of an underlying physical Commodity at a predetermined price and delivery period (which may be referred to as a delivery month), or to (b) make and receive a cash payment based on changes in the price of the underlying physical Commodity.

Commodity contracts may be traded on regulated specialized futures exchanges (such as futures contracts). Commodity contracts may also be traded directly between market participants “over-the-counter” on trading facilities that are subject to lesser degrees of regulation or, in some cases, no substantive regulation. Accordingly, trading in such “over-the-counter” contracts may not be subject to the same provisions as, and the protections afforded to, contracts traded on regulated specialized futures exchanges, and there may therefore be additional risks related to the liquidity and price histories of the relevant contracts and any Notes which reference any such Commodity contracts may have reduced liquidity or greater price volatility or be subject to more extensive market disruptions.

***Commodity Linked Notes which are linked to Commodity futures contracts may provide a different return from Commodity Linked Notes linked to the relevant physical Commodity and will have certain other risks.*** The price of a futures contract on a Commodity will generally be at a premium or at a discount to the spot price of the underlying Commodity. This discrepancy is due to such factors as (i) the need to adjust the spot price due to related expenses (e.g., warehousing, transport and insurance costs) and (ii) different methods being used to evaluate general factors affecting the spot and the futures markets. In addition, and depending on the Commodity, there can be significant differences in the liquidity of the spot and the futures markets. Accordingly, Commodity Linked Notes which are linked to Commodity futures contracts may provide a different return from Commodity Linked Notes linked to the relevant physical Commodity.

Investments in futures contracts involve certain other risks, including potential illiquidity. A holder of a futures position may find that such position becomes illiquid because certain Commodity exchanges limit fluctuations in such futures contract prices pursuant to “daily limits”. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in the contract can neither be taken nor liquidated unless holders are willing to effect trades at or within the limit. This could prevent a holder from promptly liquidating unfavorable positions and subject it to substantial losses. Futures contract prices in various Commodities occasionally have exceeded the daily limit for several consecutive days with little or no trading. Any such losses in such circumstances could have a negative adverse effect on the return of any Notes the Underlying Asset of which is the affected futures contract. There can be no assurance that any such disruption or any other force majeure (such as an act of God, fire, flood, severe weather conditions, act of governmental authority, or a labor dispute or shortage) will not have an adverse affect on the value of or trading in the Underlying Asset(s), or the manner in which it is calculated, and therefore, the value of the Notes.

In the case of a direct investment in commodity futures contracts, the invested capital may be applied in whole or in part by way of collateral in respect of the future claims of the respective counterparties under the commodity futures contracts. Such capital will generally bear interest, and the interest yield will increase the return of the investor making such direct investment. However, holders of

Notes linked to the price of commodity futures contracts do not participate in such interest yields from the hypothetical fully collateralized investment in commodity futures contracts.

*Additional risks in relation to the “rolling” of commodity futures contracts (including commodity futures contracts which are Components of a Commodity Index).* Commodity contracts have a predetermined expiration date, which is the date on which trading of the commodity contract ceases. Holding a commodity contract until expiration will result in delivery of the underlying physical commodity or the requirement to make or receive a cash settlement. Alternatively, “rolling” the commodity contracts means that the commodity contracts that are nearing expiration (the “**near-dated commodity contracts**”) are sold before they expire and commodity contracts that have an expiration date further in the future (the “**longer-dated commodity contracts**”) are purchased. Investments in commodities apply “rolling” of the component commodity contracts in order to maintain an ongoing exposure to such commodities.

“**Rolling**” can affect the value of an investment in commodities in a number of ways, including:

- (i) The investment in commodity contracts may be increased or decreased through “rolling”: Where the price of a near-dated commodity contract is greater than the price of the longer-dated commodity contract (the commodity is said to be in “backwardation”), then “rolling” from the former to the latter will result in exposure to a greater number of the longer-dated commodity contract being taken. Therefore, any loss or gain on the new positions for a given movement in the prices of the commodity contract will be greater than if one had synthetically held the same number of commodity contracts as before the “roll”. Conversely, where the price of the near-dated commodity contract is lower than the price of the longer-dated commodity contract (the commodity is said to be in “contango”), then “rolling” will result in exposure to a smaller number of the longer-dated commodity contract being taken. Therefore, any gain or loss on the new positions for a given movement in the prices of the commodity contract will be less than if one had synthetically held the same number of commodity contracts as before the “roll”.
- (ii) Where a commodity contract is in contango (or, alternatively, backwardation) such may be expected to (though it may not) have a negative (or, alternatively, positive) effect over time: Where a commodity contract is in “contango”, then the price of the longer-dated commodity contract will generally be expected to (but may not) decrease over time as it nears expiry. In such event, rolling is generally expected to have a negative effect on an investment in the commodity contract. Where a commodity contract is in “backwardation”, then the price of the longer-dated commodity contract will generally be expected to (but may not) increase over time as it nears expiry. In such event, the investment in the relevant commodity contract can generally be expected to be positively affected.

Commodity indices are indices which track the performance of a basket of commodity contracts on certain commodities, depending on the particular index. The weighting of the respective commodities included in a commodity index will depend on the particular index, and is generally described in the relevant index rules of the index. Commodity indices apply “rolling” of the component commodity contracts in order to maintain an ongoing exposure to such commodities. Specifically, as a commodity contract is required to be rolled pursuant to the relevant index rules, the commodity index is calculated as if exposure to the commodity contract was liquidated and exposure was taken to another (generally longer-dated) commodity contract for an equivalent exposure. Accordingly, the same effects as described above with regard to “rolling” on the value of a Commodity Underlying Asset also apply with regard to the index level of a Commodity index.

***Legal and regulatory changes relating to the Commodities may lead to an early redemption.***

Commodities are subject to legal and regulatory regimes that may change in ways that could affect the ability of the Issuer and/or any entities acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer's obligations in relation to the Notes to hedge the Issuer's obligations under the Notes, and/or could lead to the early redemption of the Notes.

Commodities are subject to legal and regulatory regimes in the United States and, in some cases, in other countries that may change in ways that could negatively affect the value of the Notes. For example, in July 2010, the U.S. Congress passed legislation intended to decrease speculation and increase transparency in the commodities markets. Such legislation, among other things, requires the U.S. Commodity Futures Trading Commission ("CFTC") or exchanges to adopt rules establishing position limits on positions in commodity futures contracts. Such legislation could have an unpredictable impact on the value of any Commodity Linked Notes. In addition, if the commodities are traded on a non-U.S. exchange, those foreign markets may be more susceptible to disruption than U.S. exchanges due to the lack of a government-regulated clearinghouse system and may be subject to exchange controls, expropriation, burdensome or confiscatory taxation, or moratoriums and political or diplomatic events.

**Fund Linked Notes**

***A fund may be subject to Fund Events which may adversely impact the value of Fund Linked Notes.*** If certain events specified as Fund Events occur, the Calculation Agent may replace the fund by other funds and thereafter the amount payable in respect of the Notes will depend on and be calculated by reference to the performance of an alternate asset. This may have a considerable impact on the value of the Fund Linked Notes and the amount payable in respect of the Fund Linked Notes. Alternatively, any determination dates and payment dates may be changed by the Calculation Agent, or the amount paid per Note may be based on the only cash amounts that an investor in the fund actually received, which might be as low as zero.

***Risk from composition and changes to a fund.*** The management company of a fund can, without regard to the interests of the investors in the Fund Linked Notes, add, delete or substitute any funds by reference to which the value of a fund is calculated or make other methodological changes that could change the investment profile of a fund. The management company may also determine to discontinue a fund. If a fund is discontinued, it may be replaced by other assets and/or the Fund Linked Notes may be redeemed early.

In the event that a fund is materially modified or permanently cancelled or the management company fails to calculate or announce the net asset value of a fund, the Calculation Agent will either make such adjustments to any variable, calculation methodology, valuation, settlement, payment terms or any other terms and conditions of the Fund Linked Notes as the Calculation Agent determines appropriate to account for the effect on the Fund Linked Notes of such events, or may redeem the Fund Linked Notes early. Any of these decisions or determinations may adversely impact the value of the Fund Linked Notes.

***Funds may be subject to transfer restrictions and illiquidity.*** Funds and the assets thereof may be subject to transfer restrictions arising by way of applicable securities laws or otherwise. Such restrictions may mean that purchasers of the Fund Linked Notes are not entitled to acquire interests in the funds directly. Holders of units or shares in a fund may have the right to transfer or withdraw their investment in the funds only at certain times and upon completion of certain documentary formalities and such rights may be subject to suspension or alteration. These circumstances may affect the net asset value of the funds in question which in turn may adversely impact the value of the Fund Linked Notes.

***Events which affect the value of a fund will affect the value of Fund Linked Notes.*** The occurrence of any of the following events could materially and adversely affect the value of shares or units in a Fund, and have a consequent material and adverse effect on the value of Fund Linked Notes:

- ***Valuation:*** The valuation of funds is generally controlled by the management company of the fund. Valuations are performed in accordance the terms and conditions governing the fund. Such valuations may be based upon the unaudited financial records of the fund and any accounts pertaining thereto. Such valuations may be preliminary calculations of the net asset values of the fund and accounts. The fund may hold a significant number of investments which are illiquid or otherwise not actively traded and in respect of which reliable net asset values may be difficult to obtain. In consequence, the management company may vary certain quotations for such investments held by the fund in order to reflect its judgment as to the fair value thereof. Therefore, valuations may be subject to subsequent adjustment upward or downward. Uncertainties as to the valuation of fund assets and/or accounts may have an adverse effect of the net asset value of the fund where such judgments regarding valuations prove to be incorrect.
- ***Trading Charges:*** The performance of a fund will be affected by the charges incurred thereby relating to the investments of such fund. The fund may engage in short-term trading which may result in increased turnover and associated higher than normal brokerage commissions and other expenses.
- ***Legal and regulatory changes:*** Future changes to applicable law or regulation may be adverse to a fund.
- ***Investment risk:*** All investments risk the loss of capital and/or the diminution of investment returns. A fund may utilize, *inter alia*, strategies such as short-selling, leverage, securities lending and borrowing, investment in sub-investment grade or non-readily realizable investments, uncovered options transactions, options and futures transactions, foreign exchange transactions, and the use of concentrated portfolios, each of which could, in certain circumstances, magnify adverse market developments and losses.
- ***Illiquidity:*** A fund may make investments in markets that are volatile and/or illiquid and it may be difficult or costly for positions therein to be opened or liquidated.
- ***Performance Risk:*** No assurance can be given relating to the present or future performance of a fund. The performance of a fund is dependent on the performance of the management company thereof. Certain management companies may utilize analytical models upon which investment decisions are based. No assurance can be given that these persons will succeed in meeting the investment objectives of the fund, that any analytical model used thereby will prove to be correct or that any assessments of the short-term or long-term prospects, volatility and correlation of the types of investments in which the funds have invested or will invest will prove accurate.
- ***Effect of exchange rates and exchange controls:*** The net asset value of a fund could be adversely affected not only by hedging costs and changes in exchange rates, but also by local exchange control regulations and other limitations, including currency exchange limitations and political and economic developments in the relevant countries.
- ***Market risks:*** The markets in which a fund invests may prove to be highly volatile from time to time as a result of, for example, sudden changes in government policies on taxation and currency repatriation or changes in legislation relating to the value of foreign ownership in companies, and this may affect the net asset value at which a fund may liquidate positions to

meet repurchase requests or other funding requirements.

- **Hedging risks:** A fund may in certain cases employ various hedging techniques to reduce the risk of investment positions. A substantial risk remains, nonetheless, that such techniques will not always be available and when available, will not always be effective in limiting losses. A fund may take substantial unhedged positions.
- **Interest rate risks:** The values of securities held by a fund (or by any underlying fund) tend to be sensitive to interest rate fluctuations and unexpected fluctuations in interest rates could cause the corresponding net asset values of a fund's positions to move in directions which were not initially anticipated. To the extent that interest rate assumptions underlie the hedge ratios implemented in hedging a particular position, fluctuations in interest rates could invalidate those underlying assumptions and expose a fund to losses.
- **Absence of regulation:** A fund will generally not be regulated under the laws of any country or jurisdiction. As a result, certain protections of such laws (which, among other things, may require investment companies to have disinterested directors, require securities to be held in custody and segregated, regulate the relationship between the investment company and its adviser and mandate investor approval before fundamental investment policies may be changed) do not apply to a fund. This absence of regulation may adversely affect the performance of a fund.
- **Suspension of trading:** A securities exchange typically has the right to suspend or limit trading in any instrument traded on that exchange. A suspension could render it impossible for a fund to liquidate positions and thereby expose a fund to losses.
- **Dependence on key individuals:** The success of a fund is dependent on the expertise of its managers. The loss of one or more individuals could have a material adverse effect on the ability of a fund manager to direct a fund's portfolio, resulting in losses for a fund and a decline in the value of a fund. Indeed, certain fund managers may have only one principal, without whom the relevant fund manager could not continue to operate.
- **Experience of fund managers:** Certain funds may be managed by investment managers who have managed hedge funds for a relatively short period of time. The previous experience of such investment managers is typically in trading proprietary accounts of financial institutions or managing unhedged accounts of institutional asset managers or other investment firms. As such investment managers do not have direct experience in managing funds or hedge funds, including experience with financial, legal or regulatory considerations unique to fund management, and there is generally less information available on which to base an opinion of such managers' investment and management expertise, investments with such investment managers may be subject to greater risk and uncertainty than investments with more experienced fund managers.
- **Risk of fraud:** There is a risk that a fund manager could divert or abscond with the assets, fail to follow agreed-upon investment strategies, provide false reports of operations or engage in other misconduct.
- **Performance compensation payable to fund managers:** The performance-based compensation paid to a fund manager is typically calculated on a basis that includes unrealized appreciation and may consequently be greater than if such compensation were based solely on realized gains. Each fund generally calculates its own performance compensation based on its individual performance, irrespective of increases in the overall value of the fund. Furthermore, when the fund is rebalanced and an unprofitable underlying

asset is removed, the loss carried forward by such fund's trading is eliminated for purposes of calculating subsequent performance compensation due to the fund manager of any replacement underlying asset. Thus, there may be substantial incentive compensation due to the relevant fund manager even during a period when the portfolio of assets is incurring significant losses.

- **Concentration risk:** As many hedge funds have the authority to concentrate their investments in securities of a single issuer or industry, the overall adverse impact on one or more components of the fund, and correspondingly on the value of the fund, of adverse movements in the value of such securities could be considerably greater than if the fund were not permitted to concentrate their investments. Moreover, a number of hedge funds included as components in a fund might accumulate substantial positions in the same or related instruments at the same time. As information regarding the actual investments made by such funds is not generally available, the management company will be unable to identify any such accumulations, which could expose the relevant fund to the risk of sudden and severe declines.
- **Risks of leverage:** A fund may borrow without limitation and typically utilize various lines of credit and other forms of leverage. In addition, certain of a fund's investment strategies (primarily those utilizing derivative instruments) may involve indirect forms of leverage. While leverage presents opportunities for increasing a fund's total return, it increases the potential risk of loss as well. Any event which adversely affects the value of an investment by a fund is magnified to the extent that such investment is leveraged. Leverage can have a similar effect on issuers in which a fund invests. The use of leverage by a fund could result in substantial losses which would be greater than if leverage had not been used. A fund's assets may be further leveraged or hedged by the use of derivatives. In addition, investments of a fund may include investments in partnerships and other pooled investment vehicles, which themselves employ leverage to a significant extent. Such investments are subject to the same leverage risks as described above and a fund could lose its entire investment. As a general matter, the banks and dealers that provide financing to a fund can apply essentially discretionary margin, haircut, financing and security and collateral valuation policies. Changes by banks and dealers in these policies may result in large margin calls, loss of financing and forced liquidations of positions at disadvantageous net asset values.
- **Non-deductible taxes:** As funds may be resident in so-called off-shore jurisdictions, which have not entered into any double taxation conventions with other countries, any income of such fund may be subject to taxation in the countries of origin. As such withholding taxes are non-deductible due to the fact that such funds are not subject to income taxation in their countries of residence, the fund's net income may be reduced which may have a negative impact on the performance of such fund.
- **Investment criteria:** It may be difficult to specify precisely or comprehensively the strategies of a fund. As a result, it may not sometimes be clear whether or not a fund fulfils the investment criteria set out in its offering document.
- **Risks of equity investments:** The investment orientation of a fund may be based to a significant extent on equity investments. Investment in equity securities to aggressively seek capital appreciation is speculative and is generally perceived to encompass greater risks than those involved in connection with an investment in debt securities of comparable issuers.
- **Risks of fixed income investments:** A fund may invest in fixed income securities and, therefore, may be exposed to the risk of default by the issuers of such securities. Such default

may result in delays in payment, or non-payment of interest or principal when due. Furthermore, the net asset value of fixed income securities may also fluctuate with changes in prevailing interest rates and/or in the creditworthiness of the issuer, and these fluctuations may result in a loss of capital by a fund.

- ***Risks of collective investment schemes:*** Some funds may invest in other collective investment schemes. Investment in schemes of this type may afford the investor less transparency in respect of the ultimate assets of the scheme.
- ***Large transactions:*** Large subscriptions and redemptions may result in the liquidation or dilution of fund assets that may affect the net asset value of such fund.
- ***Emerging markets:*** A fund may invest in securities of governments of, or companies domiciled in, less-developed or emerging markets. See “Risks relating to Notes which are linked to emerging market Underlying Asset(s)”. Custody arrangements in such countries may also present enhanced risk.
- ***Risks of repos:*** A fund may use repurchase agreements. Under a repurchase agreement, a security is sold to a buyer and at the same time the seller of the security agrees to buy back the security at a later date at a higher net asset value. In the event of a bankruptcy or other default of the transferor of securities in a repurchase agreement, a fund could experience delays in liquidating the underlying securities and losses, including possible declines in the value of the collateral during the period while it seeks to enforce its rights thereto; possible subnormal levels of income and lack of access to income during this period and the expenses of enforcing its rights. In the case of a default by the transferee of securities in a repurchase agreement, the management company bears the risk that the transferee may not deliver the securities when required.
- ***Risks of currency speculation:*** A fund may engage in exchange rate speculation. Foreign exchange rates have been highly volatile in recent years. The combination of volatility and leverage gives rise to the possibility of large profit but also carries a high risk of loss. In addition, there is counterparty credit risk since foreign exchange trading is done on a principal to principal basis.
- ***Risks of commodity futures:*** Commodity futures prices can be highly volatile. As a result of the low margin deposits normally required in futures trading, an extremely high degree of leverage is typical of a futures trading account. As a result, a relatively small price movement in a futures contract may result in substantial losses to the investor. Like other leveraged investments, a futures transaction may result in losses in excess of the amount invested.
- ***Risks of derivative instruments:*** A fund may use derivative instruments, such as collateralized debt obligations, stripped mortgage-backed securities, options and swaps. There are uncertainties as to how the derivatives market will perform during periods of unusual price volatility or instability, market illiquidity or credit distress. Substantial risks are also involved in borrowing and lending against such instruments. The prices of these instruments are volatile, market movements are difficult to predict and financing sources and related interest rates are subject to rapid change. One or more markets may move against the positions held by a fund, thereby causing substantial losses. Most of these instruments are not traded on exchanges but rather through an informal network of banks and dealers. These banks and dealers have no obligation to make markets in these instruments and may apply essentially discretionary margin and credit requirements (and thus, in effect, force a fund to close out its relevant positions). In addition, such instruments carry the additional risk of failure to perform by the counterparty to the transaction. Government policies, especially

those of the U.S. Federal Reserve Board and non-U.S. central banks, have profound effects on interest and exchange rates which, in turn, affect prices of derivative instruments. Many other unforeseeable events, including actions by various government agencies and domestic and international political events, may cause sharp market fluctuations.

- **Risks of short selling:** A fund may sell securities short. Short selling exposes a fund to theoretically unlimited risk due to the lack of an upper limit on the price to which a security may rise. Short selling involves the sale of borrowed stock. If a stock loan is called, the short seller may be forced to repurchase the stock at a loss. In addition, some traders may attempt to profit by forcing short sellers to incur a loss. Traders may make large purchases of a stock that has been sold short. The large purchases are intended to drive up the stock price, and cause the short sellers to incur losses. By doing this, the traders hope the short sellers will limit their losses by repurchasing the stock and force the stock price even higher.
- **Risks of arbitrage:** The use of arbitrage strategies by a fund in no respect should be taken to imply that such strategies are without risk. Substantial losses may be incurred on “hedge” or “arbitrage” positions, and illiquidity and default on one side of a position may effectively result in the position being transformed into an outright speculation. Every arbitrage strategy involves exposure to some second order risk of the market, such as the implied volatility in convertible bonds or warrants, the yield spread between similar term government bonds or the net asset value spread between different classes of stock for the same underlying firm. Further, there are few examples of “pure” arbitrage funds. Most funds also employ limited directional strategies which expose them to market risk.
- **Credit risk:** Many of the markets in which a fund effects its transactions are “over-the-counter” or “inter-dealer” markets. The participants in these markets are typically not subject to credit evaluation and regulatory oversight as are members of “exchange based” markets. To the extent that a fund invests in swaps, derivatives or synthetic instruments, or other over-the-counter transactions in these markets, such fund may take a credit risk with regard to parties with which it trades and also may bear the risk of settlement default. These risks may differ materially from those involved in exchange-traded transactions, which generally are characterized by clearing organization guarantees, daily marking-to-market and settlement, and segregation and minimum capital requirements applicable to intermediaries. Transactions entered into directly between two counterparties generally do not benefit from these protections, which in turn may subject a fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract or because of a credit or liquidity problem. Such “counterparty risk” is increased for contracts with longer maturities when events may intervene to prevent settlement. The ability of a fund to transact business with any one or any number of counterparties, the lack of any independent evaluation of the counterparties or their financial capabilities, and the absence of a regulated market to facilitate settlement, may increase the potential for losses.
- **Risks relating to controlling stakes:** A fund may take controlling stakes in companies. The exercise of control over a company imposes additional risks of liability for environmental damage, product defects, failure to supervise and other types of related liability.

***As the shares of certain funds may only be redeemable on certain dates, there is a risk of delays or defaults in payment.*** The shares of a fund may only be redeemable on certain redemption dates, subject to the prescribed notice period in respect of such fund. This gives rise to a time delay between the execution of an order for redemption and payment of the proceeds on such redemption. If the fund becomes insolvent following the date on which a redemption order would have to be notionally placed or the Calculation Agent determines that the relevant fund would fail to pay to any shareholder in cash the

full redemption proceeds owing to them if they redeemed their shares on the relevant date, an adjustment may be made by the Calculation Agent when calculating the return on the Notes to the net asset value per share of the relevant fund, thereby reducing the return on the Notes.

In the case of Fund Linked Notes linked to Exchange Traded Funds (“ETFs”), if the Calculation Agent determines that an event giving rise to a Disrupted Day has occurred at any relevant time, any such determination may have an effect on the timing of valuation and consequently the value of the Notes and/or may delay settlement in respect of the Notes. Potential investors should review the relevant Terms and Conditions and the applicable Final Terms to ascertain whether and how such provisions apply to the Fund Linked Notes.

In the case of Fund Linked Notes linked to ETFs following the declaration by the ETF of the occurrence of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical relevant Fund Shares and, if so, will (i) make the corresponding adjustment, if any, to any of the terms of the relevant Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect and (ii) determine the effective date of that adjustment. Such adjustment may have an adverse effect on the value and liquidity of the affected Fund Linked Notes.

In addition, in the case of Fund Linked Notes linked to ETFs, if a Merger Event, Tender Offer, De-Listing, Material Underlying Event, Nationalization, or Insolvency occurs in relation to any Fund Share, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:

- (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the relevant Conditions and/or the applicable Final Terms to account for the Merger Event, Tender Offer, De-Listing, Material Underlying Event, Nationalization, or Insolvency and determine the effective date of that adjustment. Such adjustment may have an adverse effect on the value and liquidity of the affected Fund Linked Notes; and
- (ii) redeem or cancel, as applicable, all of the Fund Linked Notes. Following such redemption or cancellation an investor generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the relevant Notes being redeemed or cancelled and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

The market price of Fund Linked Notes may be volatile and may depend on the time remaining to the redemption date and the volatility of the price of fund share(s) or unit(s). The price of fund share(s) or unit(s) may be affected by the economic, financial and political events in one or more jurisdictions, including factors affecting the exchange(s) or quotation system(s) on which any units in the fund or funds may be traded.

### **Inflation Linked Notes**

The relevant consumer price index or other formula linked to a measure of inflation to which the Notes are linked may be subject to significant fluctuations that may not correlate with other indices. Any movement in the level of the index may result in a reduction of the interest payable on the Notes and, in the case of Notes with a redemption amount linked to inflation, in a reduction of the amount payable on redemption, which in some cases could be less than the amount originally invested.

The timing of changes in the relevant consumer price index or other formula linked to the measure of inflation comprising the relevant index or indices may affect the actual yield to investors on the Notes, even if the average level is consistent with their expectations.

An index to which interest payments on an Inflation Linked Note and/or the redemption amount of an Inflation Linked Note are linked is only one measure of inflation for the relevant jurisdiction, and such index may not correlate perfectly with the rate of inflation experienced by Noteholders in such jurisdiction.

**USE OF PROCEEDS**

The net proceeds from the sale of the Notes by the Issuer will be used for general corporate purposes, including, without limitation, the Issuer's working capital needs, the funding of investments in, or extensions of credit to, its subsidiaries, possible acquisitions of other financial institutions or their assets or liabilities, possible acquisitions of or investments in other businesses, possible reduction of outstanding indebtedness or repurchases of its outstanding equity securities, or otherwise in the ordinary course of the Issuer's business. From time to time, the Issuer may engage in additional capital financings of a character and in amounts that it will determine in light of its needs at such time or times and in light of prevailing market conditions. If the Issuer elects at the time of issuance of Notes to make different or more specific use of proceeds other than those set forth in this Offering Circular, the Issuer will describe that use in the applicable Final Terms.

## BANK OF AMERICA CORPORATION

Bank of America Corporation is a Delaware corporation, a bank holding company, and a financial holding company. The Issuer was incorporated in 1998 (for an unlimited duration) as a part of the merger of BankAmerica Corporation with NationsBank Corporation. The Issuer's Delaware registration number is 2927442. The Issuer operates under the General Corporation Law of the State of Delaware, Title 8 of the Delaware Code 1953, sections 101 through 398, known as the "Delaware General Corporation Law". The Issuer's headquarters and principal place of business are located at 100 North Tryon Street, Charlotte, North Carolina 28255, United States of America, telephone number (704) 386-5681. The Issuer's objects and purposes are to engage in any lawful act or activity for which corporations may be organized and incorporated in the General Corporation Law of the State of Delaware, as specified in paragraph 2 of the Issuer's amended and restated certificate of incorporation.

### Business Segment Operations

The Issuer, together with its subsidiaries, provides a diversified range of banking and non-banking financial services and products in all 50 states, the District of Columbia, and more than 40 foreign countries. The Issuer provides these services and products through six business segments: (1) *Deposits*, (2) *Global Card Services*, (3) *Home Loans & Insurance*, (4) *Global Commercial Banking*, (5) *Global Banking & Markets*, and (6) *Global Wealth & Investment Management*.

### Acquisition and Disposition Activity

As part of its operations, the Issuer regularly evaluates the potential acquisition of, and holds discussions with, various financial institutions and other businesses of a type eligible for financial holding company ownership or control. In addition, the Issuer regularly analyzes the values of, and submits bids for, the acquisition of customer-based funds and other liabilities and assets of such financial institutions and other businesses. The Issuer also regularly considers the potential disposition of certain of its assets, branches, subsidiaries, or lines of businesses. As a general rule, the Issuer publicly announces any material acquisitions or dispositions when a definitive agreement has been reached.

### Board of Directors

The Directors of the Issuer are:

Director	Function
Charles O. Holliday, Jr. ....	Chairman, Non-employee director
Susan S. Bies .....	Non-employee director
William P. Boardman .....	Non-employee director
Frank P. Bramble, Sr. ....	Non-employee director
Virgis W. Colbert .....	Non-employee director
Charles K. Gifford.....	Non-employee director
D. Paul Jones, Jr. ....	Non-employee director
Monica C. Lozano .....	Non-employee director
Thomas J. May .....	Non-employee director
Brian T. Moynihan .....	Chief Executive Officer and President
Donald E. Powell .....	Non-employee director
Charles O. Rossotti .....	Non-employee director
Robert W. Scully .....	Non-employee director

The business address of each Director is 100 North Tryon Street, Charlotte, North Carolina, 28255, United States of America.

For the purposes of the Prospectus Directive, no potential conflicts of interest exist between the duties to the Issuer of the members of the Board of Directors, as listed above, and their private interests and/or other duties.

### **Subsidiaries**

The Issuer acts as the holding company of over 2,000 subsidiary undertakings worldwide which are all operative within the financial services sector. Details of the Issuer's principal subsidiaries, each of which is wholly owned, directly or indirectly, by the Issuer, are set out below:

<b>Name</b>	<b>Address</b>	<b>Principal Activity</b>
Bank of America, N.A . . . . .	101 North Tryon Street, Charlotte, North Carolina 28255	Commercial and consumer banking
Banc of America Securities LLC ....	101 North Tryon Street, Charlotte, North Carolina 28255	Brokerage and dealing in debt and equity securities, as well as loan syndications
FIA Card Services, N.A. ....	100 North King Street, Wilmington, Delaware 19884	Consumer credit
Merrill Lynch & Co., Inc. ....	4 World Financial Center, New York, New York 10080	Investment banking, capital markets, advisory and wealth management

### **Trend Information**

The continued weakness in the global economy and recent and proposed regulatory changes will continue to affect many of the markets in which BAC does business and may adversely impact the Group's results for 2010. The impact of these conditions is dependent upon the timing, degree and sustainability of the economic recovery.

### **Board Practices**

#### *Audit Committee*

The Issuer's Audit Committee, which currently consists of four independent members of the Issuer's Board of Directors, provides direct oversight of the corporate audit function and the independent registered public accounting firm of the Issuer.

The members of the Audit Committee are Charles O. Rossotti (Chair), D. Paul Jones, Jr., Donald E. Powell and Robert W. Scully.

#### *Corporate Governance*

The Issuer has complied in all material respects with the corporate governance regime of the State of Delaware and all applicable provisions of Delaware General Corporation Law.

## REGULATORY MATTERS

*The following discussion describes elements of an extensive regulatory framework applicable to bank holding companies, financial holding companies, and banks and specific information about the Issuer and its subsidiaries. Federal regulation of banks, bank holding companies, and financial holding companies is intended primarily for the protection of depositors and the deposit insurance fund rather than for the protection of stockholders and creditors.*

### 1. General

As a registered bank holding company and financial holding company, the Issuer is subject to the supervision of, and regular inspection by, the Board of Governors of the Federal Reserve System (the “**Federal Reserve Board**”). The Issuer’s banking subsidiaries are organized as national banking associations, which are subject to regulation, supervision, and examination by the Office of the Comptroller of the Currency (the “**Comptroller**”), the Federal Deposit Insurance Corporation (the “**FDIC**”), the Federal Reserve Board, and other federal and state regulatory agencies. In addition to banking laws, regulations, and regulatory agencies, the Issuer and its subsidiaries and affiliates are subject to various other laws and regulations and supervision and examination by other regulatory agencies, all of which directly or indirectly affect the operations and management of the Issuer and its subsidiaries and affiliates, and the Issuer’s ability to make distributions to stockholders and payments to holders of Notes. For example, the Issuer’s U.S. broker dealer subsidiaries are subject to regulation by and supervision of the SEC, the New York Stock Exchange (the “**NYSE**”), and the Financial Industry Regulatory Authority (the “**FINRA**”); the Issuer’s commodities business in the United States is subject to regulation by and supervision of the Commodities Futures Trading Commission (the “**CFTC**”); and the Issuer’s insurance activities are subject to licensing and regulation by state insurance regulatory agencies.

The Issuer’s non-U.S. businesses are also subject to extensive regulation by various non-U.S. regulators, including governments, securities exchanges, central banks and other regulatory bodies, in the jurisdictions in which the businesses operate. The Issuer’s financial services operations in the United Kingdom are subject to regulation by and supervision of the Financial Services Authority (the “**FSA**”).

A U.S. financial holding company, and the companies under its control, are permitted to engage in activities considered “financial in nature” as defined by the Gramm-Leach-Bliley Act of 1999 (the “**Gramm-Leach-Bliley Act**”) and Federal Reserve Board interpretations (including, without limitation, insurance and securities activities) and therefore may engage in a broader range of activities than permitted for bank holding companies and their subsidiaries. Unless otherwise limited by the Federal Reserve Board, a financial holding company may engage directly or indirectly in activities considered financial in nature, either de novo or by acquisition, provided the financial holding company gives the Federal Reserve Board after-the-fact notice of the new activities. In addition, if the Federal Reserve Board finds that any of the Issuer’s banking subsidiaries is not well capitalized or well managed, the Issuer would be required to enter into an agreement with the Federal Reserve Board to comply with all applicable capital and management requirements, which may contain additional limitations or conditions relating to the Issuer’s activities. The Gramm-Leach-Bliley Act also permits national banks, such as the Issuer’s banking subsidiaries, to engage in activities considered financial in nature through a financial subsidiary, subject to certain conditions and limitations and with the approval of the Comptroller.

U.S. bank holding companies (including bank holding companies that also are financial holding companies) also are required to obtain the prior approval of the Federal Reserve Board before acquiring more than five per cent. of any class of voting stock of any non-affiliated bank. Pursuant to the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the “**Interstate Banking and Branching Act**”), a bank holding company may acquire banks located in states other than its home state without

regard to the permissibility of such acquisitions under state law, but subject to any state requirement that the bank has been organized and operating for a minimum period of time, not to exceed five years, and the requirements that the bank holding company, after the proposed acquisition, controls no more than 10 per cent. of the total amount of deposits of insured depository institutions in the United States and no more than 30 per cent. or such lesser or greater amount set by state laws of such deposits in that state. At December 31, 2009, the Issuer controlled approximately 12 per cent. of total deposits of insured institutions in the United States. Subject to certain restrictions, the Interstate Banking and Branching Act also permits a bank to open new branches in a state in which it does not already have banking operations if such state enacts a law permitting de novo branching.

## 2. Changes in Regulations

Proposals to change the laws and regulations governing the banking and financial services industry are frequently introduced in the U.S. Congress, in the state legislatures and before the various bank regulatory agencies as well as by lawmakers and regulators in jurisdictions outside the United States where the Issuer operates. For example, in 2009, the U.S. Department of the Treasury (the “**U.S. Treasury**”), the FDIC, and the Federal Reserve Board developed programs and facilities designed to support the banking and financial services industries during the financial crisis. The U.S. Congress and the U.S. government have continued to evaluate and develop legislation, programs and initiatives designed to, among other things, stabilize the U.S. financial and housing markets, stimulate the U.S. economy, including the U.S. government’s foreclosure prevention program, and prevent future financial crises by further regulating the financial services industry. As a result of the financial crisis and challenging economic environment, the Issuer expects additional changes to be proposed and continued legislative and regulatory scrutiny of the financial services industry. The final form of any proposed programs or initiatives or related legislation, the likelihood and timing of any other future proposals or legislation, and the impact they might have on the Issuer cannot be determined at this time.

## 3. Capital and Operational Requirements

The Federal Reserve Board, the Comptroller and the FDIC have issued substantially similar risk-based and leverage capital guidelines applicable to U.S. banking organizations. In addition, these regulatory agencies may from time to time require that a banking organization maintain capital above the minimum levels, whether because of its financial condition or actual or anticipated growth. The Federal Reserve Board risk-based guidelines define a three-tier capital framework. Tier 1 capital includes common shareholders’ equity, trust preferred securities noncontrolling interests, qualifying preferred stock and any Common Equivalent Securities (“**CES**”), less goodwill and other adjustments. Tier 2 capital consists of preferred stock not qualifying as Tier 1 capital, mandatorily convertible debt, limited amounts of subordinated debt, other qualifying term debt, the allowance for credit losses up to 1.25 per cent. of risk-weighted assets and other adjustments. Tier 3 capital includes subordinated debt that is unsecured, fully paid, has an original maturity of at least two years, is not redeemable before maturity without prior approval by the Federal Reserve Board and includes a lock-in clause precluding payment of either interest or principal if the payment would cause the issuing bank’s risk-based capital ratio to fall or remain below the required minimum. The sum of Tier 1 and Tier 2 capital less investments in unconsolidated subsidiaries represents the Issuer’s qualifying total capital. Risk-based capital ratios are calculated by dividing Tier 1 and total capital by risk-weighted assets. Assets and off-balance sheet exposures are assigned to one of four categories of risk-weights, based primarily on relative credit risk. The minimum Tier 1 capital ratio is four per cent. and the minimum total capital ratio is eight per cent. The Issuer’s Tier 1 and total risk-based capital ratios under these guidelines at December 31, 2009 were 10.40 per cent. and 14.66 per cent. At December 31, 2009, the Issuer had no subordinated debt that qualified as Tier 3 capital. While not an explicit requirement of law or regulation, bank regulatory agencies have stated that they expect common capital to be the primary component of a financial holding company’s Tier 1 capital and

that financial holding companies should maintain a Tier 1 common capital ratio of at least four per cent. The Tier 1 common capital ratio is determined by dividing Tier 1 common capital by risk weighted assets. The Issuer calculates Tier 1 common capital as Tier 1 capital, which includes CES, less preferred stock, trust preferred securities, hybrid securities and noncontrolling interest. As of December 31, 2009, the Issuer's Tier 1 common capital ratio was 7.81 per cent.

The leverage ratio is determined by dividing Tier 1 capital by adjusted quarterly average total assets, after certain adjustments. Well-capitalized bank holding companies must have a minimum Tier 1 leverage ratio of three per cent. and not be subject to a Federal Reserve Board directive to maintain higher capital levels. The Issuer's leverage ratio at December 31, 2009 was 6.91 per cent., which exceeded its leverage ratio requirement.

The Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), among other things, identifies five capital categories for insured depository institutions (well capitalized, adequately capitalized, undercapitalized, significantly undercapitalized and critically undercapitalized) and requires the respective federal regulatory agencies to implement systems for "prompt corrective action" for insured depository institutions that do not meet minimum capital requirements within such categories. FDICIA imposes progressively more restrictive constraints on operations, management and capital distributions, depending on the category in which an institution is classified. Failure to meet the capital guidelines could also subject a banking institution to capital-raising requirements. An "undercapitalized" bank must develop a capital restoration plan and its parent holding company must guarantee that bank's compliance with the plan. The liability of the parent holding company under any such guarantee is limited to the lesser of five per cent. of the bank's assets at the time it became "undercapitalized" or the amount needed to comply with the plan. Furthermore, in the event of the bankruptcy of the parent holding company, such guarantee would take priority over the parent's general unsecured creditors. In addition, FDICIA requires the various regulatory agencies to prescribe certain non-capital standards for safety and soundness relating generally to operations and management, asset quality and executive compensation, and permits regulatory action against a financial institution that does not meet such standards.

The various regulatory agencies have adopted substantially similar regulations that define the five capital categories identified by FDICIA, using the total risk-based capital, Tier 1 risk-based capital and leverage capital ratios as the relevant capital measures. Such regulations establish various degrees of corrective action to be taken when an institution is considered undercapitalized. Under the regulations, a "well capitalized" institution must have a Tier 1 risk-based capital ratio of at least six per cent., a total risk-based capital ratio of at least ten per cent. and a leverage ratio of at least five per cent. and not be subject to a capital directive order. Under these guidelines, each of the Issuer's banking subsidiaries was considered well capitalized as of December 31, 2009.

Regulators also must take into consideration: (a) concentrations of credit risk; (b) interest rate risk; and (c) risks from non-traditional activities, as well as an institution's ability to manage those risks, when determining the adequacy of an institution's capital. This evaluation is made as a part of the institution's regular safety and soundness examination. In addition, the Issuer, and any of its banking subsidiaries with significant trading activity, must incorporate a measure for market risk in their regulatory capital calculations.

In addition, in June 2004, the Basel Committee on Banking Supervision published Basel II, which is designed to address credit risk, market risk and operational risk in the international banking markets. In December 2007, U.S. banking regulators published Basel II final rules which require the Issuer and certain of its U.S. banking subsidiaries to implement Basel II. In December 2009, the Basel Committee on Banking Supervision released consultative documents on both capital and liquidity. Additionally, U.S. banking regulators continue to refine market risk requirements, which also have a regulatory capital impact. Revised requirements have not been issued but are expected in 2010.

#### 4. **Distributions**

The Issuer's funds for cash distributions to its stockholders and payment of the Issuer's indebtedness, including debt securities, are derived from a variety of sources, including cash and temporary investments. The primary source of such funds, and funds used to pay principal and interest on its indebtedness, is dividends received from its banking subsidiaries. Each of its banking subsidiaries is subject to various regulatory policies and requirements relating to the payment of dividends, including requirements to maintain capital above regulatory minimums. The appropriate federal regulatory authority is authorized to determine under certain circumstances relating to the financial condition of a bank or bank holding company that the payment of dividends would be an unsafe or unsound practice and to prohibit payment thereof.

In addition, the ability of the Issuer and its banking subsidiaries to pay dividends may be affected by the various minimum capital requirements and the capital and non-capital standards established under FDICIA, as described above. The right of the Issuer, its stockholders, and its creditors to participate in any distribution of the assets or earnings of its subsidiaries is further subject to the prior claims of creditors of the respective subsidiaries.

#### 5. **Source of Strength**

According to Federal Reserve Board policy, bank holding companies are expected to act as a source of financial strength to each subsidiary bank and to commit resources to support each such subsidiary. This support may be required at times when a bank holding company may not be able to provide such support. Similarly, under the cross-guarantee provisions of the Federal Deposit Insurance Act, in the event of a loss suffered or anticipated by the FDIC, either as a result of default of a banking subsidiary or related to the FDIC assistance provided to a subsidiary in danger of default, the other banking subsidiaries of a bank holding company may be assessed for the FDIC's loss, subject to certain exceptions.

#### 6. **Deposit Insurance**

Deposits placed at the Issuer's U.S. banking subsidiaries are insured by the FDIC subject to limits and conditions of applicable law and the FDIC's regulations. In 2009, FDIC insurance coverage limits were temporarily increased from \$100,000 to \$250,000 per customer until December 31, 2013. The FDIC administers the Deposit Insurance Fund (the "DIF"), and all insured depository institutions are required to pay assessments to the FDIC that fund the DIF. Assessments are required if the ratio of the DIF to insured deposits in the United States falls below 1.15 per cent. As a result of the ongoing instability in the economy and the failure of other U.S. depository institutions, the DIF ratio currently is below the required level and the FDIC has adopted a restoration plan that will result in substantially higher deposit insurance assessments for all depository institutions over the coming years. On December 30, 2009, the FDIC required all depository institutions to prepay deposit insurance assessments for the next three years in order to provide liquidity to the DIF. Deposit insurance assessment rates are subject to change by the FDIC and will be impacted by the overall economy and the stability of the banking industry as a whole.

#### 7. **Transactions with Affiliates**

The Issuer's U.S. banking subsidiaries are subject to restrictions under federal law that limit certain types of transactions between the Issuer's banking subsidiaries and their non-bank affiliates. In general, the Issuer's U.S. banking subsidiaries are subject to quantitative and qualitative limits on extensions of credit, purchases of assets and certain other transactions involving the Issuer and its non-bank affiliates. Transactions between the Issuer's U.S. banking subsidiaries and their non-bank affiliates are required to be on arms length terms.

**8. Privacy and Information Security**

The Issuer is subject to many U.S., state and international laws and regulations governing requirements for maintaining policies and procedures to protect the non-public confidential information of its customers. The Gramm-Leach-Bliley Act requires the U.S. banking subsidiaries to periodically disclose the Issuer's privacy policies and practices relating to sharing such information and enables retail customers to opt out of the Issuer's ability to market to affiliates and non-affiliates under certain circumstances.

### SELECTED FINANCIAL DATA

The following table contains the Issuer's selected financial data (1) as of December 31, 2009 and 2008, and for each of the years in the three years ended December 31, 2009, derived from the Issuer's audited financial statements and (2) as of and for the three months ended March 31, 2010 and 2009, derived from the Issuer's unaudited financial statements, which were prepared in conformity with accounting principles generally accepted in the United States. The Issuer's unaudited financial statements include all adjustments, consisting only of normal recurring accruals, that the Issuer considers necessary for a fair statement of its financial position and its results of operations as of such dates and for such periods. Results for the three months ended March 31, 2010 are not necessarily indicative of the results that might be expected for any other interim period or for the year as a whole. Certain prior period amounts have been reclassified to conform to current period classifications.

	Three months ended March 31		Year ended December 31		
	2010	2009	2009	2008	2007
(Unaudited)					
(Dollars in millions, except per share information)					
<b>Income statement:</b>					
Interest income .....	\$ 19,879	\$ 22,156	\$ 77,916	\$ 85,684	\$ 87,304
Interest expense .....	6,130	9,659	30,807	40,324	52,863
Net interest income .....	13,749	12,497	47,109	45,360	34,441
Noninterest income .....	18,220	23,261	72,534	27,422	32,392
Total revenue net of interest expense ....	31,969	35,758	119,643	72,782	66,833
Provision for credit losses .....	9,805	13,380	48,570	26,825	8,385
Noninterest expense.....	17,775	17,002	66,713	41,529	37,524
Income before income taxes .....	4,389	5,376	4,360	4,428	20,924
Income tax expense (benefit).....	1,207	1,129	(1,916)	420	5,942
Net income .....	3,182	4,247	6,276	4,008	14,982
Net income (loss) applicable to common shareholders .....	2,834	2,814	(2,204)	2,556	14,800
Average common shares issued and outstanding (in thousands).....	9,177,468	6,370,815	7,728,570	4,592,085	4,423,579
Average diluted common shares issued and outstanding (in thousands) .....	10,005,254	6,393,407	7,728,570	4,596,428	4,463,213
<b>Per common share information</b>					
Earnings (loss) .....	\$0.28	\$ 0.44	\$(0.29)	\$ 0.54	\$ 3.32
Diluted earnings (loss).....	0.28	0.44	(0.29)	0.54	3.29
Dividends paid.....	0.01	0.01	0.04	2.24	2.40

## Selected Financial Data

	Three months ended March 31		December 31	
	2010	2009	2009	2008
	(Unaudited)			
	(Dollars in millions)			
<b>Balance sheet (period-end):</b>				
Total loans and leases .....	\$ 976,042	\$ 977,008	\$ 900,128	\$ 931,446
Total assets .....	2,338,700	2,321,963	2,223,299	1,817,943
Total deposits.....	976,102	953,508	991,611	882,997
Long-term debt .....	511,653	440,751	438,521	268,292
Total shareholders' equity .....	229,823	239,549	231,444	177,052
Allowance for loan and lease losses as a percentage of loans and leases outstanding <sup>1</sup> .....	4.82%	3.00%	4.16%	2.49%
Total equity to total assets.....	9.83%	10.32%	10.41%	9.74%
<b>Capital ratios (period-end):</b>				
Risk-based capital				
Tier 1 common .....	7.60%	4.49%	7.81%	4.80%
Tier 1 .....	10.23%	10.09%	10.40%	9.15%
Total.....	14.47%	14.03%	14.66%	13.00%
Tier 1 Leverage .....	6.46%	7.07%	6.91%	6.44%

<sup>1</sup> Balances and ratios do not include loans accounted for under the fair value option.

## FORM OF THE NOTES

Each Note will be evidenced by, in the case of Notes issued in bearer form, a Bearer Temporary Global Note, a Bearer Permanent Global Note, a Bearer Definitive Note, or, in the case of Notes issued in registered form, a Registered Global Certificate or a Registered Definitive Certificate, as the case may be, together with the attached or incorporated Terms and Conditions of the Notes and the applicable Final Terms.

### **Bearer Notes**

Unless otherwise agreed by the Issuer and the relevant Dealers, each Tranche of Notes in bearer form will initially be represented by one or more Bearer Temporary Global Notes without receipts, interest coupons, or talons. The Bearer Temporary Global Note, which will be delivered on or prior to the issue date of the relevant Tranche of Notes to (1) the Common Safekeeper (if the Bearer Temporary Global Note is intended to be issued in NGN form, as stated in the applicable Final Terms) for the Relevant Clearing System or (2) the Common Depository (if the Bearer Temporary Global Note is intended to be issued in CGN form) for the Relevant Clearing System. While any Note is represented by a Bearer Temporary Global Note, payments of principal, premium, if any, interest, or any other amounts, due prior to the date determined in accordance with the Agency Agreement (as defined herein) (the “**Exchange Date**”) which generally is 40 calendar days after a Bearer Temporary Global Note is issued, will be made (against presentation of the Bearer Temporary Global Note if the Bearer Temporary Global Note is issued in CGN form) only if a tax certification has been received. The tax certification, in a form to be provided, will state that the beneficial owners of such Note are not United States persons or persons who have purchased for resale to any United States person (as required by U.S. Treasury Regulations) and must be received by a Relevant Clearing System. In turn, such Relevant Clearing System must give to the Principal Agent a like certificate based on the certifications it has received.

The NGN form has been introduced to allow for the possibility of Bearer Notes to be issued and held in a manner which will permit them to be recognized as eligible collateral for monetary policy of the central banking system for the euro (the “**Eurosystem**”) and intra-day credit operations by the Eurosystem either upon their issue or at any other time prior to the applicable Maturity Date. However, such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.

If any Bearer Global Note (which term includes both Bearer Temporary Global Notes and Bearer Permanent Global Notes) is issued in CGN form, upon the initial deposit of a Bearer Global Note with the Common Depository, the Relevant Clearing System will credit each subscriber with a nominal amount of Notes equal to the nominal amount thereof for which it has subscribed and paid. If any Bearer Global Note is issued in NGN form, the nominal amount of the Notes shall be the aggregate amount from time to time entered in the records of the Relevant Clearing System. The records of the Relevant Clearing System shall be conclusive evidence of the nominal amount of Notes represented by a Bearer Global Note issued in NGN form and a statement issued by such clearing system at any time shall be conclusive evidence of the records of the Relevant Clearing System at that time.

On and after the Exchange Date, interests in the Bearer Temporary Global Note will be exchangeable (free of charge to the Noteholder) upon a request either for interests in a Bearer Permanent Global Note, without receipts, interest coupons, or talons or, under the circumstances described in the Terms and Conditions, for Bearer Definitive Notes (as indicated in the applicable Final Terms and subject, in the case of Bearer Definitive Notes, to such notice period as is specified in the Terms and Conditions or the applicable Final Terms), in each case against certification of beneficial ownership as described above unless such certification previously has been given. The holder of a Bearer Temporary Global Note will not be entitled to collect any payment of interest, principal, premium, if any, or any other amounts due on or after the Exchange Date.

The following legend will appear on all Bearer Global Notes, Bearer Definitive Notes, receipts, talons, and coupons:

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

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

The following legend will appear on all Bearer Global Notes, Bearer Definitive Notes, receipts, and coupons that have a maturity (at issue) of 183 days or less and a face amount or principal amount of not less than U.S. \$500,000 (as determined based on the spot rate on the date of issuance if in a currency other than U.S. Dollars):

*“By accepting this obligation, the holder represents and warrants that it is not a United States person (other than an exempt recipient described in Section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder) and that it is not acting for or on behalf of a United States person (other than an exempt recipient described in Section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder).”*

This legend essentially certifies that the holder is not subject to United States information reporting requirements.

Unless otherwise stated in the applicable Final Terms, payments of principal, premium, if any, interest, or any other amounts on a Bearer Permanent Global Note will be made through the Relevant Clearing System outside the United States and its possessions against presentation or surrender (as the case may be) of the Bearer Permanent Global Note (if the Bearer Permanent Global Note is issued in CGN form) without any requirement for certification. All payments and deliveries on the Notes in bearer form will be made outside the United States and its possessions. A Bearer Permanent Global Note will be exchangeable (free of charge to the Noteholder), in whole, but not in part, under the circumstances described under “Terms and Conditions of the Notes” for security-printed Bearer Definitive Notes with, where applicable, receipts, interest coupons, and talons attached, upon not less than 60 calendar days’ written notice to the Principal Agent. Bearer Global Notes and Bearer Definitive Notes will be issued pursuant to the Agency Agreement. Interests in any such Bearer Definitive Notes may continue to be held through the Relevant Clearing System.

### **Registered Notes**

Unless otherwise agreed to by the Issuer and the relevant Dealers, each Tranche of Notes in registered form will initially be represented by a Registered Global Certificate or by a Registered Definitive Certificate, one Registered Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series. Each Registered Global Certificate will be deposited on or prior to the issue date of the relevant Tranche of Notes with either: (a) the Common Depository for the Relevant Clearing System, in the case of a Registered Global Certificate not intended to be issued under the NSS and registered in the name of a nominee of the Relevant Clearing System; or (b) the Common Safekeeper for the Relevant Clearing System, in the case of a Registered Global Certificate intended to be issued under the NSS, and registered in the name of a nominee of the Common Safekeeper. Beneficial interests in a Registered Global Certificate will be exchangeable for Registered Definitive Notes only in the limited circumstances described under “Terms and Conditions of the Notes”.

**General**

Pursuant to the Agency Agreement, in relation to Bearer Notes, the Principal Agent shall arrange that, where a further Tranche of Notes is issued, the Notes of such Tranche shall be assigned a common code (“**Common Code**”) and International Security Identification Number (“**ISIN**”) by the Relevant Clearing System different from the Common Code and ISIN assigned to Notes of any other Tranche of the same Series for at least 40 calendar days after the completion of the distribution of the Notes of such Tranche, as notified by the Principal Agent to the relevant Dealers. Until exchanged in full, the holder of an interest in any Bearer Global Note or Registered Global Note shall be entitled to all of the same benefits as the holder of Notes, receipts, interest coupons, and talons, except as set out in the applicable Terms and Conditions.

## TERMS AND CONDITIONS OF THE NOTES

*The following are the Terms and Conditions of the Notes which will include the additional terms and conditions contained in Annex 1 in the case of Index Linked Notes (the “**Index Linked Conditions**”), the additional terms and conditions contained in Annex 2 in the case of Share Linked Notes (the “**Share Linked Conditions**”), the additional terms and conditions contained in Annex 3 in the case of GDR/ADR Linked Notes (the “**GDR/ADR Linked Conditions**”), the additional terms and conditions contained in Annex 4 in the case of FX Linked Notes (the “**FX Linked Conditions**”), and the additional terms and conditions contained in Annex 5 in the case of Commodity Linked Notes (the “**Commodity Linked Conditions**”), the additional terms and conditions contained in Annex 6 in the case of Fund Linked Notes (the “**Fund Linked Conditions**”), and the additional terms and conditions contained in Annex 7 in the case of Inflation Linked Notes (the “**Inflation Linked Conditions**”), and the additional terms and conditions contained in Annex 8 in the case of Physical Delivery Notes (the “**Physical Delivery Conditions**”) or any other Annex (each, an “**Annex**”, and together the “**Annexes**”) which may be added from time to time in the case of any Notes linked to any other Underlying Asset(s) (the Terms and Conditions of the Notes as supplemented or amended by the Index Linked Conditions, Share Linked Conditions, GDR/ADR Linked Conditions, FX Linked Conditions, Commodity Linked Conditions, Fund Linked Conditions, Inflation Linked Conditions, and/or Physical Delivery Conditions are together referred to as the “**Terms and Conditions**” or the “**Conditions**” and each, a “**Condition**”). The Terms and Conditions are incorporated by reference into each Global Note (as defined below) and will be attached to or endorsed upon each Definitive Note (as defined below), if any are issued. The applicable Final Terms in relation to any Tranche of Notes (as defined below) 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 Tranche of Notes. The applicable Final Terms will be endorsed on, incorporated by reference into, or attached to, each Global Note and Definitive Note. Reference should be made to “**Form of the Notes**” above for a description of the content of Final Terms, which includes the definition of certain terms used in the following Terms and Conditions. The applicable Final Terms in relation to any Tranche of Notes contains additional terms and conditions which will complete the Notes and is deemed to be incorporated by reference into such Notes.*

This Note is one of a series of Notes issued by Bank of America Corporation (the “**Issuer**”), pursuant to the amended and restated agency agreement dated as of July 22, 2010, by and among the Issuer, Bank of America, N.A., London Branch (as amended, restated, and/or supplemented from time to time, the “**Agency Agreement**”), as principal agent (the “**Principal Agent**”) and Merrill Lynch International Bank Limited as registrar (the “**Registrar**”) and transfer agent (the “**Transfer Agent**”), which terms shall include any successor agents. Any other paying agents named pursuant to the Agency Agreement shall be referred to herein, together with the Principal Agent, as the “**Paying Agents**” (which term shall include any additional or successor paying agents) and any other transfer agents named pursuant to the Agency Agreement shall be referred to herein, together with the Transfer Agent, as the “**Transfer Agents**” (which term shall include any additional or successor transfer agents). References herein to the “**Notes**” shall be references to Notes of this Series (as defined below) and shall mean (1) in relation to any Notes represented by a Bearer Global Note or a Registered Global Certificate, units of the lowest denomination of such Notes (the “**Specified Denomination**”) payable in one or more currencies (each, a “**Specified Currency**”), (2) Definitive Notes, if any, issued in exchange for a Global Note, and (3) any Global Note. The Notes, the Receipts (as defined below), and the Coupons (as defined below) have the benefit of the Agency Agreement. Each Note will be the obligation of the Issuer only and will not be an obligation of, or guaranteed by, any subsidiaries or affiliates of the Issuer.

Unless otherwise agreed by the Issuer and the relevant dealers (each, a “**Dealer**” and together, the “**Dealers**”), and specified in the applicable Final Terms, each tranche of Notes (“**Tranche of Notes**”) in bearer form will initially be represented by a temporary global note in bearer form (each, a “**Bearer**”

**Temporary Global Note**”) exchangeable as provided in such Note and the Agency Agreement for beneficial interests in a permanent global note in bearer form (each, a **“Bearer Permanent Global Note”**) without interest coupons, substantially in the forms of Schedule 1 and Schedule 2 to the Agency Agreement, respectively. The Bearer Temporary Global Note and the Bearer Permanent Global Note are together referred to as the **“Bearer Global Notes”** and each, a **“Bearer Global Note”**.

Unless otherwise agreed by the Issuer and the relevant Dealers, and specified in the applicable Final Terms, each Tranche of Notes in registered form will initially be represented by a registered certificate in global form (a **“Registered Global Certificate”**) or by a registered certificate in definitive form (a **“Registered Definitive Certificate”**) substantially in the forms of Schedule 4 and Schedule 5 to the Agency Agreement, respectively, one Registered Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series (as defined herein). Each Note represented by a Registered Global Certificate is referred to as a **“Registered Global Note”** and each Note represented by a Registered Definitive Certificate is referred to as a **“Registered Definitive Note”**. Bearer Global Notes and Registered Global Notes are together referred to as the **“Global Notes”** and each, a **“Global Note”**. Bearer Definitive Notes (as defined below) and Registered Definitive Notes are together referred to as the **“Definitive Notes”** and each, a **“Definitive Note”**. Registered Global Certificates and Registered Definitive Certificates are together referred to as the **“Registered Certificates”** and each, a **“Registered Certificate”**.

Interests in a Bearer Permanent Global Note may be exchanged, free of charge to Noteholders, for definitive notes in bearer form (**“Bearer Definitive Notes”**) in the Specified Denominations indicated in the applicable Final Terms with interest coupons attached (the **“Coupons”**) substantially in the form of Schedule 3 to the Agency Agreement, and, if indicated in the applicable Final Terms, talons for further Coupons (**“Talons”**) attached substantially in the form of Schedule 3 to the Agency Agreement on issue only as described below. Any reference herein to Coupons or coupons, unless the context otherwise requires, shall be deemed to include a reference to Talons or talons. Bearer Definitive Notes repayable in installments have receipts (**“Receipts”**) for the payment of the installments of principal (other than the final installment) attached on issue. Any reference herein to **“Noteholders”** shall mean the holders of the Notes, and, in relation to any Notes represented by a Global Note, shall be construed as provided below. Any reference herein to **“Receiptholders”** shall mean the holders of the Receipts and any reference herein to **“Couponholders”** shall mean the holders of the Coupons, and, unless the context otherwise requires, shall include the holders of the Talons.

Except as otherwise provided in the applicable Final Terms, interests in a Bearer Temporary Global Note or a Bearer Permanent Global Note will be exchangeable as provided in such Note and the Agency Agreement for Bearer Definitive Notes (1) as to Bearer Permanent Global Notes, on not less than 60 calendar days’ written notice from Euroclear Bank S.A./N.V. (**“Euroclear”**) and/or Clearstream Banking, société anonyme (**“Clearstream, Luxembourg”**) or any other clearing system located outside the United States and its possessions, specified by the Issuer and the Dealers (each, an **“Alternative Clearing System”** and each of Euroclear, Clearstream, Luxembourg and any Alternative Clearing System being a **“Relevant Clearing System”**) (acting on the instructions of any holder of an interest in the Bearer Permanent Global Note), (2) if an Event of Default (as defined herein) occurs and is continuing, (3) if the Issuer is notified that a Relevant Clearing System has been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory, or otherwise) after the original issuance of the Notes or has announced an intention permanently to cease business or has in fact done so and no Alternative Clearing System approved by the Noteholders is available, or (4) if the Issuer, after notice to the Principal Agent, determines to issue the Bearer Notes in definitive form. Any exchange of all or a part of an interest in a Bearer Temporary Global Note or a Bearer Permanent Global Note for Bearer Definitive Notes shall be made only outside the United States and its possessions. Except as otherwise provided in the applicable Final Terms, interests in a Registered Global Note will be exchangeable for Registered Definitive Notes (1) if an Event of Default (as defined herein) occurs and is continuing, (2) if the Issuer is

notified that a Relevant Clearing System has been closed for business for a continuous period of 14 calendar days (other than by reason of holiday, statutory, or otherwise) after the original issuance of the Notes or has announced an intention permanently to cease business or has in fact done so and no Alternative Clearing System approved by the Noteholders is available, or (3) if the Issuer after notice to the Principal Agent, determines to issue the Registered Notes in definitive form. Each such exchange shall occur in whole, but not in part, for Bearer Definitive Notes or Registered Definitive Notes, as applicable, in the applicable Specified Denomination, representing the full principal amount of the applicable Global Note.

The Final Terms for the Notes are attached hereto or endorsed hereon and supplement these Terms and Conditions and may specify other terms and conditions which, to the extent so specified or to the extent inconsistent with these Terms and Conditions, shall replace or modify these Terms and Conditions for purposes of the Notes. References herein to the “**applicable Final Terms**” are to the relevant Final Terms attached hereto or endorsed hereon.

As used herein, “**Series**” means a Tranche of Notes, together with any further Tranche or Tranches of Notes, which are (1) expressly to be consolidated and form a single series and (2) identical in all respects (including as to listing) except for the date on which such Notes will be issued (the “**Issue Date**”), for interest-bearing Notes, the date from which such Notes bear interest (the “**Interest Commencement Date**”), which will be the Issue Date unless otherwise specified in the applicable Final Terms, and the price (expressed as a percentage of the principal amount of the Notes) at which such Notes will be issued (the “**Issue Price**”). The expressions “**Notes of the relevant Series**” and “**holders of Notes of the relevant Series**” and related expressions shall be construed accordingly. As used herein, “**Tranche**” means Notes (whether in bearer global form, registered global form, bearer definitive form, or registered definitive form) which are identical in all respects (including as to listing).

Copies of the amended and restated program agreement, dated as of July 25, 2008 among the Issuer and the Dealers named or to be appointed thereunder (as amended, restated and/or supplemented from time to time, the “**Program Agreement**”), and the Final Terms applicable to the Notes are available for inspection without charge at, and copies may be obtained from, the specified offices of each of the Principal Agent and each Paying Agent, the Registrar and each Transfer Agent, except that the applicable Final Terms relating to an unlisted Note only will be available for inspection by a Noteholder upon proof satisfactory to the relevant Paying Agent as to ownership of the Note. The Noteholders, the Receiptholders, and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement and the applicable Final Terms, which are binding on them.

The applicable Final Terms will specify whether settlement shall be by way of cash payment (“**Cash Settlement**”) or by physical delivery (“**Physical Settlement**”). Notes to which Cash Settlement applies are “**Cash Settled Notes**” and Notes to which Physical Settlement applies are “**Physical Delivery Notes**”. Any reference in these Conditions to Physical Delivery Notes shall mean Notes in respect of which a number of underlying shares, bonds, securities, commodities, depository receipts, or such other assets as may be specified in the applicable Final Terms (the “**Relevant Asset(s)**”) plus or minus any amount due to or from the Noteholder in respect of each Note (the “**Entitlement**”) is deliverable and/or payable by reference to one or more Relevant Assets as the Issuer and the relevant Dealer(s) may agree and as set out in the applicable Final Terms. In respect of Physical Delivery Notes, the Issuer will enter into one or more delivery agency agreements (each, a “**Delivery Agency Agreement**”) with one or more delivery agents (each, a “**Delivery Agent**”). The calculation agent in respect of the Notes (the “**Calculation Agent**”) and the Delivery Agent in respect of the Notes (if applicable) will be specified in the applicable Final Terms.

If Averaging is specified as applicable in the applicable Final Terms, the applicable Final Terms will state the relevant Averaging Dates and, if an Averaging Date is a Disrupted Day, whether Omission, Postponement, or Modified Postponement (each as defined in the relevant Annex) applies.

References in these Conditions, unless the context otherwise requires, to Cash Settled Notes shall be deemed to include references to Physical Delivery Notes which include the Issuer's option (as set out in the applicable Final Terms) to elect cash settlement upon redemption of such Notes pursuant to Physical Delivery Condition 4 and where settlement upon redemption is to be by way of cash payment. References in these Conditions, unless the context otherwise requires, to Physical Delivery Notes shall be deemed to include references to Cash Settled Notes which include the Issuer's option (as set out in the applicable Final Terms) to elect physical delivery of the Entitlement in settlement upon redemption of such Notes pursuant to Physical Delivery Condition 4 and where settlement upon redemption is to be by way of physical delivery.

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

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

The Notes are issued in bearer form (“**Bearer Notes**”) or in registered form (“**Registered Notes**”), in each case as set forth in the applicable Final Terms. Bearer Definitive Notes, if any, are serially numbered, in the Specified Currency and the Specified Denominations as indicated in the applicable Final Terms.

This Note may be a Note bearing interest on a fixed-rate basis (a “**Fixed-Rate Note**”), a Note bearing interest on a floating-rate basis (a “**Floating-Rate Note**”), a Note issued on a non-interest bearing basis and offered and sold at a discount (other than a *de minimis* discount) to its principal amount or at par and to which the Zero Coupon Note provisions are expressed to be applicable (a “**Zero Coupon Note**”), a Note issued on the basis of interest linked to an underlying reference asset or basket of assets (each, an “**Underlying Asset**”) such as an index or a basket of indices (an “**Index Linked Interest Note**”), a share or a basket of shares (a “**Share Linked Interest Note**”), a consumer price index or a basket of consumer price indices (an “**Inflation Linked Interest Note**”), a commodity or basket of commodities (a “**Commodity Linked Interest Note**”), a foreign exchange rate or basket of foreign exchange rates (an “**FX Linked Interest Note**”), a single fund or a basket of funds (a “**Fund Linked Interest Note**”), a single GDR or ADR or a basket of GDRs and/or ADRs (a “**GDR/ADR Linked Interest Note**”), one or more other Underlying Asset(s) (an “**other Underlying Asset(s) Interest Note**”), a Note upon which payment of principal or interest may be in more than one currency (a “**Dual Currency Note**”), or a combination of any of the foregoing (a “**Hybrid Interest Note**”), depending upon the Interest Basis specified in the applicable Final Terms. It also may be a Note issued on a partly paid basis (a “**Partly Paid Note**”), a Note upon which payments are based on an amortization table (the “**Amortization Table**”) (an “**Amortizing Note**”), a Note which is redeemable in installments (an “**Installment Note**”), or a Note upon which payment of principal or any other amounts payable (other than interest) is determined by reference, either directly or indirectly, to the price or performance of one index or a basket of indices (an “**Index Linked Redemption Note**”, together with Index Linked Interest Notes, “**Index Linked Notes**”), a share or a basket of shares (a “**Share Linked Redemption Note**”, together with Share Linked Interest Notes, “**Share Linked Notes**”), a consumer price index or a basket of consumer price indices (an “**Inflation Linked Redemption Note**”, together with Inflation Linked Interest Notes, “**Inflation Linked Notes**”), a commodity or basket of commodities (a “**Commodity Linked Redemption Note**”, together with Commodity Linked Interest Notes, “**Commodity Linked Notes**”), a foreign exchange rate or basket of foreign exchange rates (an “**FX Linked Redemption Note**”, together with FX Linked Interest Notes, “**FX Linked Notes**”), a single fund or a basket of funds (a “**Fund Linked Redemption Note**”, together with

Fund Linked Interest Notes, “**Fund Linked Notes**”), a single GDR or ADR or a basket of GDRs and/or ADRs (a “**GDR/ADR Linked Redemption Note**”, together with GDR/ADR Linked Interest Notes, “**GDR/ADR Linked Notes**”), or to such other Underlying Asset(s) (an “**other Underlying Asset(s) Redemption Note**”, together with other Underlying Asset(s) Interest Notes, “**Notes Linked to other Underlying Asset(s)**”) or to a combination of any of the foregoing (a “**Hybrid Redemption Note**”, together with Hybrid Interest Notes, “**Hybrid Notes**”), depending upon the Redemption/Payment Basis as specified in the applicable Final Terms. In respect of Index Linked Notes, these Terms and Conditions and the Index Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of Share Linked Notes, these Terms and Conditions and the Share Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of Inflation Linked Notes, these Terms and Conditions and the Inflation Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of Commodity Linked Notes, these Terms and Conditions and the Commodity Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of FX Linked Notes, these Terms and Conditions and the FX Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of Fund Linked Notes, these Terms and Conditions and the Fund Linked Conditions as specified in the applicable Final Terms will be applicable. In respect of GDR/ADR Linked Notes, these Terms and Conditions and the GDR/ADR Linked Conditions as specified in the applicable Final Terms will be applicable.

With respect to credit-linked Indexed Notes, unless otherwise specified in the applicable Final Terms, the definitions and provisions in the 2003 ISDA Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”), and as amended, updated, or replaced as at the Issue Date of the first Tranche of the Notes of the relevant Series, are incorporated into these Terms and Conditions. A “**Credit-linked Indexed Note**” is a Note for which principal, premium, if any, interest, or any other amounts payable may be based on the change in value of one or more debt obligations, a spread on indices of similar debt obligations, a swap or embedded swap with payments on one side mirroring a basket of debt obligations, or any other similar reference asset or basket of debt obligations, if one or more of certain events relating to the creditworthiness of the issuer or issuers (which do not include the Issuer) of such debt obligations occurs before the scheduled Maturity Date.

This Note is either a Senior Note (as defined herein) or a Subordinated Note (as defined herein), as specified in the applicable Final Terms.

Bearer Notes are serially numbered and may be issued with Coupons (and, where appropriate, a Talon) attached, save in the case of Zero Coupon Notes in which case references to interest (other than in relation to interest due after the Maturity Date), Coupons and Couponholders in these Conditions are not applicable. Installment Notes in bearer form are issued with one or more Receipts attached.

Subject as set forth below, title to the Bearer Notes, Receipts, and Coupons will pass by delivery. Title to the Registered Notes shall pass by registration in the register that the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement (the “**Register**”). The Issuer and any Paying Agent may (except as otherwise required by law) deem and treat the bearer of any Bearer Note, Receipt, or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any Bearer Global Note, without prejudice to the provisions set out in the next paragraph.

So long as any of the Notes are represented by a Bearer Global Note or a Registered Global Certificate held on behalf of the Relevant Clearing System, each person who is shown in the records of the Relevant Clearing System as the holder of a particular nominal amount of such Notes (any certificate or other document issued by the Relevant Clearing System as to the nominal amount of Notes standing on the account of any person shall be conclusive and binding for all purposes, except in the case of manifest

error) shall be treated by the Issuer, the Principal Agent, the Registrar, any Transfer Agent, and any other Paying Agent as the holder of such nominal amount of such Notes for all purposes, except with respect to the payment of principal, premium, if any, interest, or any other amounts payable on, or deliveries in respect of, the Notes, the bearer of the relevant Bearer Global Note or, in the case of a Registered Global Note, the person or persons for the time being shown in the Register as at the Record Date maintained by the Registrar as the Noteholder or Noteholders, shall be treated by the Issuer, the Principal Agent, and any Paying Agent as the holder of such 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). Interests in Notes which are represented by a Bearer Global Note or a Registered Global Certificate will be transferable only in accordance with the rules and procedures for the time being of the Relevant Clearing System.

The Issuer will issue Notes in the Specified Denomination(s) set forth in the applicable Final Terms. However, the minimum denomination permitted for each Note will be such denomination as may be allowed or required by the relevant central bank (or equivalent body) or any laws or regulations applicable to the Specified Currency. The minimum denomination of each Note admitted to trading on a European Economic Area exchange and/or offered to the public within the European Economic Area in circumstances which require the publication of a prospectus under the Prospectus Directive (Directive 2003/71/EC) will be €1,000 (or the equivalent amount in another currency).

Unless permitted by then current laws and regulations, any Notes (including Notes denominated in Sterling) for which the proceeds are to be accepted by the Issuer in the United Kingdom and which have a maturity of less than one year from their date of issue, shall (1) be issued to a limited class of professional investors, (2) have a redemption value of not less than £100,000 (or an amount of equivalent value denominated wholly or partly in a currency other than Sterling), and (3) provide that no part of any such Notes may be transferred unless the redemption value of that part is not less than £100,000 (or an equivalent amount in other currencies).

## 2. **Exchange and Transfers of Notes**

### (a) ***Exchange of Notes***

Registered Notes may not be exchanged for Bearer Notes, and Bearer Notes may not be exchanged for Registered Notes. Bearer Notes of one Specified Denomination may not be exchanged for Bearer Notes of another Specified Denomination.

### (b) ***Transfer of Registered Notes***

Registered Notes may be transferred upon the surrender (at the specified office of the Registrar or any Transfer Agent) of the Registered Certificate representing such Registered Notes to be transferred, together with the form of transfer endorsed on such Registered Certificate duly completed and executed by the person shown on the Register and such other evidence as the Registrar or Transfer Agent may reasonably require. In the case of a transfer of part only of a holding of Registered Notes represented by one Registered Certificate, a new Registered Certificate shall be issued to the transferee (following the transferee’s surrender of any existing Registered Certificate in respect of Notes of that Series) in respect of the part transferred and a further new Registered Certificate in respect of the balance of the holding not transferred shall be issued to the transferor.

### (c) ***Exercise of Options or Partial Redemption in Respect of Registered Notes***

In the case of an exercise of an Issuer’s or Noteholder’s option in respect of, or a partial redemption of, a holding of Registered Notes represented by a single Registered Certificate, a new Registered

Certificate shall be issued to the Noteholder to reflect the exercise of such option or in respect of the balance of the holding not redeemed. In the case of a partial exercise of an option resulting in Registered Notes of the same holding having different terms, separate Registered Certificates shall be issued in respect of those Notes of that holding that have the same terms. New Registered Certificates shall only be issued against surrender of the existing certificates to the Registrar or any Transfer Agent. In the case of a transfer of Registered Notes to a person who is already a holder of Registered Notes, a new Registered Certificate representing the enlarged holding shall only be issued against surrender of the Registered Certificate representing the existing holding.

(d) *Delivery of New Certificates*

Each Registered Certificate to be issued pursuant to Condition 2(b) or (c) shall be available for delivery within three business days after receipt of the request for exchange, form of transfer or Put Notice (as defined herein) or surrender of the Registered Certificate for exchange, as applicable. Delivery of the new Registered Certificate shall be made at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom delivery or surrender of such request for exchange, form of transfer, Put Notice or Registered Certificate shall have been made or, at the option of the Noteholder making such delivery or surrender as aforesaid and as specified in the relevant request for exchange, form of transfer, Put Notice or otherwise in writing, be mailed by uninsured mail at the risk of the Noteholder entitled to the new Registered Certificate to such address as may be so specified, unless such Noteholder requests otherwise and pays in advance to the Transfer Agent or Registrar the costs of such other method of delivery and/or such insurance as it may specify. In this Condition 2(d), “business day” means a day, other than a Saturday or Sunday, on which banks are open for business in the location of the specified office of the Registrar or the relevant Transfer Agent (as the case may be).

(e) *Exchange Free of Charge*

Exchange and transfer of Registered Notes on registration, transfer, partial redemption, or exercise of an option shall be effected without charge by or on behalf of the Issuer, the Registrar, or the Transfer Agent, but upon payment by the Noteholder of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Registrar or the relevant Transfer Agent may require).

(f) *Closed Periods*

No Noteholder may require the transfer of a Registered Note to be registered (i) during the period commencing on the Record Date and ending on the due date for redemption of, or payment of any installment amount, or amount of interest, in respect of, that Note, (ii) during the period commencing on the Record Date and ending on the date on which Notes may be called for redemption by the Issuer at its option pursuant to Condition 6(d), (iii) after any such Note has been called for redemption, (iv) during the period commencing on the Record Date and ending on the date fixed for any meeting of Noteholders, or any adjourned meeting of Noteholders, or (v) during the period of seven calendar days ending on (and including) any Record Date.

“**Record Date**” means (i) in respect of any Registered Note in definitive form, the close of business (London time) on the 15th calendar day and (ii) in respect of any Registered Notes represented by a Registered Global Certificate, the close of business on the Relevant Clearing System Business Day, in each case, prior to the applicable due date for redemption of a Registered Note, or the payment of any installment amount or amount of interest in respect of a Registered Note, or the date fixed for any meeting, or adjourned meeting of holders of Registered Notes, where “Relevant Clearing System Business Day” means a day on which the Relevant Clearing System is open for business.

3. **Status of the Senior Notes and the Subordinated Notes**

The Notes may be issued in one or more Series as unsecured debt securities, which may be either senior notes (“**Senior Notes**”) or subordinated notes (“**Subordinated Notes**”). The Notes are not deposits and are not insured by the U.S. Federal Deposit Insurance Corporation (the “**FDIC**”).

Under the Program, there is no limitation on the Issuer’s ability to issue additional Senior Indebtedness (as defined below) or Subordinated Notes.

(a) *Status of Senior Notes*

The Senior Notes will be unsecured and unsubordinated obligations of the Issuer and will rank equally with all other unsubordinated and unsecured indebtedness of the Issuer. The Subordinated Notes are unsecured and subordinate and subject in right of payment to the prior payment in full of all Senior Indebtedness of the Issuer.

“**Senior Indebtedness**” is defined as any indebtedness for money borrowed (including all indebtedness of the Issuer for borrowed and purchased money of the Issuer, all obligations arising from off-balance sheet guarantees by the Issuer and direct credit substitutes and obligations of the Issuer associated with derivative products such as interest and foreign exchange rate contracts and commodity contracts) that is outstanding on the date of execution of the Agency Agreement, or is thereafter created, incurred, or assumed, for which the Issuer is at the time of determination responsible or liable as obligor, guarantor, or otherwise for payment, and all deferrals, renewals, extensions, and refundings of any such indebtedness or obligations, other than the Subordinated Notes or any other indebtedness as to which the instrument creating or evidencing the same or pursuant to which the same is outstanding, provides that such indebtedness is subordinate in right of payment to any other indebtedness of the Issuer.

(b) *Status of Subordinated Notes*

The indebtedness evidenced by the Subordinated Notes and any Coupons and Receipts appertaining thereto, subject to the extent set forth herein, shall be subordinated in right of payment to the prior payment in full of all the Issuer’s Senior Indebtedness. Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of such subordination irrespective of any amendment, modification, or waiver of any term of the Senior Indebtedness. There is no right of acceleration in the case of a default in the payment of interest on the Subordinated Notes or in the performance of any other obligation of the Issuer under the Subordinated Notes.

The Issuer shall not make any payment on account of principal of, premium, if any, interest, or any other amounts payable on, or deliveries in respect of, its Subordinated Notes or purchase any of its Subordinated Notes, either directly or indirectly, if (1) any default or Event of Default with respect to any of its Senior Indebtedness shall have occurred and be continuing and (2) it shall have received written notice thereof from the holders of at least 10.00 per cent. in principal amount of any kind or category of any of its Senior Indebtedness (or the representative or representatives of such holders).

Until all of the Issuer’s Senior Indebtedness is paid in full, the holders of the Subordinated Notes will be subrogated (equally and ratably with the holders of all of the Issuer’s indebtedness which, by its express terms, ranks equally with its Subordinated Notes, and is entitled to like rights of subrogation) to the rights of the holders of the Issuer’s Senior Indebtedness to receive payments or distributions of its assets.

If the Issuer repays any of its Subordinated Notes before the required date or in connection with a distribution of its assets to creditors pursuant to a dissolution, winding up, liquidation, or reorganization, any principal, premium, if any, interest, or any other amounts payable or deliveries due will be paid or

delivered to the holders of the Issuer's Senior Indebtedness before any holders of its Subordinated Notes are paid. In addition, if such amounts were previously paid to the holders of the Subordinated Notes, the holders of its Senior Indebtedness shall have first rights to such amounts previously paid.

No modification or amendment of the subordination provisions of Subordinated Notes and any related coupons in a manner adverse to the holders of Senior Indebtedness may be made without the consent of the holders of all of the Issuer's outstanding Senior Indebtedness.

#### 4. Interest

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

Unless otherwise specified in the applicable Final Terms, each Fixed-Rate Note bears interest on its outstanding nominal amount (or if it is a Partly Paid Note, on the amount paid-up) at the rate or rates per annum specified in the applicable Final Terms from (and including) the Interest Commencement Date to (but excluding) the Maturity Date. Interest will be payable in arrear on the date or dates in each year specified in the applicable Final Terms (each, a "**Fixed Interest Payment Date**") and on the Maturity Date if it does not fall on a Fixed Interest Payment Date. The first interest payment will, subject to Condition 6 and Condition 10, be made on the first Fixed Interest Payment Date following the Interest Commencement Date.

If any Fixed Interest Payment Date is not a Payment Business Day (as defined in Condition 5(e)), then payment on a Fixed-Rate Note shall be paid as provided in Condition 5(e).

If a "**Fixed Coupon Amount**" is specified in the applicable Final Terms, the amount of interest payable on each Fixed Interest Payment Date in respect of the Fixed Interest Period (as defined below) ending on (but excluding) such date will be the Fixed Coupon Amount as specified irrespective of any calculation based on the Rates of Interest (as defined in Condition 4(f)) and any applicable Fixed Day Count Fraction (as defined below) (if any) and if the amount of interest payable on any Fixed Interest Payment Date is specified as an amount other than the Fixed Coupon Amount, such amount will be a "**Broken Amount**" specified in the applicable Final Terms.

As used in these Conditions, "**Fixed Interest Period**" means the period from, and including, the most recent Fixed Interest Payment Date (or, if none, the Issue Date or, if different from the Issue Date, the Interest Commencement Date) to, but excluding, the next (or first) Fixed Interest Payment Date, unless otherwise specified in the applicable Final Terms.

Unless otherwise specified in the applicable Final Terms, if interest is required to be calculated for a period other than a Fixed Interest Period, that interest shall be calculated by applying the Rate of Interest specified in the applicable Final Terms to each Specified Denomination, multiplying that sum by the applicable Fixed Day Count Fraction and rounding the resulting figure to the nearest Sub-unit (as defined below) of the relevant Specified Currency, half of any such Sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

"**Fixed Day Count Fraction**" means, in respect of the calculation of an amount of interest in accordance with this Condition 4(a):

- (i) if "**Actual/Actual (ICMA)**" is specified in the applicable Final Terms:
  - (A) for Notes where the Accrual Period (as defined below) is equal to or shorter than the Determination Period (as defined below) 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

(“**Determination Dates**”), as specified in the applicable Final Terms, that would occur in one calendar year assuming interest were payable in respect of the whole of that year; or

- (B) for Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
- (1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates, as specified in the applicable Final Terms, that would occur in one calendar year assuming interest were 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 were payable in respect of the whole of that year; and
- (ii) if “**30/360**” is specified in the applicable Final Terms, the number of days in the Accrual Period divided by 360, calculated on a formula basis as follows:

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

Where:

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

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

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

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

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

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

“**Accrual Period**” means the period from (and including) the most recent Fixed Interest Payment Date (or, if none, the Issue Date or, if different from the Issue Date, the Interest Commencement Date) to (but excluding) the relevant Interest Payment Date.

“**Determination Period**” means the period from (and including) a Determination Date (as specified in the applicable Final Terms) to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Fixed Interest Payment Date is not a Determination Date, the

period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date).

“**Sub-unit**” means, for euro, one cent, and, for any currency other than euro, the lowest amount of that currency that is available as legal tender in the country of that currency.

(b) *Interest on Floating-Rate Notes, Index Linked Interest Notes, Share Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes, Inflation Linked Interest Notes, Hybrid Interest Notes, and other Underlying Asset(s) Interest Notes*

(i) *Interest Periods and Interest Payment Dates*

Each Floating-Rate Note, Index Linked Interest Note, Share Linked Interest Note, GDR/ADR Linked Interest Note, FX Linked Interest Note, Commodity Linked Interest Note, Fund Linked Interest Note, Inflation Linked Interest Note, Hybrid Interest Note, and any other Underlying Asset(s) Interest Note bears interest on its outstanding nominal amount (or, if it is a Partly Paid Note, on the amount paid-up) from (and including) the Interest Commencement Date specified in the applicable Final Terms. Interest will be payable in arrear on either:

- (A) the Interest Payment Dates (each, an “**Interest Payment Date**”) in each year specified in the applicable Final Terms; or
- (B) if no Interest Payment Dates are specified in the applicable Final Terms, each date (each, an “**Interest Payment Date**”) which falls the number of months or other period specified in the applicable Final Terms after the preceding Interest Payment Date, or in the case of the first Interest Payment Date, after the Interest Commencement Date (the “**First Interest Payment Date**”).

Interest will be payable in respect of each “**Interest Period**” (which expression shall mean, in these Terms and Conditions, the period from (and including), an Interest Period End Date (or the Interest Commencement Date), to (but excluding) the next, or the first Interest Period End Date, as the case may be.

If (i) there is no numerically corresponding day in the calendar month during which an Interest Payment Date should occur or (ii) any Interest Payment Date (or other date specified in the applicable Final Terms to be subject to adjustment in accordance with a business day convention) falls on a day which is not a Business Day, it will be adjusted in accordance with the business day convention (each a “**Business Day Convention**”) specified in the applicable Final Terms. If the Business Day Convention specified is:

- (1) the “**Floating Rate Convention**”, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day. If postponement would cause such date to fall in the next calendar month, then (A) such date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date (or other date) shall be the last Business Day in the month which falls the number of months or other period specified as the Interest Period in the applicable Final Terms after the preceding applicable Interest Payment Date (or other date) occurred; or
- (2) the “**Following Business Day Convention**”, such Interest Payment Date (or other 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 (or other date) shall be postponed to the next day which is a Business Day, unless that date would fall in the next calendar month, in which event such Interest Payment Date (or other such date) shall be brought forward to the immediately preceding Business Day; or
- (4) the “**Preceding Business Day Convention**”, such Interest Payment Date (or other date) shall be brought forward to the immediately preceding Business Day.

If an Interest Payment Date adjusted in accordance with the applicable Business Day Convention falls after the last day of the Interest Period to which it relates, no additional interest or other amount shall be payable.

“**Business Day**” means a day which is both:

- (A) a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and New York, New York and any additional business centers specified in the applicable Final Terms (each, an “**Additional Business Center**”); and
- (B) either (1) for 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 center(s) (the “**Principal Financial Center(s)**”) of the country of the relevant Specified Currency (if other than London) or (2) for any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System or any successor thereto is operating.

Unless otherwise provided in the applicable Final Terms, the Principal Financial Center of any Specified Currency for the purpose of these Terms and Conditions shall be the relevant financial center (if any) specified for the relevant Specified Currency in Section 1.5 or Section 1.6 of the ISDA Definitions, except that the Principal Financial Centers for Australian Dollars shall be Melbourne and Sydney, the Principal Financial Center for Canadian Dollars shall be Toronto, and the Principal Financial Center for New Zealand Dollars shall be Wellington.

The term “**ISDA Definitions**” means the 2006 ISDA Definitions (as published by ISDA) and as amended, updated, or replaced as at the Issue Date of the first Tranche of the Notes of the relevant Series.

(ii) *Rate of Interest on Floating-Rate Notes*

The Rate of Interest payable on Floating-Rate Notes will be set forth in the applicable Final Terms.

(A) *ISDA Determination for Floating-Rate Notes*

Where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the margin (the “**Margin**”), if any. For purposes of this sub-paragraph (A), the “**ISDA Rate**” for an Interest Period means a rate determined by the Principal Agent or such other person specified in the applicable Final Terms that is equal to the Floating Rate under an interest rate swap transaction if the Principal Agent or such

other person were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

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

For purposes of this sub-paragraph (A), “**Euro-Zone**” has the meaning set forth below and “**Floating Rate**”, “**Calculation Agent**”, “**Floating Rate Option**”, “**Effective Date**”, “**Designated Maturity**”, and “**Reset Date**” have the meanings given to those terms in the ISDA Definitions.

(B) *Screen Rate Determination*

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

- (1) the offered quotation (if there is only one quotation on the relevant screen page (the “**Relevant Screen Page**”)), whatever its designation; 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 rate (the “**Reference Rate**”) by reference to the Rate of Interest which appears or appear, as the case may be, on the Relevant Screen Page on which the Reference Rate is for the time being displayed on the Reuter Monitor Money Rates Service (or such other service as is specified in the applicable Final Terms) at 11:00 a.m. (London time in the case of LIBOR, or Brussels time in the case of EURIBOR) on the dates on which the Rate of Interest is to be determined (each, an “**Interest Determination Date**”) plus or minus (as indicated in the applicable Final Terms) the Margin, if any, all as determined by the Calculation Agent. 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, only one of such quotations) and the lowest (or, if there is more than one such lowest quotation, only one of such quotations) shall be disregarded by the Calculation Agent for purposes of determining the arithmetic mean of such offered quotations.

If 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 two such offered quotations appear, in each case at the time specified in the preceding paragraph, the Calculation Agent, at its sole discretion, shall request the principal London office of each of the Reference Banks (as defined herein) to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for deposits in the Specified

Currency for the relevant Interest Period to leading banks in the London interbank market in the case of LIBOR or leading banks in the Euro-Zone interbank market in the case of EURIBOR, at approximately 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. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest for such Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of such offered quotations plus or minus (as appropriate) the Margin, if any, all as determined by the Calculation Agent.

If on any Interest Determination Date only one or none of the Reference Banks provides the Calculation Agent with such offered quotations as provided in the preceding paragraph, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines to be the arithmetic mean (rounded as provided above) of the rates, as communicated to (and at the request of) the Calculation Agent by any two or more of the Reference Banks, at which such banks were offered, at approximately 11:00 a.m. (London time in the case of LIBOR, or Brussels time in the case of EURIBOR) on the relevant Interest Determination Date, deposits in the Specified Currency for the relevant Interest Period by leading banks in the London interbank market in the case of LIBOR, or leading banks in the Euro-Zone interbank market in the case of EURIBOR, plus or minus (as appropriate) the Margin, if any. If fewer than two of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest shall be the offered quotation for deposits in the Specified Currency for the relevant Interest Period, or the arithmetic mean (rounded as provided above) of the offered quotations for deposits in the Specified Currency for the relevant Interest Period, at which, at approximately 11:00 a.m. (London time in the case of LIBOR, or Brussels time in the case of EURIBOR) on the relevant Interest Determination Date, any one or more banks informs the Calculation Agent it is quoting to leading banks in the London interbank market in the case of LIBOR or leading banks in the Euro-Zone interbank market in the case of EURIBOR, plus or minus (as appropriate) the Margin, if any, provided that if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period, in place of the Margin relating to that last preceding Interest Period).

“**Reference Banks**” means, in the case of (1) above, those banks whose offered rates were used to determine such quotation when such quotation last appeared on the Relevant Screen Page and in the case of (2) above, those banks whose offered quotations last appeared on the Relevant Screen Page when no fewer than three such offered quotations appeared.

“**EC Treaty**” means the Treaty establishing the European Community, as amended by the Treaty on European Union, as amended by the Treaty of Amsterdam.

“**Euro-Zone**” means the region comprised of member states of the European Union that have adopted the euro as the single currency in accordance with the EC Treaty.

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

- (iii) *Rate of Interest and/or Interest Amount for Index Linked Interest Notes, Share Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes, Inflation Linked Interest Notes, Hybrid Interest Notes, and Notes with Interest Linked to other Underlying Asset(s) Interest Notes*

The Rate of Interest in respect of Index Linked Interest Notes, Share Linked Interest Notes, GDR/ADR Linked Interest Notes, FX Linked Interest Notes, Commodity Linked Interest Notes, Fund Linked Interest Notes, Inflation Linked Interest Notes, Hybrid Interest Notes, or other Underlying Asset(s) Interest Notes for each Interest Period and/or the Interest Amount payable on each Interest Payment Date shall be determined by the Calculation Agent in the manner set out in the applicable Final Terms.

- (iv) *Determination of Rate of Interest and Calculation of Interest Amounts for Floating-Rate Notes*

The Calculation Agent, at or as soon as practicable after each time at which the Rate of Interest payable on Floating-Rate Notes is to be determined, will determine the Rate of Interest (subject to any specified Minimum Interest Rate (as defined herein) or Maximum Interest Rate (as defined herein)) and calculate the amount of interest (the “**Interest Amount**”) payable on the Floating-Rate Notes for the relevant Interest Period. Each Interest Amount shall be calculated (unless a formula for calculation of the Interest Amount is specified in the applicable Final Terms, in which case the Interest Amount shall be calculated in accordance with such formula) by applying the Rate of Interest for such Interest Period to the minimum Specified Denomination), multiplying such sum by the applicable Floating Day Count Fraction (as defined herein) and rounding the resulting figure to the nearest U.S. Cent (or its approximate equivalent in the relevant Specified Currency), with \$.005 (or its approximate equivalent in the relevant Specified Currency) being rounded upwards. The Calculation Agent’s determination of the Rate of Interest and calculation of each Interest Amount shall be conclusive and binding on all parties in the absence of manifest error.

“**Floating Day Count Fraction**” shall have the meaning ascribed to “**Day Count Fraction**” in the ISDA Definitions or as agreed upon between the Issuer and Dealers in the applicable Final Terms; provided, however, if “**Actual/365 (Sterling)**” is specified in the applicable Final Terms, the Floating Day Count Fraction shall be 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.

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

The Calculation Agent will notify the Issuer and any stock exchange on which the Notes (other than Fixed-Rate Notes, Zero Coupon Notes, and non-interest bearing Notes) are listed (if the rules of such stock exchange so require) of the Rate of Interest and each Interest Amount for each Interest Period, the relevant Interest Payment Date and any other item or amount determined or calculated by it in accordance with the applicable Final Terms as soon as reasonably practicable after the relevant determination or calculation. The Calculation Agent also shall publish such notice in accordance with Condition 14 as soon as possible after any determination, but in no event later than the fourth London Business Day thereafter. In connection with any such Notes listed on the Luxembourg Stock Exchange, the Calculation Agent will notify the exchange of the Rate of Interest, the Interest Period, and each Interest Amount no later than the first day of the commencement of each new Interest Period. Both the Interest Amount and Interest Payment Dates subsequently may be amended (or appropriate alternative arrangements made by way of adjustment) in the event of an

extension or shortening of the Interest Period in accordance with the provisions hereof. Each stock exchange on which such Notes are listed will be notified promptly of any amendment in accordance with Condition 14. For purposes of this sub-paragraph (v), the expression “**London Business Day**” means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in London.

(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 4(b), by the Calculation Agent shall (in the absence of willful default, bad faith, or manifest error) be binding on the Issuer, the Calculation Agent, the other Paying Agents, and all Noteholders, Receiptholders, and Couponholders and (in the absence of the aforesaid) the Calculation Agent shall not be liable to the Issuer, the Noteholders, the Receiptholders, or the Couponholders in connection with the exercise by it of its powers, duties, and discretions pursuant to such provisions.

(c) *Zero Coupon Notes*

If a Zero Coupon Note becomes due and repayable prior to the Maturity Date and is not paid when due, the amount due and repayable shall be the Amortized Face Amount (as defined in Condition 6(f)) of such Note as determined in accordance with Condition 6(f)(iii). From the Maturity Date, any overdue principal of such Note shall bear interest at a rate per annum equal to the accrual yield, if any, in respect of such Notes (the “**Accrual Yield**”) (expressed as a percentage per annum) set forth in the applicable Final Terms.

(d) *Partly Paid Notes*

For Partly Paid Notes (other than Partly Paid Notes which are Zero Coupon Notes and Partly Paid Notes that do not bear interest), interest will accrue on the paid-up principal amount of such Notes, and otherwise as specified in the applicable Final Terms.

(e) *Accrual of Interest*

Each Note (or in the case of the redemption of only part of a Note, only that part of such Note) will cease to bear interest, if any, from the date for its redemption unless, upon due presentation, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue, before or after judgment, until the earlier of:

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

(f) *Rate of Interest*

As used in these Conditions, “**Rate of Interest**” means the rate, or each rate, of interest in respect of each interest bearing Note determined in accordance with the applicable provisions of this Condition 4 or as specified in the applicable Final Terms.

(g) *Limitations on Interest*

The applicable Final Terms may specify a minimum rate at which the Notes bear interest (a “**Minimum Interest Rate**”). If the Rate of Interest determined in accordance with the provisions of this Condition 4 is less than the specified Minimum Interest Rate, the Rate of Interest shall be such Minimum Interest Rate. Subject to the provisions of the next paragraph, the applicable Final Terms may specify a Maximum Interest Rate. If the Rate of Interest determined in accordance with the provisions of this Condition 4 is greater than the maximum rate at which the Notes bear interest (the “**Maximum Interest Rate**”), the Rate of Interest shall be such Maximum Interest Rate.

In addition to any Maximum Interest Rate which may be applicable to any Note pursuant to the above provision, the interest rate on such Note will in no event be higher than the maximum rate permitted by New York law, as the same may be modified by United States law of general application. Under present New York law, the maximum rate of interest is 25.00 per cent. per annum on a simple interest basis, with certain exceptions. The limit may not apply to Notes in which \$2,500,000 or more has been invested.

5. **Payments**

For the purposes of this Condition 5, references to payment or repayment (as the case may be) of principal and/or interest and other similar expressions shall, where the context so requires, be deemed also to refer to delivery of any Entitlement.

(a) *Bearer Notes*

Payments of principal and interest in respect of Bearer Notes shall be made against presentation and surrender of the relevant Receipts (in the case of payments of Installment Amounts other than on the due date for redemption and provided that the Receipt is presented for payment together with its related Note), Notes or Coupons, as the case may be, at the specified office of any Paying Agent outside the United States and its possessions by a check payable in the currency in which such payment is due drawn on a bank in the Principal Financial Center for that currency, and at the option of the bearer of such Receipt, Note, or Coupon, shall be mailed or delivered to an address outside the United States and its possessions furnished by such bearer or, at the option of such bearer, subject to any applicable laws and regulations, shall be transferred to an account denominated in that currency with a bank in the Principal Financial Center for that currency; provided, however, that any payments made by transfer will be made in immediately available funds to an account maintained by the payee with a bank located outside the United States and its possessions, provided, however that:

- (i) payments in a Specified Currency (other than euro) will be made by transfer to an account in the relevant Specified Currency maintained by the payee with, or by a check in such Specified Currency drawn on, a bank in the Principal Financial Center of the country of such Specified Currency; provided, however, that a check may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in, the United States or any of its possessions by any office or agency of the Issuer, the Principal Agent, or any Paying Agent; 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; provided, however, that a credit or transfer may not be delivered to an address in, and an amount may not be transferred to an account at a bank located in the United States or any of its possessions by any office or agency of the Issuer, the Principal Agent, or any Paying Agent.

(b) ***Registered Notes***

- (i) Payments of principal (which for the purposes of this Condition 5(b) shall include final Installment Amounts but not other Installment Amounts) in respect of Registered Notes shall be made to the person shown on the Register on the Record Date against presentation and surrender of the relevant Registered Certificates at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in Condition 5(b)(ii) below.
- (ii) Payments of interest and Installment Amounts (other than the final Installment Amount) on Registered Notes shall be paid to the person shown on the Register on the Record Date. Payments in respect of each Registered Note shall be made in the relevant Specified Currency by check drawn on a bank in the Principal Financial Center of the country of such Specified Currency and mailed to the Noteholder (or the first named of joint holders) of such Note at its address appearing in the Register. Upon application by the Noteholder to the specified office of the Registrar or Transfer Agent before the Record Date and subject as provided in Condition 5(a) above, such payment may be made by transfer to an account in the Specified Currency maintained by the payee with a bank in the Principal Financial Center of the country of such Specified Currency.

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 8.

(c) ***Payments in the United States***

Notwithstanding Condition 5(a), U.S. Dollar payments of principal and interest in respect of Bearer Notes will be made at the specified office of a Paying Agent in the United States or its possessions if:

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

(d) ***Unmatured Coupons and Receipts and unexchanged Talons***

In the case of Fixed-Rate Notes, Bearer Notes should be presented for payment together with all related unmaturing Coupons (which expression shall for this purpose include Coupons to be issued upon exchange of matured Talons). Failure to present the above will result in the amount of any missing unmaturing Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmaturing Coupon as the sum so paid bears to the sum due) being deducted from the sum due for payment. Each amount of principal so deducted will be paid as described above against surrender of the relative missing Coupon at any time before the expiration of five years after the Relevant Date (as defined in Condition 9) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 9) or, if later, five years from the date on which such Coupon would otherwise have become due. Upon any Bearer Note becoming due and payable prior to its Maturity Date,

all relevant unmatured Talons, if any, will become void and no further Coupons will be issued in respect of that Bearer Note.

In the case of Floating-Rate Notes, upon any Bearer Note becoming due and payable prior to its Maturity Date, any related unmatured Coupons (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 of those Bearer Notes.

Upon the date on which any 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. Payment of the final installment will be made as provided in Condition 5(a) above against surrender of the relevant Bearer Notes.

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

Except as provided in Condition 5(c), payments of principal, premium, if any, interest, or any other amounts payable on, or deliveries in respect of, a Bearer Global Note, will be made as specified above for Bearer Notes and otherwise as specified in the relevant Bearer Global Note outside the United States and its possessions against presentation or surrender, as the case may be, of such Bearer Global Note, and payments on any Bearer Note will be made at the specified office of any Paying Agent outside the United States and its possessions. The Paying Agent will record on each Bearer Global Note in CGN form each payment made against presentation or surrender of such Bearer Global Note, distinguishing between any payment of principal, premium, if any, interest, or any other amounts payable, and such record shall be prima facie evidence that the payment has been made.

So long as any of the Notes are represented by a Bearer Global Note or a Registered Global Certificate held on behalf of the Relevant Clearing System, each person who is shown in the records of the Relevant Clearing System as the holder of a particular nominal amount of such Notes (any certificate or other document issued by the Relevant Clearing System as to the nominal amount of Notes standing on the account of any person shall be conclusive and binding for all purposes, except in the case of manifest error) shall be treated by the Issuer, the Principal Agent, and any other Paying Agent as the holder of such nominal amount of such Notes for all purposes, except with respect to the payment of principal, premium, if any, interest, or any other amounts payable on, or deliveries in respect of, the Notes, the bearer of the relevant Bearer Global Note or, in the case of a Registered Global Note, the person or persons for the time being shown in the Register maintained by the Registrar as the Noteholder or Noteholders, shall be treated by the Issuer, the Principal Agent, and any Paying Agent as the holder of such Notes in accordance with and subject to the terms of the relevant Global Note.

(e) ***Payment Business Day***

If the due date for payment of any amount in respect of any Note, Receipt, or Coupon is not a Payment Business Day, the holder of the Notes shall not be entitled to payment of the amount due until (i) if “Following” is specified in the applicable Final Terms, the next following Payment Business Day or (ii), if “Modified Following” is specified in the applicable Final Terms, the next following Payment Business Day unless that Payment Business Day falls in the next calendar month, in which case the first preceding Payment Business Day. The holder of the Notes shall not be entitled to further interest or other payment in respect of such delay or amendment. For these purposes, unless otherwise specified in the applicable Final Terms, “**Payment Business Day**” means any day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchanges and foreign currency deposits) in:

- (i) the relevant place of presentation;
- (ii) the Principal Financial Center of the country of the relevant Specified Currency (or in the case of an amount payable in euro, a day on which the TARGET2 System or any successor thereto is operating); and
- (iii) any additional financial center (“**Additional Financial Center**”) specified in the applicable Final Terms.

(f) ***Interpretation of Principal***

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 (as defined in Condition 8) which may be payable with respect to principal under Condition 8;
- (ii) the Final Redemption Amount (as defined in Condition 6(a)) of the Notes;
- (iii) any Entitlement, Disruption Cash Settlement Price, or Failure to Deliver Settlement Price (as defined in Physical Delivery Condition 5) in respect of the Notes;
- (iv) the redemption amount (the “**Early Redemption Amount**”) of the Notes payable on redemption for taxation reasons or following an Event of Default and the method, if any, of calculating the same if required to be specified by, or if different from that set out in, Condition 6(f);
- (v) the redemption amount payable on the occurrence of a Settlement Disruption Event or Failure to Deliver due to Illiquidity (each as defined in the Physical Delivery Conditions);
- (vi) each redemption amount (the “**Optional Redemption Amount**”), if any, of the Notes;
- (vii) for Installment Notes, the amount (expressed as a percentage of the principal amount of each Note) of such installment (each, an “**Installment Amount**”);
- (viii) for Amortizing Notes, the amount of unpaid principal;
- (ix) for Zero Coupon Notes, the Amortized Face Amount; and
- (x) any premium and any other amounts which may be payable by the Issuer under or for the Notes.

Any reference in these Terms and Conditions to interest on the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable in connection with interest under Condition 8.

(g) ***Imposition of Exchange Controls***

If the Issuer, after consulting with the Principal Agent, reasonably determines that a payment on the Notes, Receipts, or Coupons cannot be made in the Specified Currency due to restrictions imposed by the government of such currency or any agency or instrumentality thereof or any monetary authority in such country (other than as contemplated in the preceding Condition 5(a)), such payment will be made outside the United States and its possessions in U.S. dollars by a check drawn on or by credit or transfer to an account maintained by the holder with a bank located outside the United States and its possessions, provided that any check shall be mailed or delivered to an address outside the United States and its possessions. The Principal Agent, on receipt of the Issuer’s written instruction and at the expense of the

Issuer, shall give prompt notice to the holders of the Notes if such determination is made. The amount of U.S. Dollars to be paid in connection with any payment shall be the amount of U.S. Dollars that could be purchased by the Agent with the amount of the relevant currency payable on the date the payment is due, at the rate for sale in financial transactions of U.S. Dollars (for delivery in the Principal Financial Center of the Specified Currency two Business Days later) quoted by that bank at 10:00 a.m. local time in the Principal Financial Center of the relevant currency, on the second Business Day prior to the date the payment is due.

(h) ***Rounding***

For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified elsewhere in these Conditions or in the relevant Final Terms), (x) all percentages resulting from such calculations shall be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with halves being rounded up), (y) all figures shall be rounded to seven significant figures (with halves being rounded up) and (z) all currency amounts that fall due and payable shall be rounded to the nearest sub-unit of such currency (with halves being rounded up), except in the case of Japanese yen, which shall be rounded down to the nearest Japanese yen.

(i) ***Payment Disruption***

(i) *Occurrence of a Payment Disruption Event*

If the applicable Final Terms specifies “Payment Disruption Event” to be applicable, then, in the event that the Calculation Agent, at any time and from time to time, determines in its sole discretion that a Payment Disruption Event has occurred or is likely to occur, then the Calculation Agent shall as soon as practicable notify the Noteholders of the relevant Notes of the occurrence of a Payment Disruption Event in accordance with Condition 14.

(ii) *Consequences of a Payment Disruption Event*

Upon the occurrence of a Payment Disruption Event:

(A) *Obligation to pay postponed*

The Issuer’s obligation to pay the Interest Amount, Fixed Coupon Amount, Final Redemption Amount or any such other amounts in respect of the relevant Notes shall, subject to Condition 5(i)(ii)(D), be postponed until five Business Days (or such other date as may be determined by the Calculation Agent and notified to the Noteholders in accordance with Condition 14) after the date on which the Payment Disruption Event is no longer operating. Noteholders shall not be entitled to further interest or other payment in respect of such postponement.

(B) *Issuer’s option to vary settlement*

Notwithstanding the Issuer’s right to postpone payment in accordance with Condition 5(i)(ii)(A), the Issuer may, if practicable (and to the extent lawful), and at the Issuer’s sole and absolute discretion:

- (1) make payments due to be made in the Subject Currency in the Base Currency, converted from the Subject Currency into the Base Currency at a rate reasonably selected by the Calculation Agent;

- (2) make payments due to be made in the Base Currency in the Subject Currency, disregarding any obligation to convert amounts into the Base Currency;
- (3) in the case of Share Linked Notes, deliver the Shares in lieu of cash settlement; or
- (4) in the case of Share Linked Notes which reference a basket of Shares, elect to satisfy in part its obligation to pay the amounts as may be due and payable under the relevant Notes by making a partial payment(s) or partial deliveries, as the case may be (the “**Partial Distributions**”). Any Partial Distribution made by the Issuer to the Noteholders will be calculated and/or determined by the Calculation Agent in its sole and absolute discretion and shall be paid and/or delivered to the Noteholders pro rata (as far as possible, subject to any necessary adjustments for rounding) to the proportion of the Notes of the same series held by the relevant Noteholder. In the event that any Partial Distribution is made by the Issuer, the Calculation Agent may, in its sole and absolute discretion, make any such corresponding adjustment to any variable relevant to the redemption or payment terms of the relevant Notes as it deems necessary and shall notify the relevant Noteholders thereof in accordance with Condition 14.

Any payments or deliveries made in accordance with this Condition 5(i)(ii)(B) shall satisfy and discharge in full (in the case of payments or deliveries made in accordance with paragraphs (1) to (3)) and in part (in the case of Partial Distributions made in accordance with paragraph (4)) the Issuer’s obligation to pay the Interest Amount, Fixed Coupon Amount, Final Redemption Amount or other amount in respect of which the Payment Disruption Event has arisen, and no further amounts shall be due and payable by the Issuer in respect thereof.

(C) *Payments net of expenses*

Notwithstanding any provisions to the contrary, (a) any payments made in accordance with this Condition 5(i) shall be made after deduction of any costs, expenses or liabilities incurred or to be incurred by the Calculation Agent or Issuer in connection with or arising from the resolution of the relevant Payment Disruption Event(s) and (b) no interest shall be paid by the Issuer in respect of any delay which may occur in the payment of any amounts due and payable under the Notes as a result of the operation of this Condition 5(i)(ii).

(D) *Payment Event Cut-Off Date*

In the event that a Payment Disruption Event is still occurring on the Payment Event Cut-Off Date, the Interest Payment Date, the Maturity Date, or any other date on which redemption amounts in relation to any of the Notes shall be due and payable (as the case may be) for the relevant Notes shall fall on the Payment Event Cut-Off Date. In such circumstances, the Noteholder will not receive any amounts. Thereafter, the Issuer shall have no obligations whatsoever under the Notes.

For the purposes of this Condition 5(i):

“**Base Currency**” has the meaning given to it in Annex 4 – Additional Terms and Conditions for FX Linked Notes;

**“Payment Disruption Event”** means:

- (a) the occurrence of either (a) an Inconvertibility Event and/or (b) a Non-Transferability Event (each as defined in Annex 4 – Additional Terms and Conditions for FX Linked Notes);
- (b) the imposition by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) of any capital controls, or the publication of any notice of an intention to do so, which the Calculation Agent determines in good faith is likely materially to affect the Notes, and notice thereof is given by the Issuer to the Noteholders in accordance with Condition 14; or
- (c) the implementation by the Subject Currency Jurisdiction (or any political or regulatory authority thereof) or the publication of any notice of an intention to implement any changes to the laws or regulations relating to foreign investment in the Subject Currency Jurisdiction (including, but not limited to, changes in tax laws and/or laws relating to capital markets and corporate ownership), which the Calculation Agent determines are likely to affect materially the Issuer’s ability to hedge its obligations under the Notes;

**“Payment Event Cut-Off Date”** means the date which is one year after the Maturity Date, or as determined by the Calculation Agent acting in good faith and notified to Noteholders in accordance with Condition 14;

**“Subject Currency”** has the meaning given to it in Annex 4 – Additional Terms and Conditions for FX Linked Notes; and

**“Subject Currency Jurisdiction”** has the meaning given to it in Annex 4 – Additional Terms and Conditions for FX Linked Notes.

## 6. **Redemption and Purchase**

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

Unless previously redeemed or purchased and cancelled as specified below, the Issuer will redeem each Note at an amount (the **“Final Redemption Amount”** (or, in the case only of Physical Delivery Notes, by delivery of the Entitlement (as provided in the Physical Delivery Conditions))) specified in, or determined in the manner specified in the applicable Final Terms in the relevant Specified Currency on the Maturity Date.

For the purposes of these Terms and Conditions, **“Redemption Amount”** shall mean the Final Redemption Amount, Disruption Cash Settlement Price, Failure to Deliver Settlement Price, Early Redemption Amount, Optional Redemption Amount, Minimum Redemption Amount, Higher Redemption Amount (each as defined below), or any other amount specified in the applicable Final Terms as being the amount for which the Notes are to be redeemed, as the context may require.

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

The Notes may be redeemed at the option of the Issuer in whole, but not in part, at any time (in the case of Fixed-Rate Notes) or on any Interest Payment Date (in the case of Notes other than Fixed-Rate Notes), on giving not less than 30 nor more than 60 calendar days’ notice (which notice shall be irrevocable) to the Principal Agent and to the Noteholders, in accordance with Condition 14, if:

- (i) on the occasion of the next payment due under the Notes, the Issuer has or will become obligated to pay Additional Amounts as discussed in Condition 8 as a result of any change in, or amendment to, the laws or regulations of the United States 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) the Issuer cannot avoid such obligation by taking reasonable measures available to it, provided that no such redemption notice shall be given earlier than 90 calendar days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts if a payment in respect of the Notes were then due.

Prior to the publication of any redemption notice pursuant to this Condition 6(b), the Issuer shall deliver a certificate to the Principal Agent signed by an Authorized Officer of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent, if any, to the redemption have occurred. For the purposes of this paragraph, “**Authorized Officer**” means, with respect to the Issuer, the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Senior Vice President or any Managing Director or Director–Corporate Treasury of the Issuer or any other person who is duly authorized to act for the Issuer in matters relating to, and binding upon, the Issuer.

Notes redeemed pursuant to this Condition 6(b) will be redeemed at their Early Redemption Amount referred to in Condition 6(f) below together (if appropriate) with interest accrued to (but excluding) the date fixed for redemption.

(c) *Special Tax Redemption*

If the Issuer determines that any payment made outside the United States by the Issuer or any of its Paying Agents in respect of any Note (other than in respect of a Registered Note) or Coupon, under any present or future laws or regulations of the United States, would be subject to any certification, documentation, information, or other reporting requirement of any kind the effect of which is the disclosure to the Issuer, any Paying Agent, or any governmental authority of the nationality, residence, or identity of a beneficial owner of such Note or Coupon who is a United States Alien (as defined herein) (other than a requirement (1) that would not be applicable to a payment by the Issuer or any one of the Paying Agents (x) directly to the beneficial owner, or (y) to a custodian, nominee, or other agent of the beneficial owner, (2) that can be satisfied by such custodian, nominee, or other agent certifying to the effect that the beneficial owner is a United States Alien, provided that, in any case referred to in Clauses (1)(y) or (2), payment by the custodian, nominee, or agent to the beneficial owner is not otherwise subject to any such requirement, or (3) that would not be applicable to a payment by at least one Paying Agent of the Issuer), the Issuer shall at its option either:

- (i) redeem the Notes in whole, but not in part, at any time (in the case of Fixed-Rate Notes) or on any Interest Payment Date (in the case of Notes other than Fixed-Rate Notes), at a price equal to the Early Redemption Amount referred to in Condition 6(f) below, together with, if appropriate, interest accrued to but excluding the date fixed for redemption; or
- (ii) if the conditions of the second succeeding paragraph are satisfied, pay the Additional Amounts specified in such paragraph.

The Issuer shall make its determination as soon as practicable and publish prompt notice thereof (the “**Determination Notice**”) stating the effective date of its certification, documentation, information, or other reporting requirement, whether the Issuer will redeem the Notes or pay the Additional Amounts

specified in the next succeeding paragraph, and (if applicable) the last date by which the redemption of the Notes must take place, as provided in the next succeeding sentence. If the Notes are to be redeemed pursuant to this Condition 6(c), that redemption shall take place on such date, not later than one year after the publication of the Determination Notice, as the Issuer shall elect by notice to the Principal Agent at least 45 calendar days before the redemption date. Notice of such redemption of the Notes will be given to the Noteholders not more than 60 nor less than 30 calendar days prior to the redemption date by publication in accordance with Condition 14. Notwithstanding the foregoing, the Issuer shall not redeem the Notes if the Issuer shall subsequently determine not less than 30 calendar days prior to the redemption date, that subsequent payments on the Notes and Coupons would not be subject to any such certification, documentation, information, or other reporting requirement, in which case the Issuer shall give prompt notice of its subsequent determination by publication in accordance with Condition 14 and any earlier redemption notice shall be revoked and of no further effect.

Notwithstanding the foregoing, if and so long as the certification, documentation, information, or other reporting requirement referred to in the second preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Issuer may elect to pay as additional interest such Additional Amounts as may be necessary so that every net payment made outside the United States following the effective date of that requirement by the Issuer or any of its Paying Agents in respect of any Note or any Coupon of which the beneficial owner is a United States Alien (but without any requirement that the nationality, residence, or identity, other than status as a United States Alien, of such beneficial owner be disclosed to the Issuer, any Paying Agent, or any governmental authority), after deduction or withholding for or on account of that backup withholding tax or similar charge (other than a backup withholding tax or similar charge that (1) would not be applicable in the circumstances referred to in the parenthetical clause of the first sentence of the second preceding paragraph or (2) is imposed as a result of the presentation of the Note or Coupon for payment more than 15 calendar days after the date on which that payment became due and payable or on which payment thereof was duly provided for, whichever occurred later), will not be less than the amount provided for in the Note or Coupon to be then due and payable. If the Issuer elects to pay Additional Amounts pursuant to this paragraph, the Issuer shall have the right to redeem the Notes in whole, but not in part, at any time (in the case of Notes other than Fixed-Rate Notes) or on any Interest Payment Date (in the case of Notes other than Fixed-Rate Notes), subject to the provisions of the last two sentences of the immediately preceding paragraph. If the Issuer elects to pay Additional Amounts pursuant to this paragraph and the condition specified in the first sentence of this paragraph should no longer be satisfied, then the Issuer shall redeem the Notes pursuant to the provisions of the immediately preceding paragraph.

For purposes of this Condition 6(c), the terms “**Additional Amounts**” and “**United States Alien**” have the meanings given in Condition 8.

The requirement under these Terms and Conditions that a Noteholder submit an Asset Transfer Notice or Put Notice disclosing certain information with respect to the Noteholder and the requirement that the Noteholder and each legal or beneficial owner, as a condition to purchasing a Note, make certain representations and agreements as to its status as a U.S. person and other matters, are not requirements as to which the provisions of this Condition 6(c) apply. In addition, in the case of Definitive Notes which are not held through a Relevant Clearing System and in the case of Non-Principal Protected Notes, if this Condition 6(c) would otherwise apply to the Notes, the Issuer shall have the option to redeem the Definitive Notes in the manner set forth in the third preceding paragraph, but shall not be required to redeem the Definitive Notes or pay any Additional Amounts.

Whenever any Additional Amounts are to be paid on Notes or Coupons, the Issuer will give notice to the Agent, the Registrar and the other Paying Agents, as provided in the Agency Agreement.

(d) *Call Option-Redemption at the Option of the Issuer (Issuer Call Option)*

If the applicable Final Terms specify that the Issuer has an option to redeem the Notes, and the Issuer gives:

- (i) not less than 30 nor more than 60 calendar days' notice in accordance with Condition 14 to the Noteholders (or such other period as is specified in the applicable Final Terms); and
- (ii) not less than seven London Business Days (as defined in Condition 4(b)(v)) (or such other period as is specified in the applicable Final Terms) before giving notice as referred to in (i), notice to the Principal Agent;

(both of which notices shall be irrevocable), then the Issuer may redeem all or a portion of the Notes then outstanding on the dates upon which redemption may occur (each, an “**Optional Redemption Date**”) and at the Optional Redemption Amounts specified in, or determined in the manner specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Dates. Any redemption must be of a principal amount equal to the minimum principal amount of the Notes permitted to be redeemed at any time (the “**Minimum Redemption Amount**”) or any greater principal amount of the Notes permitted to be redeemed at any time (each, a “**Higher Redemption Amount**”), both as indicated in the applicable Final Terms. In the case of a partial redemption of Notes, the Notes to be redeemed (“**Redeemed Notes**”) will be selected individually by lot, in the case of Redeemed Notes represented by Bearer Definitive Notes or Registered Definitive Certificates, and in accordance with the rules of the Relevant Clearing System (to be reflected in the records of the Relevant Clearing System as either a pool factor or a reduction in nominal amount, at their discretion), in the case of Redeemed Notes represented by a Bearer Global Note or a Registered Global Certificate, not more than 60 calendar days prior (or such other period as is specified in the applicable Final Terms) to the date fixed for redemption (the “**Selection Date**”). In the case of Redeemed Notes represented by Bearer Definitive Notes or Registered Definitive Certificates, a list of the serial numbers of the Redeemed Notes will be published in accordance with Condition 14 not less than 30 calendar days prior (or any other period as is specified in the applicable Final Terms) to the date fixed for redemption. The aggregate principal amount of Redeemed Notes represented by Bearer Definitive Notes or Registered Definitive Certificates shall bear the same proportion to the aggregate principal amount of all Redeemed Notes as the aggregate principal amount of Bearer Definitive Notes or Registered Definitive Certificates outstanding bears to the aggregate principal amount of the Notes outstanding, in each case on the Selection Date, provided that the first mentioned principal amount, if necessary, shall be rounded downwards to the nearest integral multiple of the Specified Denomination, and the aggregate principal amount of Redeemed Notes represented by a Bearer Global Note or a Registered Definitive Certificate shall be equal to the balance of the Redeemed Notes. No exchange of the relevant Bearer Global Note or a Registered Definitive Certificate will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this Condition 6(d) and the Issuer shall give notice to that effect to the Noteholders in accordance with Condition 14 at least 10 calendar days prior (or any other period as is specified in the applicable Final Terms) to the Selection Date.

(e) *Put Option-Redemption at the Option of the Noteholders (Investor Put Option)*

If the applicable Final Terms specify that the Noteholders have an option to redeem the Notes, upon the Noteholder giving the Issuer, in accordance with Condition 14, not less than 30 nor more than 60 calendar days' notice or such other period of notice as is specified in the applicable Final Terms (which notice shall be irrevocable), the Issuer, upon the expiration of such notice, will redeem (in accordance with the terms specified in the applicable Final Terms) in whole (but not in part), such Notes on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner

specified in, the applicable Final Terms together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date.

To exercise such option or any other Noteholders' option that may be set out in the applicable Final Terms, the Noteholder must deposit (in the case of Bearer Notes) such Note (together with all unmatured Receipts and Coupons and unexchanged Talons) with any Paying Agent outside the United States, or (in the case of Registered Notes) the Registered Certificate representing such Note(s) with the Registrar or any Transfer Agent at its specified office, during normal business hours of such Paying Agent, Registrar or Transfer Agent falling within the notice period, together with a duly signed and completed option exercise notice in the form obtainable from any Paying Agent, the Registrar or any Transfer Agent (the "**Put Notice**") in which the Noteholder must specify a bank account (or, if payment is by check, an address) to which payment is to be made under this Condition 6(e).

(f) **Early Redemption Amounts**

For purposes of Condition 6(b) and 6(c) above and Condition 10, the Notes will be redeemed at the Early Redemption Amount calculated as follows, together, if appropriate, with interest accrued to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable prior to the Maturity Date:

- (i) in the case of a Note (other than a Zero Coupon Note, a Dual Currency Note, an Index Linked Redemption Note, a Share Linked Redemption Note, a GDR/ADR Linked Redemption Note, an FX Linked Redemption Note, a Commodity Linked Redemption Note, a Fund Linked Redemption Note, an Inflation Linked Redemption Note, a Hybrid Redemption Note, or an other Underlying Asset(s) Redemption Note) with a Final Redemption Amount equal to 100 per cent. of its outstanding principal amount at the Final Redemption Amount thereof; or
- (ii) in the case of a Note (other than those described in Condition 6(f)(i) above or Condition 6(f)(iii) below), the Early Redemption Amount payable (subject to Condition 6(l) if applicable) shall be the amount determined in good faith and in a commercially reasonable manner by the Calculation Agent to be the fair market value of the Notes immediately prior to (and ignoring the circumstances leading to) such early redemption, adjusted to account fully for any reasonable expenses and costs of the Issuer and/or its Affiliates of unwinding any underlying and/or related hedging and funding arrangements (including, without limitation, any equity options, equity swaps, or other securities of any type whatsoever hedging the Issuer's obligations under the Notes), unless otherwise specified in the applicable Final Terms; or
- (iii) in the case of a Zero Coupon Note, which is not a Dual Currency Note, an Index Linked Redemption Note, a Share Linked Redemption Note, a GDR/ADR Linked Note, an FX Linked Redemption Note, a Commodity Linked Redemption Note, a Fund Linked Redemption Note, an Inflation Linked Redemption Note, a Hybrid Redemption Note, or an other Underlying Asset(s) Redemption Note, at an amount (the "**Amortized Face Amount**") equal to:
  - (A) the sum of (1) the Reference Price specified in the applicable Final Terms multiplied by the face amount of the Note (the "**Reference Price Amount**") and (2) the product of the Accrual Yield specified in the applicable Final Terms (compounded annually) being applied to the Reference Price Amount from (and including) the Issue Date to (but excluding) the date fixed for redemption or the date upon which such Note becomes due and repayable (as the case may be); or

- (B) if the amount payable with respect to any Zero Coupon Note upon redemption pursuant to Condition 6(b), (c), (d), or (e) above or upon its becoming due and repayable as provided in Condition 10 is not paid or available for payment when due, the amount due and repayable with respect to such Zero Coupon Note shall be the Amortized Face Amount of such Zero Coupon Note calculated as provided above as though the references in sub-paragraph (A) 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 (the “**Reference Date**”) which is the earlier of:
- (1) the date on which all amounts due with respect to the Note have been paid; or
  - (2) the date on which the full amount of the monies repayable has been received by the Agent and notice to that effect has been given in accordance with Condition 14.

The calculation of the Amortized Face Amount in accordance with this sub-paragraph (B) will continue to be made, before, as well as, after judgment, until the Reference Date, unless the Reference Date falls on or after the Maturity Date, in which case the amount due and repayable shall be the principal amount of such Note together with interest at a rate per annum equal to the Accrual Yield.

Where such calculation is to be made for a period which is not a whole number of years, it shall be made on the basis of a 360-day year consisting of 12 months of 30 calendar days each and, in the case of an incomplete month, the actual number of days elapsed or such other calculation basis as may be specified in the applicable Final Terms.

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

(g) ***Installment Notes; Amortizing Notes***

If the Notes are Installment Notes, they will be redeemed in the Installment Amounts and on the date on which each installment is repayable (each, an “**Installment Date**”) as specified in the applicable Final Terms. In the case of early redemption, the Early Redemption Amount will be determined pursuant to Condition 6(f) above. If the Notes are Amortizing Notes, they will be redeemed in the amounts and on the dates set forth on the Amortization Table specified in the applicable Final Terms.

(h) ***Partly Paid Notes***

If the Notes are Partly Paid Notes, they will be redeemed, whether at maturity, early redemption, or otherwise, in accordance with the provisions of this Condition 6 and the applicable Final Terms. In the case of early redemption, the Early Redemption Amount will be determined pursuant to Condition 6(f) above by reference to the amount paid with respect to such Notes.

(i) ***Dual Currency Notes, Index Linked Redemption Notes, Share Linked Redemption Notes, GDR/ADR Linked Redemption Notes, FX Linked Redemption Notes, Commodity Linked Redemption Notes, Fund Linked Redemption Notes, Inflation Linked Redemption Notes, Hybrid Redemption Notes, and other Underlying Asset(s) Redemption Notes***

If the Notes are Dual Currency Notes, Index Linked Redemption Notes, Share Linked Redemption Notes, GDR/ADR Linked Redemption Notes, FX Linked Redemption Notes, Commodity Linked Redemption Notes, Fund Linked Redemption Notes, Inflation Linked Redemption Notes, Hybrid

Redemption Notes, or other Underlying Asset(s) Redemption Notes, they will be redeemed, whether at maturity, early redemption, or otherwise, in accordance with the provisions of this Condition 6 and the applicable Final Terms.

(j) **Repurchases**

The Issuer and/or any of its Affiliates may at any time repurchase Notes (provided that, in the case of Bearer Definitive Notes, all unmatured Receipts and Coupons attached thereto are repurchased therewith) at any price in the open market or otherwise. Such Notes may be held, reissued, resold, or surrendered to any Paying Agent for cancellation, provided that any such Notes reissued or resold comply with the selling restrictions set forth in United States Treasury Regulation Section 1.163-5 as if they were newly issued.

(k) **Cancellation**

All Notes which are redeemed will be cancelled (together with, in the case of Bearer Notes, all unmatured Receipts and Coupons attached thereto or surrendered therewith at the time of redemption) in the case of Bearer Notes, by surrendering each such Note together with all unmatured Receipts and Coupons and all unexchanged Talons to any Paying Agent and, in the case of Registered Notes, by surrendering the Registered Certificate representing such Registered Notes to the Registrar and, in each case, if so surrendered, shall, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with, in the case of Bearer Notes, all unmatured Receipts and Coupons and unexchanged Talons attached thereto or surrendered therewith). All Notes so cancelled and the Notes purchased and cancelled pursuant to Condition 6(j) above (together with, in the case of Bearer Notes, all unmatured Receipts and Coupons cancelled therewith) shall be forwarded to the Principal Agent and cannot be reissued or resold.

(l) **Principal Protected Notes**

In the case of all Notes which the applicable Final Terms specify to be “Principal Protected”, notwithstanding anything to the contrary, the amount of cash and fair market value of property delivered at maturity or upon early redemption will not be less than the Specified Denomination of such Note.

7. **Redenomination**

If the applicable Final Terms permits redenomination, Notes denominated in a currency that may be redenominated into euro, at the election of the Issuer, may be subject to redenomination in the manner set out below. In relation to such Notes, the Issuer, without the consent of the Noteholders, Receiptholders, or Couponholders, on giving at least 30 calendar days’ prior notice to Noteholders, Receiptholders, Couponholders, the Principal Agent and the Relevant Clearing System in accordance with Condition 14, may designate a “**Redenomination Date**” for the Notes, being (in the case of interest-bearing Notes) a date for payment of interest under the Notes (or in the case of Zero Coupon Notes, any date), in each case specified by the Issuer in the notice given pursuant to this paragraph and falling on or after the date on which the relevant member state commences participation in the third stage of European Economic and Monetary Union pursuant to the EC Treaty and which falls before the date on which the currency ceases to be a sub-division of the euro. Notwithstanding the foregoing, Bearer Notes will not be redenominated at the election of the Issuer pursuant to this Condition 7 unless the Issuer receives an opinion of United States tax counsel recognized as an expert in such matters that the Notes would be in compliance with United States Treasury Regulation Section 1.163-5(c)(2)(i)(D) after such redenomination.

Beginning on the Redenomination Date, notwithstanding the other provisions of the Terms and Conditions:

- (i) the Notes and the Receipts shall (unless already so provided by mandatory provisions of applicable law) be deemed to be redenominated in euro in the denomination of euro 0.01 with a nominal amount for each Note and Receipt equal to the nominal amount of that Note and Receipt in the Specified Currency, converted into euro at the rate for conversion established by the Council of the European Union pursuant to the EC Treaty (including compliance with rules relating to rounding in accordance with European Community regulations) provided that, if the Issuer determines, with the agreement of the Agent (which agreement shall not be unreasonably withheld), that the then market practice in respect of the redenomination into euro 0.01 of internationally offered securities is different from the provisions specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, any stock exchange on which the Notes may be listed, and any Paying Agent of such deemed amendment;
- (ii) if Definitive Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Issuer in the denominations of €50,000, and such other denominations as the Principal Agent determines and gives notice of to the Noteholders;
- (iii) if Bearer Definitive Notes have been issued prior to the Redenomination Date, all unmatured Receipts and Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void from the date on which the Issuer gives the notice (the “**Exchange Notice**”) that replacement euro-denominated Notes, Receipts, and Coupons are available for exchange (provided that such securities are so available) and no payments will be made in respect of them. The payment obligations contained in any Notes and Receipts so issued also will become void on that date although those Notes and Receipts will continue to constitute valid exchange obligations of the Issuer. New certificates in respect of euro-denominated Notes, Receipts and Coupons will be issued in exchange for Notes, Receipts and Coupons denominated in the Specified Currency in such manner as the Principal Agent may specify and shall be stated to Noteholders in the Exchange Notice;
- (iv) after the Redenomination Date, all payments in respect of the Notes (other than payments of interest in respect of periods commencing before the Redenomination Date) will be made solely in euro, unless the Redenomination Date is on or after such date as the Specified Currency ceases to be a sub-division of the euro. Such payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee;
- (v) the amount of interest in respect of Notes will be calculated by reference to the aggregate nominal amount of Bearer Definitive Notes presented (or, as the case may be, in respect of which Receipts or Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest euro 0.01; and
- (vi) if the Notes are Notes other than Fixed-Rate Notes, Zero Coupon Notes or other non-interest bearing Notes, the applicable Final Terms will specify any relevant changes to the provisions relating to interest.

In connection with such redenomination, the Issuer, after consultation with the Principal Agent, may make such other changes to the Terms and Conditions applicable to the relevant Notes, including, without limitation, with respect to any Business Day, Fixed Day Count Fraction, Floating Day Count Fraction, or other conventions as it may decide, so as to conform them to the then market practice in respect of euro-denominated debt securities issued in the Euromarkets, which are held in international clearing systems.

Any such changes will not take effect until the next following Interest Payment Date after the Noteholders have been given notice in accordance with Condition 14.

The circumstances and consequences described in this Condition 7 and any resulting amendment to the Terms and Conditions of the Notes will not entitle any Noteholder (a) to any legal remedy, including, without limitation, redemption, rescission, notice, repudiation, adjustment, or renegotiation of the Notes, or (b) to raise any defense or make any claim (including, without limitation, claims of breach, force majeure, frustration of purpose, or impracticability) or any other claim for compensation, damages, or any other relief.

## 8. Taxation

The Issuer will pay a United States Alien such additional amounts of interest (“**Additional Amounts**”) as may be necessary so that every net payment of the principal of and interest on any Note or any Coupon appertaining thereto, after deduction or withholding for or on account of any present or future tax, assessment, or other governmental charge imposed upon such holder by the United States or any political subdivision or taxing authority thereof or therein (other than any territory or possession) upon or as a result of such payment, will not be less than the amount provided for in such Note and the coupons appertaining thereto; provided, however, that the foregoing obligation to pay Additional Amounts shall not apply to:

- (a) any tax, assessment, or other governmental charge which would not have been so imposed but for:
  - (i) the existence of any present or former connection between such holder (or between a fiduciary, settlor, beneficiary, member, or stockholder of, or a person holding a power over, such holder, if such holder is an estate, trust, partnership, or corporation) and the United States or any of its possessions, including, without limitation, such holder (or such fiduciary, settlor, beneficiary, member, stockholder, or person holding a power) being or having been a citizen or resident or treated as a resident thereof or being or having been engaged in a trade or business therein or being or having been present therein or having or having had a permanent establishment therein or having or having had a qualified business unit which has the U.S. Dollar as its functional currency;
  - (ii) such holder’s present or former status as a personal holding company, foreign personal holding company, passive foreign investment company, private foundation, or other tax-exempt entity, or controlled foreign corporation for United States tax purposes or a corporation which accumulates earnings to avoid United States federal income tax; or
  - (iii) such holder’s status as a bank extending credit pursuant to a loan agreement entered into in the ordinary course of business;
- (b) any tax, assessment, or governmental charge that would not have been so imposed but for the failure of the holder to comply with certification, identification, or information reporting requirements under United States income tax laws, without regard to any tax treaty, with respect to the payment, concerning the nationality, residence, identity, or connection with the United States or any of its possessions of the holder or a beneficial owner of such Note or Coupon, if such compliance is required by United States income tax laws, without regard to any tax treaty, as a precondition to relief or exemption from such tax, assessment, or governmental charge;
- (c) any tax, assessment, or governmental charge that would not have been so imposed but for the presentation by the holder of such Note or Coupon for payment on a date more than 30

calendar days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;

- (d) any estate, inheritance, gift, sales, transfer, excise, wealth, or personal property tax or any similar tax, assessment, or governmental charge;
- (e) any tax, assessment, or governmental charge which is payable otherwise than by withholding by the Issuer or a Paying Agent from the payment of the principal of or interest on any Note or Coupon;
- (f) any tax, assessment, or governmental charge imposed solely because the payment is to be made by a particular Paying Agent or a particular office of a Paying Agent and would not be imposed if made by another Agent or by another office of this Agent;
- (g) any tax, assessment, or other governmental charge imposed on interest received by a person holding, actually or constructively, 10.00 per cent. or more of the total combined voting power of all classes of stock of the Issuer entitled to vote;
- (h) any withholding or deduction imposed on a payment to an individual and required to be made pursuant to European Council Directive 2003/48/EC (the “**Directive**”) or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (i) any tax, assessment, or other government charge imposed on a payment of principal or interest (or any other payment) on any Note which is (i) a Dual Currency Note or (ii) a Non-Principal Protected Note which is an Index Linked Note, Share Linked Note, GDR/ADR Linked Note, FX Linked Note, Commodity Linked Note, Fund Linked Note, Inflation Linked Note, Hybrid Note, Physical Delivery Note, or Note linked to other Underlying Asset(s), unless in each case the applicable Final Terms expressly provide that the Issuer will pay Additional Amounts with respect to such Note;
- (j) any tax, assessment, or other government charge imposed on a payment of principal or interest (or any other payment) on any Principal Protected Note which is an Index Linked Note, Share Linked Note, GDR/ADR Linked Note, FX Linked Note, Commodity Linked Note, Fund Linked Note, Inflation Linked Note, Hybrid Note, Physical Delivery Note, or Note linked to other Underlying Asset(s), if in each case the applicable Final Terms expressly provide that the Issuer will not pay Additional Amounts with respect to such Note;
- (k) any Note presented for payment by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a member state of the European Union;
- (l) any tax, assessment, or other governmental charge that is imposed or withheld by reason of the application of Section 1471 (or any successor provision) or Section 1472 (or any successor provision) of the Code or any related administrative regulation or pronouncement; or
- (m) any combination of items (a) through (l),

nor shall Additional Amounts be paid with respect to any payment of the principal of or interest on any Note or Coupon to a person other than the sole beneficial owner of such payment or that is a partnership or fiduciary to the extent either (i) such beneficial owner, member of such partnership or beneficiary or settlor with respect to such fiduciary would not have been entitled to the payment of Additional Amounts had such beneficial owner, member, beneficiary, or settlor been the Noteholder or Couponholder, or (ii) the Noteholder does not provide a statement, in the form, manner, and time required by applicable United

States income tax laws, from such beneficial owner, member of such partnership or beneficiary or settlor with respect to such fiduciary concerning its nationality, residence, identity, or connection with the United States.

“**United States Alien**” means any corporation, partnership, entity, individual, or fiduciary that is for United States federal income tax purposes (1) a foreign corporation, (2) a foreign partnership to the extent one or more of the members of which is, for United States federal income tax purposes, a foreign corporation, a non-resident alien individual, or a foreign estate or trust, (3) a non-resident alien individual, or (4) a foreign estate or trust.

Except as specifically provided herein and in the Agency Agreement, the Issuer shall not be required to make any payment with respect to any tax, assessment, or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Whenever any Additional Amounts are to be paid on Notes or Coupons, the Issuer will give notice to the Principal Agent and the other Paying Agents, as provided in the Agency Agreement.

## 9. Prescription

The Notes, Receipts, and Coupons will become void unless presented for payment within a period of five years after the date on which such payment first becomes due (the “**Relevant Date**”). However, if the full amount of the money payable has not been duly received by the Principal Agent or other relevant Paying Agent on or prior to the Relevant Date, then the Relevant Date shall mean the date on which, after the full amount of such money has been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

No Coupon sheet issued upon exchange of a Talon shall include a Coupon on which the claim for payment would be void pursuant to this Condition 9 or Condition 5(d) or any Talon which would be void pursuant to Condition 5(d).

## 10. Events of Default

### (a) *Events of Default in Relation to Senior Notes*

The occurrence of any of the following events with respect to any Series of Senior Notes shall constitute an “**Event of Default**” with respect to such Series:

- (i) the Issuer shall fail to pay the principal amount or deliver the Entitlement (if any) of any of such Senior Notes when due whether at maturity or upon early redemption or otherwise; or
- (ii) the Issuer shall fail to pay any installment of interest, other amounts payable, or Additional Amounts on any of such Senior Notes for a period of 30 calendar days after the due date; or
- (iii) the Issuer shall fail duly to perform or observe any other term, covenant, or agreement applicable to such Senior Notes contained in any of such Senior Notes or in the Agency Agreement for a period of 90 calendar days after the date on which written notice of such failure, requiring the Issuer to remedy the same, shall first have been given to the Issuer and the Principal Agent by the Noteholders of at least 33.00 per cent. in aggregate principal amount of such Senior Notes at the time outstanding; provided, however, that in the event the Issuer within the aforesaid period of 90 calendar days shall commence legal action in a court of competent jurisdiction seeking a determination that the Issuer had not failed duly to perform or observe the term or terms, covenant or covenants, or agreement or agreements specified in the aforesaid notice, such failure shall not be an Event of Default unless the same

continues for a period of ten calendar days after the date of any final determination to the effect that the Issuer had failed to duly perform or observe one or more of such terms, covenants, or agreements; or

- (iv) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganization, or other similar law now or hereafter in effect, or appointing a receiver, liquidator, conservator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its property or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of 60 consecutive calendar days; or
- (v) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry or an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, conservator, assignee, trustee, custodian, sequestrator (or similar official) of the Issuer or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

(b) *Events of Default in Relation to Subordinated Notes*

The occurrence of any of the following events with respect to any Series of Subordinated Notes shall constitute an “**Event of Default**” with respect to such Series:

- (i) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganization, or other similar law now or hereafter in effect, or appointing a receiver, liquidator, conservator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its property or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of 60 consecutive calendar days; or
- (ii) the Issuer shall commence a voluntary case or proceeding under any applicable bankruptcy, insolvency, liquidation, receivership, reorganization, or other similar law now or hereafter in effect, or shall consent to the entry or an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, conservator, assignee, trustee, custodian, sequestrator (or similar official) of the Issuer or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

(c) *Acceleration of Notes, Notices, Certain Calculations, and Amounts to be Paid*

If an Event of Default shall occur and be continuing with respect to any Series of Notes, then the holder of any Notes of the applicable Series, at such holder’s option, by written notice to the Issuer and the Principal Agent, may declare the principal of such Note, the interest accrued, or any other amounts then payable thereon (and Additional Amounts, if any, thereon) to be due and payable immediately and if any such Event of Default shall continue at the time of receipt of such written notice, such amounts shall become immediately due and payable, subject to the qualification in bold-type immediately below. Upon payment of such amount of principal, interest, or any other amounts payable (and Additional Amounts, if

any), all of the Issuer's obligations in respect of payment of principal of, interest, or any other amounts payable (and Additional Amounts, if any) on such Note shall terminate. Interest on overdue principal, interest, or any other amounts payable (and Additional Amounts, if any) shall accrue from the date on which such principal, interest, or any other amounts payable (and Additional Amounts, if any) were due and payable to the date such principal, interest, or any other amounts payable (and Additional Amounts, if any) are paid or duly provided for, at the rate borne by the Notes (to the extent payment of such interest shall be legally enforceable).

**Payment of principal, the interest accrued, or any other amounts then payable thereon (and Additional Amounts, if any) of the Subordinated Notes may not be accelerated in the case of a default in the payment of principal, interest, or any other amounts then payable or the performance of any other covenant of the Issuer. Payment of the principal, the interest accrued, or any other amounts then payable thereon (and Additional Amounts, if any) of the Subordinated Notes may be accelerated only in the case of the bankruptcy or insolvency of the Issuer.**

If an Event of Default with respect to the Notes, or an event which, with the passing of time or the giving of notice, or both, would be an Event of Default, shall occur and be continuing, the Issuer shall notify the Principal Agent in writing of such Event of Default no later than the following Business Day after it becomes aware of such Event of Default, and the Principal Agent thereupon promptly shall notify all of the relevant Noteholders of such Event of Default.

For purposes of Condition 10(a)(iii) above, any indebtedness which is in a currency other than U.S. Dollars shall be translated into U.S. Dollars at the "spot" rate for the sale of U.S. Dollars against the purchase of the Specified Currency as quoted by the Principal Agent on the calendar day in London corresponding to the calendar day on which such premature repayment becomes due or, as the case may be, such default occurs (or, if for any reason such a rate is not available on that day, on the earliest possible date thereafter).

If any Note shall become so repayable, it shall be repaid at its Early Redemption Amount (as defined in Condition 6(f)) together, if appropriate, with accrued interest thereon, such interest to accrue and be paid in accordance with Condition 4.

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

Should any Note (including any Registered Certificate representing such Registered Note), Receipt, Coupon, or Talon be lost, stolen, mutilated, defaced, or destroyed, it may be replaced at the specified office of the Principal Agent in London (or such other place outside the United States and its possessions as may be notified to Noteholders) (in the case of Bearer Notes, Receipts, Coupons or Talons) and of the Registrar (in the case of Registered Certificates) or such other Paying Agent or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to Noteholders, upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Notes, Receipts, Coupons, or Talons must be surrendered before replacements will be issued.

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

Bank of America, N.A., London Branch of 5 Canada Square, London E14 5AQ, United Kingdom shall be the initial Principal Agent. Merrill Lynch International Bank Limited of Dublin Road, Carrick on Shannon, Ireland shall be the Registrar and Transfer Agent.

The Issuer is entitled to vary or terminate the appointment of any Paying Agent, the Registrar, or Transfer Agent and to appoint an alternative Principal Agent or other Paying Agents, Registrars, or Transfer Agents and approve any change in the specified office through which any Paying Agent, Registrar or Transfer Agent acts, provided that:

- (a) so long as the Notes are listed on any stock exchange, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange;
- (b) there will at all times be a Paying Agent with a specified office in a city in continental Europe;
- (c) there will at all times be a Principal Agent;
- (d) the Issuer will maintain a Paying Agent in a member state of the European Union that will not be obliged to withhold or deduct tax pursuant to the Directive (as defined in Condition 8) or any law implementing or complying with, or introduced in order to conform to, such Directive; and
- (e) there will at all times be a Transfer Agent and a Registrar with a specified office in continental Europe (outside the United Kingdom).

In addition, the Issuer shall immediately appoint a Paying Agent having a specified office in New York City in the circumstances described in Condition 5(c). Any variation, termination, appointment, or change shall take effect only (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 calendar days' prior notice thereof shall have been given to the Noteholders in accordance with Condition 14.

### 13. Exchange of Talons

On and after the Fixed Interest Payment Date or the Interest Payment Date, as appropriate, 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 Principal Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9. Each Talon, for purposes of these Terms and Conditions, shall be deemed to mature on the Fixed Interest Payment Date or the Interest Payment Date (as the case may be) on which the final Coupon comprised in the relative Coupon sheet matures.

### 14. Notices

Notices to the holders of Registered Notes shall be (i) mailed to them (or, in the case of joint holders, to the first named) at their respective addresses in the Register and (ii) save where another means of effective communication has been specified herein or in the Final Terms, published (a) in the case of any Registered Notes which are admitted to trading on the London Stock Exchange's Regulated Market (so long as the rules of that exchange so require), in a leading newspaper having general circulation in London (which is expected to be the *Financial Times*), or if such publication is not practicable, if published in a leading English language daily newspaper having general circulation in Europe, or (b) in the case of Registered Notes which are admitted to listing, trading, and/or quotation by any other listing authority, stock exchange, and/or quotation system (so long as the rules of such listing authority, stock exchange, and/or quotation system so require), in a leading daily newspaper having general circulation in London (which is expected to be the *Financial Times*) and in such other place or manner as may be required by the rules and regulations of such listing authority, stock exchange, and/or quotation system.

Notices to the holders of Registered Notes shall be deemed to have been given on the fourth weekday (being a day other than a Saturday or Sunday) after the later of the date of mailing and (if applicable) the date of publication (or if required to be published in more than one newspaper, the first date on which publication shall have been made in all required newspapers).

Notices to the holders of Bearer Notes shall be, save where another means of effective communication has been specified herein or in the Final Terms, published in a leading newspaper having general circulation in London (which is expected to be the *Financial Times*) or if such publication is not practicable, if published in a leading English language daily newspaper having general circulations in Europe provided that (a) in the case of any Bearer Notes which are admitted to trading on the London Stock Exchange's Regulated Market (so long as the rules of that exchange so require), in a leading newspaper having general circulation in London (which is expected to be the *Financial Times*), or if such publication is not practicable, in a leading English language daily newspaper having general circulation in Europe, or (b) in the case of Bearer Notes which are admitted to listing, trading, and/or quotation by any other listing authority, stock exchange, and/or quotation system (so long as the rules of such listing authority, stock exchange, and/or quotation system so require), in a leading daily newspaper having general circulation in London (which is expected to be the *Financial Times*) and in such other place as may be required by the rules and regulations of such listing authority, stock exchange, and/or quotation system.

Notices to the holders of Bearer Notes shall be deemed to have been given on the date of publication (or if required to be published in more than one newspaper, the first date on which publication shall have been made in all required newspapers). Couponholders shall be deemed for all purposes to have notice of the contents of any notice given to the holders of Bearer Notes in accordance with this Condition 14.

For so long as the Global Notes are held in their entirety on behalf of the Relevant Clearing System and until such time as any Definitive Notes are issued, if any are issued, there may be substituted for such publication in such newspaper the delivery of the relevant notice to the Relevant Clearing System for communication by them to the Noteholders and, in addition, so long as the Notes are listed on a stock exchange or are admitted to trading by another relevant authority and the rules of that stock exchange or relevant authority so require, notices will be published in a daily newspaper of general circulation in a place or places required by those rules. Any such notice to the Relevant Clearing System shall be deemed to have been given to Noteholders on the seventh day after the day on which that notice was given to the Relevant Clearing System.

Notices to be given by any Noteholder shall be in writing and given by lodging the same, together with the related Note or Notes, with the Principal Agent. While any of the Notes are represented by a Global Note, that notice may be given by any Noteholder to the Principal Agent through the Relevant Clearing System, in such manner as the Principal Agent and the Relevant Clearing System, may approve for this purpose.

#### **15. Meetings of Noteholders, Modification, and Waiver**

The Agency Agreement contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including approving by Extraordinary Resolution (as defined in the Agency Agreement), a modification of the Notes, the Receipts, the Coupons, or certain provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or Noteholders holding not less than 33.00 per cent. in principal amount of the Notes of the relevant Series that at such time remain outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing a clear majority in principal amount of the Notes of the relevant Series that at such time remain outstanding, or at any adjourned meeting one or more persons being or

representing Noteholders whatever the principal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes, Receipts, or Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereon, reducing or cancelling the amount of principal or the rate of interest payable in respect of the Notes or altering the currency of payment of the Notes, Receipts, or Coupons), the necessary quorum for passing an Extraordinary Resolution will be one or more persons holding or representing not less than two-thirds, or at any adjourned such meeting not less than one-third, in principal amount of the Notes of the relevant Series that at such time remain outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all related Receiptholders and Couponholders.

Without the consent of the Noteholders, Receiptholders, or Couponholders, the Principal Agent and the Issuer may agree to modifications of or amendments to the Agency Agreement, the Notes, the Receipts, or the Coupons for any of the following purposes:

- (a) to evidence the succession of another entity to the Issuer and the assumption by any such successor of the covenants of the Issuer in the Agency Agreement, the Notes, Receipts, or Coupons;
- (b) to add to the covenants of the Issuer for the benefit of the Noteholders, the Receiptholders, or the Couponholders, or to surrender any right or power herein conferred upon the Issuer;
- (c) to relax or eliminate the restrictions on payment of principal and interest in respect of the Notes, Receipts, or Coupons in the United States or its possessions, provided that such payment is permitted by United States tax laws and regulations then in effect and provided that no adverse tax consequences would result to the Noteholders, the Receiptholders, or the Couponholders;
- (d) to cure any ambiguity, to correct or supplement any defective provision herein or any provision which may be inconsistent with any other provision herein;
- (e) to make any other provisions with respect to matters or questions arising under the Notes, the Receipts, the Coupons, or the Agency Agreement, provided such action pursuant to this subclause (e) shall not adversely affect the interests of the Noteholders, the Receiptholders, or the Couponholders;
- (f) to facilitate the issuance of Notes in accordance with the laws of a particular jurisdiction; and
- (g) to permit further issuances of Notes in accordance with the terms of the Program Agreement.

Any such modification or amendment shall be binding on the Noteholders, the Receiptholders, and the Couponholders and any such modification or amendment shall be notified to the Noteholders, the Receiptholders, or the Couponholders in accordance with Condition 14 as soon as practicable thereafter.

#### **16. Merger, Consolidation, Sale, Conveyance and Assumption**

Any entity into which the Principal Agent or any Agent may be merged or converted, or any entity with which the Principal Agent or any of the Principal Agents may be consolidated or any entity resulting from any merger, conversion, or consolidation to which the Principal Agent or any of the Agents shall be a party, or any entity to which the Principal Agent or any Agent shall sell or otherwise transfer all or substantially all the assets of the Principal Agent or any Agent shall become, on the date when such merger, conversion, consolidation, or transfer becomes effective and to the extent permitted by any applicable laws, the successor Principal Agent or, as the case may be, Agent under the Agency Agreement

without the execution or filing of any paper or any further act on the part of the parties to the Agency Agreement, unless otherwise required by the Issuer, and after the effective date all references in the Agency Agreement to the Principal Agent or, as the case may be, such Agent shall be deemed to be references to such entity. Written notice of any such merger, conversion, consolidation, or transfer shall be given immediately to the Issuer by the relevant Principal Agent or Agent.

**17. Additional Issuances**

The Issuer from time to time without the consent of the relevant Noteholders, Receiptholders, or Couponholders may create and issue additional Series of Notes having terms and conditions the same as (or the same in all respects except for the Issue Date, Interest Commencement Date, and the Issue Price) Notes of an existing Series. These additional Notes shall be consolidated and form a single Series with the outstanding Notes of the existing Series.

**18. Governing Law and Submission to Jurisdiction**

The Agency Agreement, the Notes, and any Coupons, Receipts, and Talons appertaining to the Notes shall be governed by and construed in accordance with the laws of the State of New York, United States, applicable to agreements made and to be performed wholly within such jurisdiction without regard to principles of conflicts of laws.

The Issuer submits to the non-exclusive jurisdiction of any United States federal court sitting in New York City, the Borough of Manhattan, solely for purposes of any legal action or proceeding brought to enforce its obligations hereunder or under any Coupon, Receipt, or Talon. As long as any Note or Coupon remains outstanding, the Issuer shall either maintain an office or have an authorized agent in New York City upon whom process may be served in any such legal action or proceeding. Service of process upon the Issuer at its office or upon such agents with written notice of such service mailed or delivered to the Issuer shall to the fullest extent permitted by applicable law be deemed in every respect effective service of process upon the Issuer in any such legal action or proceeding. The Issuer continues the appointment of CT Corporation System at 111 Eighth Avenue, New York, New York 10011 as its agent upon whom process may be served in any suit, action, or proceeding relating to or arising out of the Agency Agreement, the Notes or any Coupon, Receipt, or Talon appertaining hereto, and with a copy to the Issuer at Bank of America Corporation, Bank of America Corporate Center, NC1-007-07-13, 100 North Tryon Street, Charlotte, North Carolina 28255-0065, Attn: Corporate Treasury – Governance and Control, and with an additional copy to Bank of America Corporation, Legal Department, NC1-002-29-01, 101 South Tryon Street, Charlotte, North Carolina 28255-0065, Attn: General Counsel.

## ANNEX 1

### ADDITIONAL TERMS AND CONDITIONS FOR INDEX LINKED NOTES

*The terms and conditions applicable to Index Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Index Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes and the Index Linked Conditions, the Index Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the Index Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

#### 1. Definitions

For the purposes of these Index Linked Conditions:

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day, or, if earlier, the Averaging Cut-Off Date (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day:

- (a) if “Omission” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant level or price provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant level or price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “Postponement” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant level, price or amount on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or

- (c) if “Modified Postponement” is specified as applying in the applicable Final Terms then:
- (i) where the Index Linked Notes relate to a single Index, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;
  - (ii) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Index not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for an Index affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Index. If the first succeeding Valid Date in relation to such Index has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Index, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;
  - (iii) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Index not affected by the occurrence of a *Disrupted* Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for an Index affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Index. If the first succeeding Valid Date in relation to such Index has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day for the Index, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Index, and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
  - (iv) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Index shall be the first succeeding Common Valid Date in relation to such Index. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled

Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Index Linked Conditions “**Valid Date**” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “**Common Valid Date**” means a Common Scheduled Trading Day that is not a Disrupted Day for any Index, and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Index and each Observation Period:

- (a) if the applicable Final Terms provides that “Barrier Event (intraday)” is applicable, each day on which the level of such Index is published and/or disseminated by the Index Sponsor during such Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Index (and if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring for such Index at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred);
- (b) if the applicable Final Terms provides that “Barrier Event (closing)” is applicable, each Scheduled Trading Day for such Index during such Observation Period that is not a Disrupted Day for such Index; or
- (c) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each Common Scheduled Trading Day that is not a Disrupted Day for any Index in the Basket of Indices.

“**Barrier Event Valuation Time (closing)**” means:

- (d) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day, as the case may be, in relation to each Index to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time; and
- (e) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, (i) for the purposes of determining whether a Market Disruption Event has occurred: (x) in respect of any Component Security, the Scheduled Closing Time on the relevant Exchange and (y) in respect of any options contracts or futures contracts on the Index, the close of trading on the relevant Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor; and
- (f) in relation to an Index which is specified in the applicable Final Terms as being a Proprietary Index, the time at which the Index Sponsor calculates and publishes the official closing level of the Index.

**“Barrier Event Valuation Time (intraday)”** means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the Exchange.

**“Barrier Level”** means, in respect of an Index, such level for such Index as is specified in the applicable Final Terms.

**“Basket of Indices”** means, subject to adjustment in accordance with these Index Linked Conditions, a basket composed of indices in their relative proportions or number of indices, as specified in the applicable Final Terms.

**“Common Scheduled Trading Day”** means, in respect of a Basket of Indices, each day which is a Scheduled Trading Day for all the Indices in the Basket of Indices.

**“Component Security”** means, in respect of an Index, any share or other component security included in such Index as determined by the Calculation Agent and related expressions shall be construed accordingly.

**“Disrupted Day”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred;
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, any Scheduled Trading Day on which (i) the Index Sponsor fails to publish the level of the Index (provided that the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of an Index Disruption), (ii) the Related Exchange fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred; and
- (c) in relation to an Index which is specified in the applicable Final Terms as being a Proprietary Index, any Scheduled Trading Day on which a Market Disruption Event has occurred (provided that the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of an Index Disruption).

**“Early Closure”** means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, the closure on any Exchange Business Day of any relevant Exchange(s) relating to securities that comprise 20 per cent. or more of the level of the relevant Index or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or Related Exchange(s) at least one hour prior to the earlier of (i) the actual closing time for the regular trading session on such Exchange(s) or Related Exchange(s) on such Exchange Business Day and (ii) the submission deadline for orders to be entered into the Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day; or
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, the closure on any Exchange Business Day of the Exchange in respect of any Component Security or the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange, as the case may be, at least one hour prior to the earlier of (a) the actual closing time for the regular trading session on such Exchange or Related Exchange, as the case may be, on such Exchange

Business Day, or (b) the submission deadline for orders to be entered into on the relevant Exchange or Related Exchange system for execution at the relevant Valuation Time on such Exchange Business Day.

“**Exchange**” means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, each exchange or quotation system specified as such for such Index in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the securities comprising such Index has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to the securities comprising such Index on such temporary substitute exchange or quotation system as on the original Exchange); and
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, in respect of each Component Security, the principal stock exchange on which such Component Security is principally traded, as determined by the Calculation Agent.

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

“**Exchange Disruption**” means:

- (a) in relation to an Index which is specified in the applicable Final Terms as being a Unitary Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general (i) to effect transactions in, or obtain market values for, on any relevant Exchange(s) in securities that comprise 20 per cent. or more of the level of the relevant Index, or (ii) to effect transactions in, or obtain market values for, futures or options contracts relating to the relevant Index on any relevant Related Exchange; or
- (b) in relation to an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index, any event (other than an Early Closure) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to effect transactions in, or obtain market values for: (i) any Component Security on the Exchange in respect of such Component Security; or (ii) futures or options contracts relating to the Index on the relevant Related Exchange.

“**Index**” and “**Indices**” mean, subject to adjustment in accordance with these Index Linked Conditions, the indices or index specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Index Closing Level**” means, in respect of an Index and any relevant date, subject to these Index Linked Conditions, an amount equal to the official closing level (which shall be deemed to be an amount in the Index Currency) of such Index as determined by the Calculation Agent on such date.

**“Index Level”** means, in respect of an Index and a time on any day, and subject to these Index Linked Conditions, the level of such Index at such time on such day as determined by the Calculation Agent.

**“Index Performance”** means the Index Performance specified in the applicable Final Terms.

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

**“Multi-Exchange Index”** means any Index which is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

**“Observation Cut-Off Date”** means the eighth Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

**“Observation Date”** means each Observation Date specified in the applicable Final Terms, or if such date is not a Scheduled Trading Day the first Scheduled Trading Day thereafter, or, if earlier, the Observation Cut-Off Date (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Observation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day, then:

- (a) where the Index Linked Notes relate to a single Index, that Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant level or price by determining the level of the Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 5 below) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in the Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date);

- (b) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, that Observation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and that Observation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Observation Date falls on the Observation Cut-Off Date for an Index owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Index, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date);
- (c) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, that Observation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and that Observation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if such Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of

the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date);  
or

- (d) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, that Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Index, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day for one or more Indices. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to each Index for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Observation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Observation Cut-Off Date of each security comprised in each Index for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Observation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Observation Cut-Off Date).

“**Observation Period**” means, in respect of an Index:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, following adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Index Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms).

“**Observation Period End Date**” means, in respect of an Index, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Observation Period Start Date”** means, in respect of an Index, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

**“Proprietary Index”** means any Index which is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

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

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

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

**“Scheduled Trading Day”** means in respect of:

- (a) any Unitary Index, any day on which each Exchange and each Related Exchange for the Index are scheduled to be open for trading for their respective regular trading sessions;
- (b) any Multi-Exchange Index, any day on which (i) the Index Sponsor is scheduled to publish the level of the Index, and (ii) the Related Exchange for the Index is scheduled to be open for trading for its regular trading session; and
- (c) any Proprietary Index, any day on, or, as the case may be, in respect of, which the Index Sponsor is scheduled to publish the level of such Index.

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

**“Trade Date”** means the date specified as a Trade Date in the applicable Final Terms.

**“Trading Disruption”** means:

- (a) in respect of any Unitary Index, any suspension of, or limitation imposed on, trading by any relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise, (i) relating to securities that comprise 20 per cent. or more of the level of the Index on any relevant Exchange, or (ii) in futures or options contracts relating to the Index on any relevant Related Exchange; and
- (b) in respect of any Multi-Exchange Index, any suspension or limitation imposed on trading by any relevant Exchange or Related Exchange or otherwise, and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related

Exchange or otherwise, (i) relating to any Component Security on the Exchange in respect of such Component Security, or (ii) in futures or options contracts relating to the Index on the Related Exchange.

“**Unitary Index**” means any Index which is specified as such in the applicable Final Terms, or, if not specified, any Index the Calculation Agent determines as such.

“**Valuation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date or if earlier the Scheduled Trading Day (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms or if such date is not a Scheduled Trading Day the first Scheduled Trading Day thereafter, or, if earlier, the Valuation Cut-Off Date (or, where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as a Valuation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If such day is a Disrupted Day, then:

- (a) where the Index Linked Notes relate to a single Index, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant level or price by determining the level of the Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating the Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in the Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date);
- (b) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date

owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Index, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date);

- (c) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Index not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Index affected (each an “**Affected Index**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Index, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Index. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Index (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to such Index, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in that Index (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date); or
- (d) where the Index Linked Notes relate to a Basket of Indices and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Index, unless each of the Common Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day for one or more Indices. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date

shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for an Index or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant level or price using, in relation to each Index for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, the level of that Index determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using the level of that Index as of the Valuation Time on the Valuation Cut-Off Date in accordance with (subject to Index Linked Condition 4) the formula for and method of calculating that Index last in effect prior to the occurrence of the first Disrupted Day using the Exchange traded or quoted price as of the Valuation Time on the Valuation Cut-Off Date of each security comprised in each Index for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day (or, if an event giving rise to a Disrupted Day (as defined in the Share Linked Conditions in relation to a share) has occurred in respect of the relevant security on the Valuation Cut-Off Date, its good faith estimate of the value for the relevant security as of the Valuation Time on the Valuation Cut-Off Date).

**“Valuation Time”** means:

- (a) in respect of any Unitary Index, (i) for the purposes of determining whether an Early Closure, an Exchange Disruption or a Trading Disruption has occurred in respect of (I) any Exchange, the Scheduled Closing Time of the Exchange (provided that, if the relevant Exchange closes prior to its Scheduled Closing Time, then the Valuation Time shall be such actual closing time), and (II) any options contracts or futures contracts on such Index, the close of trading on the Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor;
- (b) in respect of any Multi-Exchange Index, (i) for the purposes of determining whether an Early Closure, an Exchange Disruption or a Trading Disruption has occurred in respect of (I) any Component Security, the Scheduled Closing Time on the Exchange in respect of such Component Security (provided that, if the relevant Exchange closes prior to its Scheduled Closing Time, then the Valuation Time shall be such actual closing time), and (II) any options contracts or futures contracts on the Index, the close of trading on the Related Exchange, and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor; and
- (c) in respect of any Proprietary Index, the time at which the Index Sponsor calculates and publishes the official closing level of the Index.

## 2. **Market Disruption**

**“Market Disruption Event”** means:

- (a) in respect of any Unitary Index, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time or (iii) an Early Closure.

For the purposes of determining whether a Market Disruption Event in respect of a Unitary Index exists at any time, if a Market Disruption Event occurs in respect of a Component Security included in the Index at any time, then the relevant percentage contribution of such Component Security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to such

Component Security and (y) the overall level of the Index, in each case immediately before the occurrence of such Market Disruption Event;

- (b) in respect of any Multi-Exchange Index either:
  - (i) (A) the occurrence or existence, in respect of any Component Security, of:
    - (1) a Trading Disruption, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;
    - (2) an Exchange Disruption, which the Calculation Agent determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded; or
    - (3) an Early Closure; and
  - (B) the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists, comprises 20 per cent. or more of the level of the Index; or
- (ii) the occurrence or existence, in respect of futures or options contracts relating to the Index, of (1) a Trading Disruption, (2) an Exchange Disruption which in either case the Calculation Agent determines is material, at any time during the one hour period that ends at the Valuation Time in respect of the Related Exchange or (3) an Early Closure.

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

- (c) in respect of any Proprietary Index, the failure by the Index Sponsor to calculate and publish the level of the Index on any Scheduled Trading Day or in respect of such Scheduled Trading Day within the scheduled timeframe for publication.

### 3. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of an Index, the Calculation Agent determines that the Index Level of such Index as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Index and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day, the definition of Market Disruption Event specified in Index Linked Condition 3 shall be amended such that (i) all references to “during the one hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in the definition of “Early Closure” appearing in

Index Linked Condition 2, each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of an Index, the Calculation Agent determines that the Index Closing Level of such Index as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Index and such Barrier Event Determination Day.

#### 4. Adjustments and Corrections to an Index

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

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

- (b) Modification and Cessation of Calculation of an Index

If (i) on or prior to a Valuation Date, an Observation Date or an Averaging Date (or other relevant date, as determined by the Calculation Agent), the relevant Index Sponsor makes or announces that it will make a material change in the formula for or the method of calculating a relevant Index or in any other way materially modifies that Index (other than a modification prescribed in that formula or method to maintain that Index in the event of changes in constituent stock and capitalization or contracts and other routine events) (an “**Index Modification**”), or permanently cancels a relevant Index and no Successor Index exists (an “**Index Cancellation**”), or (ii) on a Valuation Date, an Observation Date or an Averaging Date (or other relevant date, as determined by the Calculation Agent), the Index Sponsor or, if applicable, the Successor Index Sponsor fails to calculate and announce a relevant Index, provided that, in respect of an Index which is specified in the applicable Final Terms as being a Multi-Exchange Index or a Proprietary Index, the Calculation Agent may, in its discretion, determine that such event instead results in the occurrence of a Disrupted Day (an “**Index Disruption**” and, together with an Index Modification and an Index Calculation, each an “**Index Adjustment Event**”), then the Issuer may take the action described in (A) or (B) below:

- (A) require the Calculation Agent to determine if such Index Adjustment Event has a material effect on the Index Linked Notes and, if so, calculate the relevant level or price using, in lieu of a published level for that Index, the level for that Index as at the Valuation Time on that Valuation Date, Observation Date or Averaging Date, as the case may be, as determined by the Calculation Agent in accordance with the formula for and method of calculating that Index last in effect prior to the change, failure or cancellation, but using only those securities that comprised that Index immediately prior to that Index Adjustment Event; or
- (B) on giving notice to the Noteholders in accordance with Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount; or

Upon the occurrence of an Index Adjustment Event, the Issuer shall give notice as soon as reasonably practicable to the Noteholders in accordance with Condition 14, giving details of the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of such action. The Issuer shall make copies of any such determinations available for inspection by Noteholders.

## (c) Corrections to an Index

If the level of a relevant Index published on any Valuation Date, Observation Date or Averaging Date (or other relevant date, as determined by the Calculation Agent), as the case may be, by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor and which is utilized for any calculation or determination made for the purposes of the Index Linked Notes (a “**Relevant Calculation**”) is subsequently corrected and the correction (the “**Corrected Index Level**”) is published by the relevant Index Sponsor or (if applicable) the relevant Successor Index Sponsor no later than two Business Days prior to the date on which payment of any amount or delivery of any assets may have to be made pursuant to such Relevant Calculation, then such Corrected Index Level shall be deemed to be the relevant level for such Index on such Averaging Date, Observation Date, Valuation Date (or other relevant date, as determined by the Calculation Agent), as the case may be, and the Calculation Agent shall use such Corrected Index Level in determining the relevant level or price and/or whether the Barrier Event (closing) or Barrier Event (intraday), as the case may be, has been triggered.

## 5. Additional Disruption Events

- (a) “**Additional Disruption Event**” means any of Change in Law, Hedging Disruption and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

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

“**Hedging Disruption**” means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Index Linked Notes, or (ii) realize, recover or remit the proceeds of any such transaction(s) or asset(s).

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

- (b) If Additional Disruption Events are specified as applicable in the applicable Final Terms, then if an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any one or more of the terms of these Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount;
- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Noteholders stating the occurrence of the Additional Disruption Event, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.

## ANNEX 2

### ADDITIONAL TERMS AND CONDITIONS FOR SHARE LINKED NOTES

*The terms and conditions applicable to Share Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Share Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes and the Share Linked Conditions, the Share Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and the Share Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

#### 1. Definitions

For the purposes of these Share Linked Conditions:

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day, or, if earlier, the Averaging Cut-Off Date (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day:

- (a) if “Omission” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant price; provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant level or price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “Postponement” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant price on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or

- (c) if “Modified Postponement” is specified as applying in the applicable Final Terms then:
- (i) where the Share Linked Notes relate to a single Share, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;
  - (ii) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Share. If the first succeeding Valid Date in relation to such Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;
  - (iii) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Share. If the first succeeding Valid Date in relation to such Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
  - (iv) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Share shall be the first succeeding Common Valid Date in relation to such Share. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled

Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Share Linked Conditions “Valid Date” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “Common Valid Date” means a Common Scheduled Trading Day that is not a Disrupted Day for any Share and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Share and each Observation Period:

- (a) if the applicable Final Terms provides that “Barrier Event (intraday)” is applicable, each day on which the price of such Share is quoted on the relevant Exchange during such Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Share (and, for the avoidance of doubt, if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred); or
- (b) if the applicable Final Terms provides that “Barrier Event (closing)” is applicable, each Scheduled Trading Day for such Share during such Observation Period that is not a Disrupted Day for such Share.

“**Barrier Event Valuation Time (closing)**” means, in respect of each Share to be valued, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time

“**Barrier Event Valuation Time (intraday)**” means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the Exchange.

“**Barrier Level**” means, in respect of a Share, such price for such Share as is specified in the applicable Final Terms.

“**Basket of Shares**” means a basket composed of Shares in their relative proportions or number of Shares, as specified in the applicable Final Terms.

“**Common Scheduled Trading Day**” means, in respect of a Basket of Shares, each day which is a Scheduled Trading Day for all the Shares in the Basket of Share.

“**Disrupted Day**” means any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred.

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

“**Exchange**” means, in relation to a Share, each exchange or quotation system specified as such for such Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Share has temporarily relocated (provided that the Calculation Agent has determined that there is comparable liquidity relative to such Share on such temporary substitute exchange or quotation system as on the original Exchange).

“**Exchange Business Day**” means any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time.

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

“**Observation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

“**Observation Date**” means each date specified as such in the applicable Final Terms, or if such date is not a Scheduled Trading Day the first Scheduled Trading Day thereafter (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Observation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day, then:

- (a) where the Share Linked Notes relate to a single Share, that Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Observation Cut-Off Date;
- (b) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, that Observation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and that Observation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the

Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions;

- (c) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, that Observation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and that Observation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day for such Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions; or
- (d) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, that Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day for one or more Shares. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Share for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Observation Period**” means, in respect of a Share:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on, the Observation Period Start Date, following adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Share Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms).

“**Observation Period End Date**” means, in respect of a Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

“**Observation Period Start Date**” means, in respect of a Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date” or otherwise as specified in the applicable Final Terms, if applicable.

“**Physical Delivery Notes**” means Notes redeemed by physical delivery.

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

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

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

“**Scheduled Trading Day**” means any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions.

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

“**Shares**” and “**Share**” mean, subject to adjustment in accordance with these Share Linked Conditions, the shares or a share specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Share Closing Price**” means, in respect of a Share and any relevant date, subject to these Share Linked Conditions, an amount equal to the official closing price of such Share quoted on the relevant Exchange as determined by the Calculation Agent on such date.

“**Share Company**” means, in respect of a Share, the company that has issued such Share.

“**Share Performance**” means the Share Performance specified in the applicable Final Terms.

“**Share Price**” means, in respect of a Share and a time on a Scheduled Trading Day and subject to these Share Linked Conditions, the price of such Share at such time on such day as determined by the Calculation Agent.

“**Share Substitution Criteria**” means (and the Share Substitution Criteria shall be deemed to be satisfied if), unless otherwise provided in the applicable Final Terms, in respect of a Share and any other relevant share:

- (a) the relevant issuer of such other relevant share belongs to a similar economic sector as the Share Company of such Share; and
- (b) the relevant issuer of such other relevant share has a comparable market capitalization and international standing as the Share Company in respect of such Share.

“**Trade Date**” means the date specified as a Trade Date in the applicable Final Terms.

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

“**Valuation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date or if earlier the Scheduled Trading Day (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms or if that is not a Scheduled Trading Day the first Scheduled Trading Day thereafter or, if earlier, the Valuation Cut-Off Date (or, where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as a Valuation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If such day is a Disrupted Day, then:

- (a) where the Share Linked Notes relate to a single Share, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days up to and including the Valuation Cut-Off Date is a Disrupted Day. In that

case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Valuation Cut-Off Date;

- (b) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Share affected (each an “**Affected Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Share (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions; or
- (d) where the Share Linked Notes relate to a Basket of Shares and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Share, unless each of the Common Scheduled Trading

Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day for one or more Shares. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for a Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Share for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms or, if no Valuation Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date, Observation Date or Averaging Date, as the case may be, in relation to each Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time.

## 2. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of a Share, the Calculation Agent determines that the Share Price of such Share as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Share and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day, the definition of Market Disruption Event specified in Share Linked Condition 3 shall be amended such that (i) all references to “during the one hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in the definition of “Early Closure” appearing in Share Linked Condition 1, each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of a Share, the Calculation Agent determines that the Share Closing Price of any Share as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Share and such Barrier Event Determination Day.

## 3. **Market Disruption**

“**Market Disruption Event**” means, in relation to a Share, the occurrence or existence of (i) a Trading Disruption, (ii) an Exchange Disruption, which in either case the Calculation Agent determines is material, any time during the one hour period that ends at the Valuation Time for such Share or (iii) an Early Closure.

## 4. **Correction to Share Prices**

If the price of a Share published on any Valuation Date, Observation Date, or an Averaging Date (or other relevant date, as determined by the Calculation Agent) as the case may be, by the relevant Exchange and which is utilized for any calculation or determination made for the purposes of the Notes (a “**Relevant**

**Calculation**”) is subsequently corrected and the correction (the “**Corrected Share Price**”) published by the relevant Exchange no later than two Business Days prior to the date on which payment of any amount or delivery of any assets may have to be made pursuant to such Relevant Calculation, then such Corrected Share Price shall be deemed to be the relevant price for such Share on such Averaging Date, Observation Date or Valuation Date (or other relevant date, as determined by the Calculation Agent), as the case may be, and the Calculation Agent shall use such Corrected Share Price in determining the relevant price and/or whether the Barrier Event (closing) or Barrier Event (intraday), as the case may be, has been triggered.

**5. Potential Adjustment Events, Merger Event, Tender Offer, De-listing, Nationalization and Insolvency**

- (a) “**Potential Adjustment Event**” means any of the following:
- (i) a subdivision, consolidation or reclassification of relevant Shares (unless resulting in a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) or a free distribution or dividend of any such Shares to existing holders by way of bonus, capitalization or similar issue;
  - (ii) a distribution, issue or dividend to existing holders of the relevant Shares of (A) such Shares or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the Share Company equally or proportionately with such payments to holders of such Shares or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the Share Company as a result of a spin-off or other similar transaction or (D) any other type of securities, rights or warrants or other assets, in any case for payment (in cash or otherwise) at less than the prevailing market price as determined by the Calculation Agent;
  - (iii) an extraordinary dividend as determined by the Calculation Agent;
  - (iv) a call by a Share Company in respect of relevant Shares that are not fully paid;
  - (v) a repurchase by the Share Company or any of its subsidiaries, as the case may be, of relevant Shares whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise; or
  - (vi) in respect of a Share Company an event that results in any shareholder rights being distributed or becoming separated from shares of common stock or other shares of the capital stock of such Share Company pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value as determined by the Calculation Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
  - (vii) any other event having, in the opinion of the Calculation Agent, a diluting or concentrative effect on the theoretical value of the relevant Shares.

Following the declaration by the Share Company of the terms of any Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares and, if so, will make the corresponding adjustment, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate to account for that diluting or concentrative effect (provided that no adjustments

will be made to account solely for changes in volatility, expected dividends stock loan rate or liquidity relative to the relevant Share) and determine the effective date of that adjustment. The Calculation Agent may, but need not, determine the appropriate adjustment by reference to the adjustment in respect of such Potential Adjustment Event made by an options exchange to options on the Shares traded on that options exchange.

If “**Local Tax Adjustment**” is specified in the applicable Final Terms as being applicable, then, in its determinations of the existence and extent of any dilutive or concentrative effect on the theoretical value of the Shares of any Potential Adjustment Event, and any related adjustments to the terms of the Notes, the Calculation Agent shall take into account any amounts of Local Taxes that would, in the determination of the Calculation Agent, be withheld from or paid or otherwise incurred by an Offshore Investor in connection with such Potential Adjustment Event.

“**Local Taxes**” shall mean taxes, duties, and similar charges imposed by the taxing authority of the Local Jurisdiction (specified in the applicable Final Terms).

“**Offshore Investor**” shall mean a holder of Shares who is an institutional investor not resident in the Local Jurisdiction for the purposes of the tax laws and regulations of the Local Jurisdiction and, for the avoidance of doubt, whose jurisdiction of residence (a) shall be determined by the Calculation Agent and (b) may be the jurisdiction of residence of the Issuer or any of its affiliates or agents.

Upon the making of any such adjustment, the Calculation Agent shall give notice as soon as practicable to the Noteholders in accordance with Condition 14, stating the adjustment to the terms of the Terms and Conditions and/or the applicable Final Terms and giving brief details of the Potential Adjustment Event provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such adjustment.

- (b) “**De-listing**” means, in respect of any relevant Shares:
- (i) in the case where the Exchange is not located in the United States, such Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) and are not immediately re-listed, re-traded or re-quoted on an exchange or quotation system located in the same country as the Exchange (or, where the Exchange is within the European Union, in a member state of the European Union); or
  - (ii) in the case where the Exchange is located in the United States, such Exchange announces that pursuant to the rules of such Exchange, such Shares cease (or will cease) to be listed, traded or publicly quoted on the Exchange for any reason (other than a Merger Event or, if Tender Offer is specified as applying in the applicable Final Terms, a Tender Offer) and are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors).

If the Shares are immediately re-listed, re-traded or re-quoted on any exchange or quotation system, such exchange or quotation system shall be deemed to be the Exchange in respect of such Shares.

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

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

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

“**Nationalization**” means that all the Shares or all or substantially all the assets of the Share Company are nationalized, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity or instrumentality thereof.

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

“**Tender Offer Date**” means, in respect of a Tender Offer, the date on which voting shares in the amount of the applicable percentage threshold are actually purchased or otherwise obtained (as determined by the Calculation Agent).

- (c) If (x) a Merger Event, De-listing, Nationalization or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any terms of the Terms and Conditions and/or the applicable Final Terms to account for the De-listing, Merger Event, Tender Offer, Nationalization or Insolvency, as the case may be, and determine the effective date of that adjustment. The Calculation Agent may (but need not) determine the appropriate adjustment by reference to the adjustment in respect of the Merger Event, Tender Offer, De-listing, Nationalization or Insolvency made by any options exchange to options on the Shares traded on that options exchange and the relevant adjustments may in the case of adjustments following a Merger Event or Tender Offer include,

without limitation, adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares; or

(ii) give notice to the Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount; or

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

(iv) unless the applicable Final Terms provides that “Share Substitution” shall not be applicable, then on or after the relevant Merger Date, Tender Offer Date, or the date of the Nationalization, Insolvency or De-listing (as the case may be):

(A) Where the Share Linked Notes relate to a single Share, the Calculation Agent may substitute the share (the “**Substitute Share**”) selected by it in accordance with the Share Substitution Criteria in place of such Share (the “**Affected Share**”) which is affected by such Merger Event, Tender Offer, Nationalization, Insolvency or De-listing and the Substitute Share will be deemed to be “Share” and the relevant issuer of such shares, a “Share Company” for the purposes of the Notes, and the Calculation Agent will make such adjustment, if any, to any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, provided that in the event that any amount payable under the Notes was to be determined by reference to the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms), the relevant price of each Substitute Share will be determined by the Calculation Agent in accordance with the following formula:

$$A \times (B/C)$$

Where:

“**A**” is the official closing price of the relevant Substitute Share on the relevant exchange, as determined by the Calculation Agent, on the date that the substitution is effected;

“**B**” is the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms) where such price is

defined in the applicable Final Terms for the purposes of calculating any value or determining any amount payable in respect of the Notes; and

“C” is the official closing price of the relevant Affected Share on the relevant Exchange on the date that the substitution is effected.

- (B) Where the Share Linked Notes relate to a Basket of Shares, the Calculation Agent may adjust the Basket of Shares to include a share or shares (the “**Substitute Shares**”) selected by it in accordance with the Share Substitution Criteria in place of the Share(s) (the “**Affected Share(s)**”) which are affected by such Merger Event, Tender Offer, Nationalization, Insolvency or De-listing and the Substitute Shares will be deemed to be “Shares” and the relevant issuer of each such share, a “Share Company” for the purposes of the Notes, and the Calculation Agent will make such adjustment, if any, to any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, provided that in the event that any amount payable under the Notes was to be determined by reference to the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms), the relevant price of each Substitute Share will be determined by the Calculation Agent in accordance with the following formula:

$$A \times (B/C)$$

Where:

“A” is the official closing price of the relevant Substitute Share on the relevant exchange, as determined by the Calculation Agent on the date that the substitution is effected;

“B” is the price of the Affected Share on the Trade Date (or any such other historical date specified in the applicable Final Terms) where such price is defined in the applicable Final Terms for the purposes of calculating any value or determining any amount payable in respect of the Notes; and

“C” is the official closing price of the relevant Affected Share on the relevant Exchange on the date that the substitution is effected.

The weighting of each Substitute Share in the basket will be equal to the weighting of the relevant Affected Share.

Upon the occurrence of a Merger Event, De-listing, Nationalization, Insolvency or, if applicable, Tender Offer, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Merger Event, Tender Offer, Nationalization or Insolvency, as the case may be, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Merger Event, Tender Offer, De-listing, Nationalization or Insolvency, as the case may be.

## 6. Non-euro Quoted Shares

In respect of Share Linked Notes relating to Shares originally quoted, listed and/or dealt as of the Trade Date in a currency of a member state of the European Union that has not adopted the single currency in accordance with the Treaty, if such Shares are at any time after the Trade Date quoted, listed

and/or dealt exclusively in euro on the relevant Exchange or, where the Exchange is specified as not applicable in the Final Terms, the principal market on which those Shares are traded, then the Calculation Agent will adjust any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent determines in its sole and absolute discretion to be appropriate to preserve the economic terms of the Notes. The Calculation Agent will make any conversion necessary for purposes of any such adjustment as of the Valuation Time at an appropriate mid market spot rate of exchange determined by the Calculation Agent prevailing as of the Valuation Time. No adjustments under this provision will affect the currency denomination of any payment obligation arising out of the Notes.

## 7. Additional Disruption Events

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

**“Change in Law”** means that, on or after the Trade Date (as specified in the applicable Final Terms) (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire or dispose of any relevant Share or (B) it will incur a materially increased cost in performing its obligations in relation to the Share Linked Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit, or other adverse effect on the tax position of the Issuer and/or any of its affiliates).

**“Hedging Disruption”** means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Share Linked Notes, or (ii) realize, recover, or remit the proceeds of any such transaction(s) or asset(s).

**“Hedging Shares”** means the number of Shares that the Calculation Agent deems necessary to hedge the equity or other price risk of entering into and performing its obligations with respect to the Share Linked Notes.

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

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

**“Initial Stock Loan Rate”** means, in respect of a Share, the Initial Stock Loan Rate specified in relation to such Share in the applicable Final Terms.

**“Insolvency Filing”** means that a Share Company institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or

home office, or it consents to a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official or it consents to such a petition, provided that proceedings instituted or petitions presented by creditors and not consented to by the Share Company shall not be deemed an Insolvency Filing.

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

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

- (b) If an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount.
- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (d) If the applicable Final Terms provides that “Share Substitution” is applicable upon the occurrence of an Additional Disruption Event, the provisions of Share Linked Condition 5(c)(iv)(I) or 5(c)(iv)(II) (as is applicable) shall apply in respect of an Additional Disruption Event where any reference to “Merger Event, Tender Offer, Nationalization, Insolvency or De-listing” in Share Linked Conditions 5(c)(iv)(I) and 5(c)(iv)(II) shall be replaced by “Additional Disruption Event”, and any other relevant references shall be construed accordingly.

### ANNEX 3

#### ADDITIONAL TERMS AND CONDITIONS FOR GDR/ADR LINKED NOTES

*The terms and conditions applicable to GDR/ADR Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “GDR/ADR Linked Conditions”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes and the GDR/ADR Linked Conditions, the GDR/ADR Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the GDR/ADR Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

#### 1. General

The provisions of Annex 2 – “Additional Terms and Conditions for Share Linked Notes” shall apply to GDR/ADR Linked Notes; and

- (a) where the applicable Final Terms specifies that “Partial Lookthrough” shall apply to a GDR or ADR as applicable, then the provisions set out in GDR/ADR Linked Condition 3 (Partial Lookthrough) shall apply, and, in relation to such GDR or ADR respectively, the provisions of the Share Linked Conditions shall be deemed to be amended and modified as set out in GDR/ADR Linked Condition 3 (Partial Lookthrough); or
- (b) where the applicable Final Terms specifies that “Full Lookthrough” shall apply to a GDR or ADR as applicable, then the provisions set out in GDR/ADR Linked Condition 4 (Full Lookthrough) shall apply, and, in relation to such GDR or ADR respectively, the provisions of the Share Linked Conditions shall be deemed to be amended and modified as set out in GDR/ADR Linked Condition 4 (Full Lookthrough).

#### 2. Definitions

For the purposes of these GDR/ADR Linked Conditions:

“**Deposit Agreement**” means, in relation to the Shares, the agreements or other instruments constituting the Shares, as from time to time amended or supplemented in accordance with their terms.

“**Depository**” means:

- (a) if GDR/ADR Linked Condition 3 (Partial Lookthrough) is applicable, the Share Company of the Shares; or
- (b) if GDR/ADR Linked Condition 4 (Full Lookthrough) is applicable, the Share Company in respect of the Shares or any successor issuer of the Shares from time to time.

“**DR Amendment**” means, where specified as applicable to a definition or provision, that the following changes shall be made to such definition or provision: (a) all references to “Shares” shall be deleted and replaced with the words “Shares and/or the Underlying Shares”; and (b) all references to “Share Company” shall be deleted and replaced with the words “Share Company or Underlying Shares Issuer, as appropriate”.

“**Underlying Shares**” means the shares or other securities which are the subject of the Deposit Agreement.

“**Underlying Shares Issuer**” means the issuer of the Underlying Shares.

**3. Partial Lookthrough**

- (a) The definition of “Potential Adjustment Event” in Share Linked Condition 5(a) shall be amended as follows:
- (i) the DR Amendment shall be made, provided that an event under (i) to (vii) of the definition of “Potential Adjustment Event” in respect of the Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Calculation Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares;
  - (ii) “.” shall be deleted where it appears at the end of (vii) in the definition of “Potential Adjustment Event” and replaced with “; or “; and
  - (iii) the following shall be inserted as provision (viii): “(viii) the making of any amendment or supplement to the terms of the Deposit Agreement.”.
- (b) In making any adjustment following any Potential Adjustment Event, the Calculation Agent may (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement. If the Calculation Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Noteholders that the relevant consequence shall be the early redemption of the Notes, in which case, on such date as selected by the Calculation Agent in its sole and absolute discretion, the Issuer shall redeem the Notes at their Early Redemption Amount upon prior notice made to the Noteholders.
- (c) If a Potential Adjustment Event specified under (viii) of the definition of “Potential Adjustment Event” (as amended by (a) above) has occurred then the following amendments shall be deemed to be made to the Share Linked Conditions in respect of such Potential Adjustment Event:
- (i) the words “has a diluting or concentrative effect on the theoretical value of the Shares” shall be deleted and replaced with the words “has an economic effect on the Notes”; and
  - (ii) the words “determines appropriate to account for that diluting or concentrative effect” shall be deleted and replaced with the words “determines appropriate to account for such economic effect on the Notes”.
- (d) The definitions of “Merger Event” and “Tender Offer” shall be amended in accordance with the DR Amendment.
- (e) If (x) a Merger Event occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 6(c).
- (f) Following the declaration by the Underlying Shares Issuer of the terms of any Merger Event or Tender Offer, then in each case where the Calculation Agent makes an adjustment to the Notes the Calculation Agent may (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement.
- (g) The definitions of “Nationalization”, “Insolvency” and “De-listing” shall be amended in accordance with the DR Amendment.

- (h) Notwithstanding anything to the contrary in the definition of “De-listing”, a De-listing shall not occur in respect of the Underlying Shares if the Underlying Shares are immediately re-listed, re-traded or re-quoted on an exchange or quotation system regardless of the location of such exchange or quotation system.
- (i) If a De-listing Nationalization or Insolvency occurs in relation to the Underlying Shares or the Underlying Shares Issuer, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 5(c).
- (j) The paragraph in Share Linked Condition 5(c) which provides as follows: “If (x) a Merger Event, De-listing, Nationalization or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii), or (iv) below:” shall be deemed to be replaced by “If (x) a Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated, De-listing, Nationalization or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii), or (iv) below:”.
- (k) Each reference to “Merger Event” in Share Linked Condition 5(c)(i), (ii), (iii), and (iv) shall be deemed to be replaced with a reference to “Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated.”.
- (l) If Hedging Disruption and Increased Cost of Hedging are specified as being applicable in the applicable Final Terms, the definitions of “Hedging Disruption” and “Increased Cost of Hedging” in Share Linked Condition 7(a) shall each be amended as follows:
  - (i) the words “any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Share Linked Notes” shall be deleted and replaced with the words “any Share(s)”; and
  - (ii) the words “any such transaction(s) or asset(s)” shall be deleted and replaced with the words “any Share(s)”.
- (m) If Insolvency Filing is specified as being applicable in the applicable Final Terms, the definition of “Insolvency Filing” in Share Linked Condition 7(a) shall be amended in accordance with the DR Amendment.
- (n) For the avoidance of doubt, where a provision is amended pursuant to this GDR/ADR Linked Condition 3 (Partial Lookthrough) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Shares or the Underlying Shares Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

#### 4. **Full Lookthrough**

- (a) The definition of Potential Adjustment Event shall be amended as follows:
  - (i) the DR Amendment shall be made, provided that an event under (i) to (vii) of the definition of “Potential Adjustment Event” in respect of the Underlying Shares shall not constitute a Potential Adjustment Event unless, in the opinion of the Calculation Agent, such event has a diluting or concentrative effect on the theoretical value of the Shares;

- (ii) “.” shall be deleted where it appears at the end of (vii) in the definition of “Potential Adjustment Event” and replaced with “; or”; and
  - (iii) the following shall be inserted as provision (viii): “(viii) the making of any amendment or supplement to the terms of the Deposit Agreement.”.
- (b) In making any adjustment following any Potential Adjustment Event, the Calculation Agent shall (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement. If the Calculation Agent determines that no adjustment that it could make will produce a commercially reasonable result, it shall notify the Issuer and the Noteholders that the relevant consequence shall be the early redemption of the Notes, in which case, on such date as selected by the Calculation Agent in its sole and absolute discretion, the Issuer shall redeem the Notes at their Early Redemption Amount upon prior notice made to the Noteholders.
- (c) If a Potential Adjustment Event specified under (viii) of the definition of “Potential Adjustment Event” (as amended by (a) above) then the following amendments shall be deemed to be made to Share Linked Condition 3 in respect of such Potential Adjustment Event:
  - (i) the words “determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the Shares” shall be deleted and replaced with the words “determine whether such Potential Adjustment Event has an economic effect on the Notes”; and
  - (ii) the words “determines appropriate to account for that diluting or concentrative effect” shall be deleted and replaced with the words “determines appropriate to account for such economic effect on the Notes”.
- (d) The definitions of “Merger Event” and “Tender Offer” shall be amended in accordance with the DR Amendment.
- (e) If (x) a Merger Event occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 5(c).
- (f) Following the declaration by the Underlying Shares Issuer of the terms of any Merger Event or Tender Offer in relation to the Underlying Shares, then in each case where the Calculation Agent makes an adjustment to the Notes the Calculation Agent shall (amongst other factors) have reference to any adjustment made by the Depository under the Deposit Agreement.
- (g) The definitions of “Nationalization”, “Insolvency”, and “De-listing” shall be amended in accordance with the DR Amendment.
- (h) If a De-listing, Nationalization, or Insolvency occurs in relation to the Underlying Shares or the Underlying Shares Issuer, the Issuer in its sole and absolute discretion may take the action described in Share Linked Condition 5(c).
- (i) The paragraph in Share Linked Condition 5(c) which provides as follows: “If (x) a Merger Event, De-listing, Nationalization or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii) or (iv) below:” shall be deemed to be replaced by ” If (x) a Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated, De-listing,

Nationalization or Insolvency occurs in relation to a Share and/or (y) if Tender Offer is specified as applicable in the applicable Final Terms, a Tender Offer occurs, the Issuer in its sole and absolute discretion may take the action described in (i), (ii), (iii), or (iv) below.”.

- (j) Each reference to “Merger Event” in Share Linked Condition 5(c) shall be deemed to replaced with a reference to “Merger Event, the announcement by the Depository that the Deposit Agreement is (or will be) terminated.”.
- (k) The definition of any Additional Disruption Event specified as applicable in the applicable Final Terms shall be amended in accordance with the DR Amendment.
- (l) If applicable, the definition of “Hedging Shares” in Share Linked Condition 7(a) shall be amended in accordance with the DR Amendment.
- (m) For the purpose of determining whether a Market Disruption Event has occurred in respect of the Share, the following amendments shall be deemed to be made to the Share Linked Conditions:
  - (i) each reference to the “Exchange” in the definitions of “Exchange Business Day”, “Scheduled Closing Time”, “Scheduled Trading Day”, “Trading Disruption”, “Exchange Disruption”, and “Early Closure” shall be deemed to include a reference to the primary exchange or quotation system on which the Underlying Shares are traded, as determined by the Calculation Agent; and
  - (ii) the definitions of “Market Disruption Event”, “Trading Disruption”, “Exchange Disruption”, and “Related Exchange” shall be amended in accordance with the DR Amendment.
- (n) For the avoidance of doubt, where a provision is amended pursuant to this GDR/ADR Linked Condition 4 (Full Lookthrough) in accordance with the DR Amendment, if the event described in such provision occurs in respect of the Underlying Shares or the Underlying Shares Issuer, then the consequence of such event shall be interpreted consistently with the DR Amendment and such event.

## ANNEX 4

## ADDITIONAL TERMS AND CONDITIONS FOR FX LINKED NOTES

*The terms and conditions applicable to FX Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “FX Linked Conditions”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes and the FX Linked Conditions, the FX Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or FX Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

**1. Definitions**

“**Averaging Cut-Off Date**” means, in respect of an Averaging Date, the fifth FX Business Day immediately following the original date on which the final Averaging Date was scheduled to fall, or, if earlier, the FX Business Day falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Averaging Date, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which such final Averaging Date was scheduled to fall.

“**Averaging Date**” means each Averaging Date specified in the applicable Final Terms, or, if that is not an FX Business Day the first following day which is an FX Business Day, or, if earlier the Averaging Cut-Off Date (such day, the “**Scheduled Averaging Date**” corresponding to such Averaging Date). If an Averaging Date falls on the Averaging Cut-Off Date, then, subject to the applicable Final Terms, the next applicable Disruption Fallback specified as a consequence of an FX Market Disruption Event shall apply (as if an FX Market Disruption Event had occurred), or, if none is specified, Calculation Agent Determination shall be deemed to apply.

“**Base Currency**” means the currency specified as such in the applicable Final Terms.

“**Calculation Agent Determination**” means, in respect of a Currency Price and any relevant day, that such Currency Price for such relevant day (or a method for determining such Currency Price) will be determined by the Calculation Agent taking into consideration all available information that in good faith it deems relevant.

“**Currency Price**” means, in relation to each Note, the Currency Price specified in the applicable Final Terms, or if not so specified in the applicable Final Terms, in respect of each Subject Currency, an amount equal to the spot rate of exchange appearing on the FX Price Source at the Valuation Time on (a) if Averaging is not specified in the applicable Final Terms, the Valuation Date or (b) if Averaging is specified in the applicable Final Terms, an Averaging Date, for the exchange of such Subject Currency into the Base Currency (expressed as the number of units (or part units) of the Subject Currency for which one unit of the Base Currency can be exchanged).

“**Currency-Reference Dealers**” means, in respect of any relevant day, that the Calculation Agent will request each of the Reference Dealers to provide a quotation of its rate at which it will buy one unit of the Base Currency in units of the Subject Currency at the applicable Valuation Time on such relevant day. If, for any such rate, at least two quotations are provided, the relevant rate will be the arithmetic mean of the quotations. If fewer than two quotations are provided for any such rate, the relevant rate will be the arithmetic mean of the relevant rates quoted by major banks in the relevant market, selected by the Calculation Agent at or around the applicable Valuation Time on such relevant day.

**“Disruption Fallback”** means, in respect of a Currency Price, Calculation Agent Determination, Currency-Reference Dealers, EM Fallback Valuation Postponement, EM Valuation Postponement, Fallback Reference Price, Other Published Sources, Postponement and/or such other sources or methods specified as such or otherwise determined as an alternative basis for determining such Currency Price as may be provided in the applicable Final Terms. The applicable Disruption Fallback in respect of a Currency Price shall be as specified in the applicable Final Terms, and if two or more Disruption Fallbacks are specified, unless otherwise provided in the Final Terms, such Disruption Fallbacks shall apply in the order specified in the applicable Final Terms, such that if the Calculation Agent determines that the Currency Price cannot be determined by applying one Disruption Fallback, then the next Disruption Fallback specified shall apply.

**“Fallback Reference Price(s)”** means, in respect of a Currency Price, that the Currency Price for the relevant date will be the alternate price source(s) specified in the applicable Final Terms for such Currency Price, applied in the order specified in the applicable Final Terms.

**“FX Business Day”** means, in respect of a Currency Price, 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), or but for the occurrence of an FX Market Disruption Event in respect of such Currency Price would have settled payments and been open for general business, in each of the Specified Financial Centers for such Currency Price, as specified in the applicable Final Terms.

**“FX Disrupted Day”** means any FX Business Day on which a FX Market Disruption Event occurs.

**“FX Market Disruption Event”** means:

- (a) in respect of a Currency Price, the occurrence or existence, as determined by the Calculation Agent in its sole and absolute discretion, of any FX Price Source Disruption and/or any FX Trading Suspension or Limitation and/or, if specified as applicable in the Final Terms, any Inconvertibility Event and/or any other event specified as applicable in the applicable Final Terms; and
- (b) if the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price, in respect of such Currency Price, the occurrence or existence, as determined by the Calculation Agent in its sole and absolute discretion, of any FX Price Source Disruption, Price Materiality Event and/or, if specified as applicable in the Final Terms, any Inconvertibility Event and/or Non-Transferability Event and/or any other event specified as applicable in the applicable Final Terms.

**“FX Price Source(s)”** means, in respect of a Currency Price, the price source(s) specified in the applicable Final Terms for such Currency Price, or if the relevant rate is not published or announced by such FX Price Source at the relevant time, the successor or alternative price source or page/publication for the relevant rate as determined by the Calculation Agent in its sole and absolute discretion.

**“FX Price Source Disruption”** means it becomes impossible or otherwise impracticable to obtain and/or execute the relevant rate(s) required to calculate the Currency Price on the Averaging Date or Valuation Date or other relevant date, or, if different, the day on which rates for that Averaging Date or Valuation Date or other relevant date, as the case may be, would in the ordinary course be published or announced by the relevant FX Price Source.

**“FX Trading Suspension or Limitation”** means the suspension of and/or limitation of trading in the rate(s) required to calculate the relevant Currency Price in the Interbank Market provided that such suspension or limitation of trading is material in the opinion of the Calculation Agent.

“**Inconvertibility Event**” means the occurrence, as determined by the Calculation Agent in its sole and absolute discretion, of any action, event or circumstance whatsoever which, from a legal or practical perspective:

- (a) has the direct or indirect effect of hindering, limiting or restricting (i) the convertibility of the relevant Subject Currency into the Base Currency, or (ii) the transfer of the Subject Currency or the Base Currency to countries other than the countries for which the Subject Currency or the Base Currency, as the case may be, is the lawful currency (including without limitation, by way of any delays, increased costs or discriminatory rates of exchange or any current or future restrictions); and
- (b) results in the unavailability of any relevant Base Currency or Subject Currency in the interbank foreign exchange market in any Specified Financial Center(s) in accordance with normal commercial practice.

“**Interbank Market**” means the over-the-counter foreign exchange spot market open continuously from and including 5.00 a.m., Sydney time, on a Monday in any week to and including 5.00 p.m., New York time, on the Friday of such week.

“**Maximum Days of Postponement**” means five (5) FX Business Days or such other number of FX Business Days (or other type of days) as specified in the applicable Final Terms.

“**Non-Transferability Event**” means the occurrence, as determined by the Calculation Agent in its sole and absolute discretion, of any event that generally makes it impossible to deliver (a) the Base Currency from accounts inside the Subject Currency Jurisdiction to accounts outside the Subject Currency Jurisdiction or (b) the Subject Currency between accounts inside the Subject Currency Jurisdiction or to a party that is a non-resident of the Subject Currency Jurisdiction.

“**Other Published Sources**” means, in respect of any relevant day, that the Calculation Agent will determine the Currency Price on such relevant day on the basis of the exchange rate for one unit of the Base Currency in terms of the Subject Currency published by available recognized financial information vendors (as selected by the Calculation Agent) other than the applicable FX Price Source, at or around the applicable Valuation Time on such relevant day.

“**Postponement**” means, in respect of a Valuation Date or an Averaging Date, if such day (or, if applicable, if the original day on which such Valuation Date or an Averaging Date, as the case may be, is scheduled to fall (as specified in the applicable Final Terms) is postponed on account of such original day not being an FX Business Day, such postponed day) is an FX Disrupted Day, then:

- (a) where the FX Linked Notes relate to a single Currency Price, such Valuation Date or Averaging Date, as the case may be, shall be the first succeeding FX Business Day that is not an FX Disrupted Day, unless the Calculation Agent determines that each of the consecutive FX Business Days equal in number to the Maximum Days of Postponement immediately following such Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, is an FX Disrupted Day. In that case, (i) that last consecutive FX Business Day shall be deemed to be the Valuation Date or the Averaging Date, as the case may be (notwithstanding the fact that such day may be an FX Disrupted Day) and (ii) the next applicable Disruption Fallback shall apply; or
- (b) where the FX Linked Notes relate to a Basket of Currency Prices, such Valuation Date or Averaging Date, as the case may be, for each Currency Price not affected by the occurrence of an FX Disrupted Day shall be the Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, and the Valuation Date for each Currency Price affected (each an

“**Affected Currency Price**”) by the occurrence of an FX Disrupted Day shall be the first succeeding FX Business Day that is not an FX Disrupted Day relating to the Affected Currency Price, unless the Calculation Agent determines that each of the consecutive FX Business Days equal in number to the Maximum Days of Postponement immediately following such Scheduled Valuation Date or Scheduled Averaging Date, as the case may be, is an FX Disrupted Day. In that case for each Affected Currency Price, (i) that last consecutive FX Business Day shall be deemed to be the Valuation Date or the Averaging Date, as the case may be (notwithstanding the fact that such day may be an FX Disrupted Day) and (ii) the next applicable Disruption Fallback shall apply.

“**Price Materiality Event**” means, in respect of a Currency Price and a Valuation Date, Averaging Date or other relevant date, that the FX Price Source differs from the Fallback Reference Price by at least the Price Materiality Percentage (and if both an FX Price Source Disruption and a Price Materiality Event occur or exist on any day, it shall be deemed that an FX Price Source Disruption and not a Price Materiality Event occurred or existed on such day).

“**Price Materiality Percentage**” means the percentage specified as such in the applicable Final Terms.

“**Reference Dealers**” means, in respect of each Subject Currency, four leading dealers in the relevant foreign exchange market, as determined by the Calculation Agent (or any other number of dealers as specified in the applicable Final Terms).

“**Specified Financial Center(s)**” means the financial center(s) specified in the applicable Final Terms.

“**Subject Currency**” means the currency specified as such in the applicable Final Terms.

“**Subject Currency Jurisdiction**” means the country for which the Subject Currency is the lawful currency.

“**Valuation Cut-Off Date**” means, in respect of a Valuation Date, the fifth FX Business Day immediately following the original date on which such Valuation Date was scheduled to fall, or, if earlier, the FX Business Day falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

“**Valuation Date**” means:

- (a) if the applicable Final Terms specifies that the EM Currency Provisions shall not apply to a Currency Price, each Valuation Date specified in the applicable Final Terms or if that is not an FX Business Day the first following day which is an FX Business Day, or, if earlier the Valuation Cut-Off Date (such day, the “**Scheduled Valuation Date**” corresponding to such Valuation Date). If a Valuation Date falls on the Valuation Cut-Off Date, then, subject to the applicable Final Terms, the first applicable Disruption Fallback specified as a consequence of an FX Market Disruption Event shall apply (as if an FX Market Disruption Event had occurred), or, if none is specified, Calculation Agent Determination shall be deemed to apply; or
- (b) if the applicable Final Terms specifies that the EM Currency Provisions shall apply to a Currency Price, each Valuation Date specified in the applicable Final Terms or, if such day is not an FX Business Day in respect of a Currency Price, the immediately preceding FX Business Day for such Currency Price, as determined by the Calculation Agent, provided that

such Valuation Date shall be subject to adjustment in accordance with paragraph 3 (Consequences of an FX Disrupted Day) and paragraph 4 (EM Currency Provisions: Unscheduled Holiday) below.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms.

## 2. **Consequences of an FX Disrupted Day**

If the Calculation Agent determines that any Valuation Date or Averaging Date is an FX Disrupted Day, then the Currency Price for such Valuation Date or Averaging Date will be determined in accordance with the terms of the first applicable Disruption Fallback. The applicable Final Terms may provide that one or more Disruption Fallbacks may apply to any Valuation Date or Averaging Date and that such applicable Disruption Fallbacks may apply concurrently or sequentially, in such manner as specified in the applicable Final Terms.

## 3. **EM Currency Provisions: Unscheduled Holiday**

(a) If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price or Fallback Reference Price, as applicable, and any Valuation Date or Averaging Date, and that Unscheduled Holidays shall be applicable, then, if the Calculation Agent determines that the relevant Scheduled Valuation Date or Scheduled Averaging Date, as applicable (each, a “**Scheduled Reference Date**”) is an Unscheduled Holiday for such Currency Price or Fallback Reference Price, then the Valuation Date or Averaging Date shall be postponed to the first FX Business Day falling after the Scheduled Reference Date (the “**Adjusted Scheduled Reference Date**”), provided that if such first FX Business Day has not occurred on or before the last day of the Maximum Days of Deferral, then the next day after the Last Deferred Date that would have been an FX Business Day but for a Unscheduled Holiday shall be deemed to be the Adjusted Scheduled Reference Date.

(b) The following terms and expressions shall have the following meanings:

“**Last Deferred Day**” means, in respect of any postponement by a number of days equal to the Maximum Days of Deferral, the last day to which such day is postponed.

“**Maximum Days of Deferral**” means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

“**Unscheduled Holiday**” means, in respect of a Currency Price or Fallback Reference Price, as applicable, a day that is not an FX Business Day and the market was not aware of such fact (by means of a public announcement or by reference to other publicly available information) until a time later than 9.00 a.m., local time in the Specified Financial Center in respect of such Currency Price or Fallback Reference Price, two FX Business Days prior to such day.

## 4. **EM Currency Provisions: EM Valuation Postponement**

If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price (which term shall include, where the Final Terms provides that the prior applicable Disruption Fallback is “Fallback Reference Price”, the Currency Price determined using the applicable Fallback Reference Price) and any Valuation Date or Averaging Date, and that EM Valuation Postponement shall be applicable, then, if the Calculation Agent determines that the relevant Scheduled Reference Date (if the Scheduled Reference Date is not an Unscheduled Holiday for the Currency Price) or the Adjusted Scheduled Reference Date (if the Scheduled Reference Date is an Unscheduled Holiday for the Currency Price) is an FX Disrupted Day, then such Valuation Date or Averaging Date shall be the first FX Business

Day which is not an FX Disrupted Day unless an FX Market Disruption Event continues to exist (measured from such Scheduled Reference Date or Adjusted Scheduled Reference Rate, as applicable) for a consecutive number of calendar days equal to the Maximum Days of EM Valuation Postponement. In that case, the Currency Price will be determined on the next FX Business Day after the Maximum Days of EM Valuation Postponement in accordance with the next applicable Disruption Fallback as specified in the applicable Final Terms.

Where:

“**Maximum Days of EM Valuation Postponement**” means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

#### 5. **EM Currency Provisions: EM Fallback Valuation Postponement**

If the applicable Final Terms provides that the EM Currency Provisions shall apply and that EM Fallback Valuation Postponement shall be applicable and where the Final Terms provides that the prior applicable Disruption Fallback is “Fallback Reference Price”, if the Calculation Agent determines that the Currency Price (as determined by reference to the applicable Fallback Reference Price) is not available on (i) the first FX Business Day following the end of the Maximum Days of EM Valuation Postponement (where an FX Market Disruption Event has occurred or exists in respect of the Currency Price throughout the Maximum Days of EM Valuation Postponement) or (ii) on the Adjusted Scheduled Reference Date (where the Adjusted Scheduled Reference Date falls after the Last Deferred Day) then the Valuation Date or Averaging Date shall be the first succeeding FX Business Day which is not an FX Disrupted Day in respect of the Currency Price unless an FX Market Disruption Event continues to exist throughout the Fallback Maximum Period of Postponement. In that case, the Currency Price will be determined on the Last Fallback Postponement Date in accordance with the next applicable Disruption Fallback.

Where:

“**Fallback Maximum Period of Postponement**” means the period commencing on, and including:

- (a) if an FX Market Disruption Event has occurred or exists in respect of the Currency Price throughout the Maximum Days of EM Valuation Postponement, the first FX Business Day following the end of the Maximum Days of EM Valuation Postponement; or
- (b) if the Adjusted Scheduled Reference Date falls after the Last Deferred Day, the Adjusted Scheduled Reference Date,

and ending on, and including, the third (3rd) FX Business Day (or such other day as specified in the applicable Final Terms) following such date as specified in paragraphs (a) and (b) above, as applicable (such date, the “**Last Fallback Postponement Date**”).

#### 6. **EM Currency Provisions: Cumulative Events**

If the applicable Final Terms provides that the EM Currency Provisions shall apply to a Currency Price and any Valuation Date or Averaging Date, and that Cumulative Events shall be applicable, then the total number of consecutive calendar days during which (a) such Valuation Date or Averaging Date is deferred due to an Unscheduled Holiday, (b) an EM Valuation Postponement shall occur in respect of such Valuation Date or Averaging Date, or (c) an EM Fallback Valuation Postponement shall occur in respect of such Valuation Date or Averaging Date (or any combination of (a), (b) and (c)), shall not exceed the Maximum Days of Cumulative Postponement in the aggregate. Accordingly, (i) if such Valuation Date or Averaging Date is postponed by the number of calendar days equal to the Maximum Days of Cumulative Postponement owing to an EM Valuation Postponement or EM Fallback Valuation Postponement (or both),

and an Unscheduled Holiday shall have occurred or be continuing on the day following the relevant Last Postponed Day that otherwise would have been an FX Business Day, then such day shall be deemed to be such Valuation Date or Averaging Date and (ii) if such Valuation Date or Averaging Date is postponed by the number of calendar days equal to the Maximum Days of Cumulative Postponement owing to Unscheduled Holidays, and on the first day after the Last Postponed Day, an applicable FX Market Disruption Event shall have occurred or be continuing, then the Currency Price in respect of such Valuation Date or Averaging Date or other relevant date shall be determined in accordance with the next applicable Disruption Fallback.

Where:

“**Last Postponed Day**” means, in respect of any postponement by a number of days equal to the Maximum Days of Cumulative Postponement, the last day to which such day is postponed; and

“**Maximum Days of Cumulative Postponement**” means such number of calendar days (or other type of days) as specified in the applicable Final Terms.

#### 7. **Corrections to Published and Displayed Rates**

- (a) In any case where a Currency Price is based on information obtained from the Reuters Monitor Money Rates Service, or any other financial information service, the Currency Price will be subject to the corrections, if any, to that information subsequently displayed by that source within one hour of the time when such rate is first displayed by such source, unless the Calculation Agent determines in its sole and absolute discretion that it is not practicable to take into account such correction.
- (b) Notwithstanding FX Linked Condition 7(a), in any case where the Currency Price is based on information published or announced by any governmental authority in a relevant country, the Currency Price will be subject to the corrections, if any, to that information subsequently published or announced by that source within five calendar days of the relevant date, unless the Calculation Agent determines in its sole and absolute discretion that it is not practicable to take into account such correction.

#### 8. **Successor Currency**

Where the applicable Final Terms specifies that “Successor Currency” is applicable in respect of a Currency Price, then:

- (a) each Subject Currency and Base Currency will be deemed to include any lawful successor currency to the Subject Currency or Base Currency (the “**Successor Currency**”);
- (b) if the Calculation Agent determines that on or after the Issue Date (or such other date as specified in the applicable Final Terms) but on or before any relevant date under the Notes on which an amount may be payable, a country has lawfully eliminated, converted, redenominated or exchanged its currency in effect on the Issue Date or any Successor Currency, as the case may be (the “**Original Currency**”) for a Successor Currency, then for the purposes of calculating any amounts of the Original Currency or effecting settlement thereof, any Original Currency amounts will be converted to the Successor Currency by multiplying the amount of Original Currency by a ratio of Successor Currency to Original Currency, which ratio will be calculated on the basis of the exchange rate set forth by the relevant country of the Original Currency for converting the Original Currency into the Successor Currency on the date on which the elimination, conversion, redenomination or exchange took place, as determined by the Calculation Agent. If there is more than one such

date, the date closest to such relevant date will be selected (or such other date as may be selected by the Calculation Agent in its sole and absolute discretion);

- (c) notwithstanding paragraph (b) above but subject to paragraph (d) below, the Calculation Agent may (to the extent permitted by the applicable law), in good faith and in its sole and absolute discretion, select such other exchange rate or other basis for the conversion of an amount of the Original Currency to the Successor Currency and, will make such adjustment(s) that it determines to be appropriate, if any, to any variable, calculation methodology, valuation, settlement, payment terms, or any other terms in respect of the Notes to account for such elimination, conversion, redenomination, or exchange of the Subject Currency or Base Currency, as the case may be; and
- (d) notwithstanding the foregoing provisions, with respect to any Subject Currency or Base Currency that is substituted or replaced by the Euro, the consequences of such substitution or replacement will be determined in accordance with applicable law.

#### 9. **Rebasing of Notes**

If the applicable Final Terms specifies that “Rebasing” is applicable, then if, on or prior to any Valuation Date or Averaging Date or any other relevant date, the Calculation Agent is unable to obtain a value for a Subject Currency (because the Subject Currency and/or Base Currency ceases to exist, or for any other reason other than a temporary disruption, as determined by the Calculation Agent), the Calculation Agent may rebase the Notes against another foreign exchange rate determined by the Calculation Agent, in its sole and absolute discretion, to be a comparable foreign exchange rate. If the Calculation Agent determines in its sole and absolute discretion that there is not such a comparable foreign exchange rate, the Issuer may elect to redeem or settle the Notes by notice to Noteholders on the date specified in the notice at the Early Redemption Amount of each Note.

#### 10. **Consequences of an Additional Disruption Event**

If the applicable Final Terms specifies that Additional Disruption Events shall be applicable, then:

- (a) following the determination by the Calculation Agent that an Additional Disruption Event has occurred, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount;
- (b) upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event; and
- (c) the following terms and expressions shall have the following meanings:

**“Additional Disruption Event”** means any of a Change in Law, a Hedging Disruption and/or an Increased Cost of Hedging.

**“Change in Law”** means that, on or after the Issue Date (or such other date as specified in the applicable Final Terms) of the Notes (a) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (b) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Calculation Agent determines in good faith that (x) it has become illegal to hold, acquire, or dispose of any relevant currency or asset, or (y) the Issuer or any affiliate(s) of the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations under the Notes will incur a materially increased cost in performing its obligations in relation to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit, or other adverse effect on its tax position).

**“Hedging Disruption”** means that the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations in relation to the Notes is unable, after using commercially reasonable efforts, to (a) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the currency or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the relevant Notes, or (b) realize, recover, or remit the proceeds of any such transaction(s) or asset(s).

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

ANNEX 5

**ADDITIONAL TERMS AND CONDITIONS FOR COMMODITY LINKED NOTES**

*The terms and conditions applicable to Commodity Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Commodity Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes, and the Commodity Linked Conditions, the Commodity Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the Commodity Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

**1. Definitions**

“**Basket of Commodities**” means a basket comprising Commodities in their relative proportions or numbers of Commodities, as specified in the applicable Final Terms.

“**Calculation Agent Determination**” means that the Calculation Agent will determine the Relevant Price (or method for determining the Relevant Price), taking into consideration the latest available quotation for the relevant Commodity Reference Price and any other information that in good faith it deems relevant.

“**Commodity**” and “**Commodities**” means, subject to adjustment in accordance with these Commodity Linked Conditions, in the case of an issue of Commodity Linked Notes relating to a Basket of Commodities, each commodity and, in the case of an issue of Commodity Linked Notes relating to a single Commodity, the Commodity, in each case specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Commodity Business Day**” has the meaning given it in the applicable Final Terms.

“**Commodity Cut-Off Date**” means, in respect of a Pricing Date (or, if different, the day on which the price for that Pricing Date would, in the ordinary course, be published by the Price Source), the date specified in the applicable Final Terms, or if not so specified, the day falling two Business Days immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Pricing Date, provided that the Commodity Cut-Off Date shall not fall prior to the original date on which such Pricing Date was scheduled to fall (unless otherwise provided in the applicable Final Terms).

“**Commodity Index Cut-Off Date**” means, in respect of a Pricing Date (or, if different, the day on which the price for that Pricing Date would, in the ordinary course, be published by the Price Source) the date specified in the applicable Final Terms, or if not so specified, the day falling two Business Days immediately preceding the date on which payment of any amount may have to be made pursuant to any calculation or determination made on such Pricing Date, provided that the Commodity Index Cut-Off Date shall not fall prior to the original date on which such Pricing Date was scheduled to fall (unless otherwise provided in the applicable Final Terms).

“**Commodity Index**” means, subject to adjustment in accordance with the Commodity Linked Conditions, an index comprising various commodities or commodity prices, as specified in the applicable Final Terms.

“**Commodity Reference Price**” means (i) in respect of all Commodities, the Commodity Reference Price specified in the applicable Final Terms and (ii) in respect of a Commodity Index, the Commodity

Reference Price specified in the applicable Final Terms, or if not so specified, the official closing price of such Commodity Index.

**“Commodity Trading Disruption”** means the material suspension of, or the material limitation imposed on, trading in the Futures Contract or the Commodity on the Exchange or in any additional futures contract, options contract or commodity on any Exchange.

**“Delayed Publication or Announcement”** means that the Relevant Price for a Pricing Date will be determined based on the Specified Price in respect of the original day scheduled as such Pricing Date that is published or announced by the relevant Price Source retrospectively on the first succeeding Commodity Business Day on which the Market Disruption Event ceases to exist, unless that Market Disruption Event continues to exist (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, if the Pricing Date as specified in the Final Terms is adjusted on account of such original date not being a Commodity Business Day, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following such adjustment specified in the applicable Final Terms on account of such original date not being a Commodity Business Day)) or the Relevant Price continues to be unavailable for two (2) consecutive Commodity Business Days. In that case, the next Disruption Fallback (as defined below) specified in the applicable Final Terms will apply.

**“Delivery Date”** means the date specified in the applicable Final Terms.

**“Disappearance of Commodity Reference Price”** means:

- (i) the permanent discontinuation of trading, in the relevant Futures Contract on the relevant Exchange;
- (ii) the disappearance of, or of trading in, the Commodity; or
- (iii) the disappearance or permanent discontinuance or unavailability of a Commodity Reference Price,

notwithstanding the availability of the related Price Source or the status of trading in the relevant Futures Contract or the Commodity.

**“Exchange”** means, in relation to a Commodity, the exchange or principal trading market specified as such for such Commodity in the applicable Final Terms or Commodity Reference Price.

**“Fallback Reference Price”** means that the Calculation Agent will determine the Relevant Price based on the price for that Pricing Date of the first alternate Commodity Reference Price, if any, specified in the applicable Final Terms and not subject to a Market Disruption Event.

**“Futures Contract”** means, in respect of a Commodity Reference Price, the contract for future delivery of a contract size in respect of the relevant Delivery Date relating to the Commodity or Commodity Index referred to in that Commodity Reference Price.

**“Material Change in Content”** means the occurrence since the Trade Date of a material change in the content, composition or constitution of the relevant Commodity or relevant Futures Contract.

**“Material Change in Formula”** means the occurrence since the Trade Date of a material change in the formula for or method of calculating the relevant Commodity Reference Price.

**“Nearby Month”** when preceded by a numerical adjective, means, in respect of a Delivery Date and a Pricing Date, the month of expiration of the Futures Contract identified by the numerical adjective, so that, for example, (i) **“First Nearby Month”** means the month of expiration of the first Futures

Contract to expire following that Pricing Date and (ii) “**Second Nearby Month**” means the month of expiration of the second Futures Contract to expire following that Pricing Date, etc.

“**Postponement**” means that the Pricing Date will be deemed, for purposes of the application of this Disruption Fallback, to be the first succeeding Commodity Business Day on which the Market Disruption Event ceases to exist, unless that Market Disruption Event continues to exist for two consecutive Commodity Business Days (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, if the Pricing Date as specified in the Final Terms is adjusted on account of such original date not being a Commodity Business Day, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following such adjustment specified in the applicable Final Terms on account of such original date not being a Commodity Business Day)). In that case, the next Disruption Fallback specified in the definition of “Disruption Fallback” below will apply.

“**Price Source**” means the publication (or such other origin of reference, including an Exchange) containing (or reporting) the Specified Price (or prices from which the Specified Price is calculated) specified in the specified Commodity Reference Price or otherwise in the applicable Final Terms (provided that in respect of a Commodity Index, if the relevant Commodity Reference Price is not published on such Price Source, the Calculation Agent may, in its sole and absolute discretion, (i) use a successor page or publication or alternative source as it considers appropriate, (ii) determine that such non-publication amounts to a Market Disruption Event in respect of such Commodity Index in accordance with Commodity Linked Condition 3 (Market Disruption and Disruption Fallback), or (iii) determine that such non-publication amounts to an Index Adjustment Event in respect of the Commodity Index, and proceed in accordance with Commodity Linked Condition 4 (Adjustments to a Commodity Index)).

“**Price Source Disruption**” means:

- (i) the failure of the Price Source to announce or publish the Specified Price (or the information necessary for determining the Specified Price) for the relevant Commodity Reference Price (or, if there is no Specified Price for a Commodity Reference Price, such Commodity Reference Price); or
- (ii) the temporary or permanent discontinuance or unavailability of the Price Source.

For these purposes:

- (a) a suspension of the trading in the Futures Contract or the Commodity on any Commodity Business Day shall be deemed to be material only if:
  - (i) all trading in the Futures Contract or the Commodity is suspended for the entire Pricing Date; or
  - (ii) all trading in the Futures Contract or the Commodity is suspended subsequent to the opening of trading on the Pricing Date, trading does not recommence prior to the regularly scheduled close of trading in such Futures Contract or such Commodity on such Pricing Date and such suspension is announced less than one hour preceding its commencement; and
- (b) a limitation of trading in the Futures Contract or the Commodity on any Commodity Business Day shall be deemed to be material only if the relevant Exchange establishes limits on the range within which the price of the Futures Contract or the Commodity may fluctuate and the closing or settlement price of the Futures Contract or the Commodity on such day is at the upper or lower limit of that range.

“**Pricing Date**” has the meaning given it in the applicable Final Terms.

“**Relevant Commodity**” means, in respect of a Commodity Linked Security, such Commodity as is so specified in the applicable Final Terms, and, if more than one commodity is so specified in the applicable Final Terms, then all such commodities shall be referred to as the “Relevant Commodities”.

“**Relevant Price**” means for any Pricing Date, the price, expressed as a price per unit of the Commodity or the price of the Commodity Index, determined with respect to that day for the specified Commodity Reference Price calculated as provided in these Commodity Linked Conditions and the applicable Final Terms.

“**Specified Price**” means, in respect of a Commodity Reference Price, any of the following prices (which must be a price reported in or by, or capable of being determined from information reported in or by, the relevant Price Source) as specified in the applicable Final Terms (and, if applicable, as of the time so specified): (A) the high price; (B) the low price; (C) the average of the high price and the low price; (D) the closing price; (E) the opening price; (F) the bid price; (G) the asked price; (H) the average of the bid price and the asked price; (I) the settlement price; (J) the official settlement price; (K) the official price; (L) the morning fixing; (M) the afternoon fixing; (N) the spot price; or (O) any other price specified in the applicable Final Terms.

## 2. Terms relating to Calculation of Prices

### (a) Common Pricing

If the relevant Final Terms provides that Commodity Linked Condition 2(a) is applicable, and, with respect to Commodity Linked Notes relating to a Basket of Commodities, if “Common Pricing” is specified in the applicable Final Terms as:

- (i) “Applicable” then, no date will be a Pricing Date unless such date is a day on which all referenced Commodity Reference Prices (for which such date would otherwise be a Pricing Date) are scheduled to be published or announced, as determined on the Trade Date of the Notes as of the Issue Date;
- (ii) “Not Applicable” then, if the Calculation Agent determines that a Market Disruption Event has occurred or exists on the Pricing Date in respect of any Relevant Commodity and/or Commodity Index (each an “**Affected Commodity**”), the Relevant Price of each Commodity and/or Commodity Index within the basket which is not affected by the occurrence of a Market Disruption Event shall be determined on its scheduled Pricing Date and the Relevant Price for each Affected Commodity shall be determined in accordance with the first applicable Disruption Fallback that provides a Relevant Price.

All determinations made by the Calculation Agent pursuant to this condition will be conclusive and binding on the Noteholders and the Issuer, except in the case of manifest error.

If the relevant Final Terms provides that Commodity Linked Condition 2(a) is not applicable, then Commodity Linked Condition 2(a) shall not apply to the relevant Commodity Linked Notes.

### (b) Correction to Published Prices

For purposes of determining or calculating the Relevant Price (or any price or value published or announced on any date which is utilized for any calculation or determination in connection with the Commodity Linked Notes), if the price published or announced on a given day and used or to be used by the Calculation Agent to determine a Relevant Price (or any price or value published or announced on any date which is utilized for any calculation or determination in connection with the Commodity Linked

Notes) is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within 30 calendar days after the original publication or announcement (or, if earlier the day falling two Business Days preceding the date on which payment of any amount or delivery of any assets may have to be made, in each case calculated by reference to such Relevant Price (or any price or value published or announced on any date which is utilized for any calculation or determination in connection with the Commodity Linked Notes)), the Calculation Agent may, in its sole discretion, use such corrected price in such calculation.

### 3. **Market Disruption and Disruption Fallback**

If, in the opinion of the Calculation Agent, a Market Disruption Event (as defined below) has occurred and is continuing on any Pricing Date (or, if different, the day on which the price for that Pricing Date would, in the ordinary course, be published by the Price Source), the Relevant Price for that Pricing Date will be determined by the Calculation Agent, in accordance with the first applicable Disruption Fallback (as set out below) that provides a Relevant Price:

(a) **Market Disruption Event**

“**Market Disruption Event**” means the occurrence of any of the following events:

- (i) with respect to all Commodities:
  - (A) Price Source Disruption;
  - (B) Commodity Trading Disruption;
  - (C) Disappearance of Commodity Reference Price; and
- (ii) with respect to all Commodities other than gold, silver, platinum or palladium:
  - (A) Material Change in Formula;
  - (B) Material Change in Content; and
  - (C) any additional Market Disruption Events as specified in the applicable Final Terms; and
- (iii) with respect to a Commodity Index:
  - (A) a temporary or permanent failure by the applicable exchange or other price source to announce or publish (x) the Commodity Reference Price (provided that the Calculation Agent may, in its sole and absolute discretion, determine that such failure (i) shall not be a Market Disruption Event and shall instead be dealt with under paragraph (i) of the proviso to the definition of Price Source specified in Commodity Linked Condition 1 (Definitions), or (ii) shall instead amount to an Index Adjustment Event in respect of such Commodity Index, and proceed in accordance with Commodity Linked Condition 4 (Adjustments to a Commodity Index)) or (y) the closing price for any futures contract included in the Commodity Index;
  - (B) a material limitation, suspension or disruption of trading in one or more of the futures contracts included in the Commodity Index which results in a failure by the exchange on which each applicable futures contract is traded to report a

closing price for such contract on the day on which such event occurs or any succeeding day on which it continues; or

- (C) the closing price for any futures contract included in the Commodity Index is a “limit price”, which means that the closing price for such contract for a day has increased or decreased from the previous day’s closing price by the maximum amount permitted under applicable exchange rules.

(iv) Disruption Fallback

“**Disruption Fallback**” means a source or method that may give rise to an alternative basis for determining the Relevant Price in respect of a specified Commodity Reference Price when a Market Disruption Event occurs or exists on a day that is a Pricing Date in respect of the relevant Note. A Disruption Fallback is applicable if it is specified in the applicable Final Terms or, if no Disruption Fallback is specified in the applicable Final Terms, shall mean:

- (A) with respect to a relevant Commodity (in the following order):

- (I) Fallback Reference Price (if applicable);
- (II) Delayed Publication or Announcement and Postponement (each to operate concurrently with the other and each subject to a period of two consecutive Commodity Business Days (measured from and including the original day that would otherwise have been the Pricing Date (or, if applicable, measured from and including the day that is the original date that would otherwise have been the Pricing Date, following the adjustment specified in the applicable Final Terms on account of such original date not being a Commodity Business Day)), or, if shorter, the period commencing on, and including, the original day that would otherwise have been the Pricing Date and ending on, and including, the Commodity Cut-Off Date) provided, however, that the price determined by Postponement shall be the Relevant Price only if Delayed Publication or Announcement does not yield a Relevant Price within those two consecutive Commodity Business Days (or, if applicable, the number of Commodity Business Days (if any) falling within the period ending on the Commodity Cut-Off Date); and
- (III) Calculation Agent Determination;

- (B) with respect to a Commodity Index the Relevant Price as determined by the Calculation Agent:

- (1) using:
  - (a) with respect to each futures contract included in the Commodity Index which is not affected by the Market Disruption Event, the closing prices of each such contract on the applicable determination date;
  - (b) with respect to each futures contract included in the Commodity Index which is affected by the Market Disruption Event, but for which a Market Disruption Event ceased to exist on or prior to the Commodity Index Cut-Off Date, the closing prices of each such

contract on the first day following the applicable determination date on which no Market Disruption Event is occurring with respect to such contract; and

- (c) with respect to each futures contract included in the Commodity Index which is affected by the Market Disruption Event, where a Market Disruption Event continues to exist as of the Commodity Index Cut-Off Date, the Calculation Agent's good faith estimate of the closing price of each such contract on the Commodity Index Cut-Off Date;

- (2) and as specified in the applicable Final Terms.

Subject as provided below, the Calculation Agent shall determine the Relevant Price by reference to the closing prices determined in (1)(a), (1)(b) and (1)(c) above or as provided in (2) above using the then current method for calculating the Commodity Reference Price.

Where (i) the original date that would otherwise have been the Pricing Date is adjusted on account of such original date not being a Commodity Business Day, and the Pricing Date would fall on or after the Commodity Index Cut-Off Date following such adjustment, or (ii) a Market Disruption Event with respect to one or more futures contracts included in the Commodity Index has occurred on an applicable determination date and continues to exist as of the relevant Commodity Index Cut-Off Date for such applicable determination date, the Calculation Agent shall determine the Relevant Price on such Commodity Index Cut-Off Date. In calculating the Relevant Price as set out herein, the Calculation Agent shall use the formula for calculating the Commodity Reference Price last in effect prior to the Market Disruption Event (if applicable).

#### 4. Adjustments to a Commodity Index

- (a) Successor Index Sponsor Calculates and Reports a Commodity Index

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

- (b) Modification and Cessation of Calculation of a Commodity Index

If on or prior to a Pricing Date (i) the relevant Index Sponsor makes a material change in the formula for or the method of calculating a relevant Commodity Index or in any other way materially modifies that Commodity Index (other than a modification prescribed in that formula or method to maintain that Commodity Index in the event of changes in constituent commodities and weightings and other routine events), or (ii) the Index Sponsor permanently cancels a relevant Commodity Index or (iii) the Index Sponsor fails to calculate and announce a relevant Commodity Index and there is no Successor Index Sponsor or Successor Index then the Calculation Agent may at its option (in the case of (i)) and shall (in the case of (ii) and (iii)) (such events (i) (ii) and (iii) to be collectively referred to as "**Index Adjustment Events**") (provided that the Calculation Agent may, in its sole and absolute discretion, determine that event (iii) (y) shall not be an Index Adjustment Event and shall instead be dealt with under paragraph (i) of the proviso to the definition of Price Source specified in Commodity Linked Condition 1 (Definitions), or (z) shall instead amount to a Market Disruption Event in respect of such Commodity Index, and proceed in accordance with Commodity Linked Condition 3 (Market Disruption and Disruption

Fallback)) calculate the Commodity Reference Price using in lieu of the published level for that Commodity Index, the level for that Commodity Index as at the relevant determination date as determined by the Calculation Agent in accordance with the formula for and method of calculating that Commodity Index last in effect prior to the relevant Index Adjustment Event, but using only those futures contracts that comprised that Commodity Index immediately prior to the relevant Index Adjustment Event (other than those futures contracts that have ceased to be listed on any relevant exchange).

5. **Consequences of an Additional Disruption Event in respect of a Commodity Index**

- (a) Following the determination by the Calculation Agent that an Additional Disruption Event has occurred in respect of a Commodity Index, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount.
- (b) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.
- (c) The following terms and expressions shall have the following meanings:

“**Additional Disruption Event**” means any of a Change in Law, a Hedging Disruption, and/or an Increased Cost of Hedging (together the “**Additional Disruption Events**”).

“**Change in Law**” means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Calculation Agent determines in good faith that (A) it has become illegal to hold, acquire or dispose of any relevant currency or asset, or (B) the Issuer or any affiliate(s) of the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations under the Notes will incur a materially increased cost in performing its obligations in relation to the Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit, or other adverse effect on its tax position).

“**Hedging Disruption**” means that the Issuer or any entity (or entities) acting on behalf of the Issuer engaged in any underlying or hedging transactions in respect of the Issuer’s obligations in relation to the Notes is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the commodity or other price risk of the Issuer issuing and performing its obligations with respect to or in connection with the relevant Notes, or (ii) realize, recover, or remit the proceeds of any such transaction(s) or asset(s).

“**Increased Cost of Hedging**” means that the Issuer and/or any of its Affiliates or agents acting on its behalf would incur a materially increased (as compared with circumstances existing on the Trade Date)

amount of tax, duty, expense, or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the commodity or other price risk of the Issuer issuing and performing its obligations with respect to the Notes, or (ii) realize, recover, or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer and/or any of its Affiliates or agents shall not be deemed an Increased Cost of Hedging.

ANNEX 6

**ADDITIONAL TERMS AND CONDITIONS FOR FUND LINKED NOTES**

*The terms and conditions applicable to Fund Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Fund Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes and the Fund Linked Conditions, the Fund Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the Fund Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

1. **General Definitions**

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms.

“**Valuation Date**” means each Valuation Date specified in the applicable Final Terms.

2. **Provisions relating to Funds other than Exchange Traded Funds**

Fund Linked Conditions 3, 4, and 5 apply in respect of Funds other than Exchange Traded Funds.

3. **Definitions (Funds other than Exchange Traded Funds)**

“**Basket of Funds**” means a basket composed of Funds in the relative proportions or number of Funds, as specified in the applicable Final Terms.

“**Fund**” means, subject to adjustment in accordance with these Fund Linked Notes Conditions, each fund specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Fund Administrator**” means the fund administrator, manager, trustee or similar person with the primary administrative responsibilities for a Fund according to the relevant Fund Documents.

“**Fund Adviser**” means any person appointed in the role of discretionary investment manager or non-discretionary investment adviser (including a non-discretionary investment adviser to a discretionary investment manager or to another non-discretionary investment adviser).

“**Fund Documents**” means the constitutive and governing documents, subscription agreements and other agreements of a Fund specifying the terms and conditions relating to the related Fund Interest, as amended from time to time.

“**Fund Interest**” means, subject to adjustment in accordance with these Fund Linked Conditions, each fund interest specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Fund Redemption Valuation Date**” means, in respect of a Fund Interest, the date as of which a Fund (or its Fund Service Provider that generally determines such value) would determine the net asset value of such Fund Interest for purposes of calculating the redemption proceeds to be paid to a Hypothetical Investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date.

“**Fund Service Provider**” means any person who is appointed to provide services, directly or indirectly, to a Fund, whether or not specified in the relevant Fund Documents, including without limitation any Fund Administrator, Fund Adviser, operator, management company, depository, custodian, sub-custodian, prime broker, administrator, trustee, registrar and transfer agent, or domiciliary agent.

“**Fund Valuation Date**” means a date as of which a Fund (or its Fund Service Provider that generally determines such value) determines the value of the related Fund Interest.

“**Hypothetical Investor**” means a hypothetical or actual investor (as determined by the Calculation Agent in the context of the relevant situation) in Fund Interests which is deemed to have the benefits and obligations, as provided in the relevant Fund Documents, of an investor holding Fund Interests at the relevant time. The Hypothetical Investor may be deemed by the Calculation Agent to be resident or organized in any jurisdiction, and to be, without limitation, the Issuer, the Calculation Agent or any of their affiliates (as determined by the Calculation Agent in the context of the relevant situation).

“**Removal Date**” means, in respect of an Affected Fund Interest, the date on which the Calculation Agent determines that a Hypothetical Investor would receive the Removal Value in respect of a redemption or realization of such Affected Fund Interest effected as soon as reasonably practicable following the occurrence of the relevant Fund Event.

“**Removal Value**” means, in respect of an Affected Fund Interest, the amount that the Calculation Agent determines a Hypothetical Investor would receive in cash on the redemption or realization of such Affected Fund Interest at the relevant time, provided that if any such redemption proceeds would comprise non-monetary assets the Removal Value may, at the sole and absolute discretion of the Calculation Agent, include only such amount (if any) that the Calculation Agent determines would be received by the Hypothetical Investor in respect of a realization (in whatsoever manner the Calculation Agent determines appropriate) of such non-monetary assets as soon as reasonably practicable after their receipt.

“**Scheduled Fund Redemption Valuation Date**” means the date as of which a Fund (or its Fund Service Provider that generally determine such value) is scheduled, according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the net asset value of the related Fund Interest for purposes of calculating the redemption proceeds to be paid to an investor that has submitted a valid and timely notice for redemption of Fund Interests based on the value determined as of such date.

“**Scheduled Fund Valuation Date**” means, in respect of a Fund Interest, a date as of which the related Fund (or its Fund Service Provider that generally determines such value) is scheduled, according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests), to determine the value of the related Fund Interest or, if the Fund only reports its aggregate net asset value, the date as of which such Fund is scheduled to determine its aggregate net asset value.

#### 4. **Fund Events**

“**Fund Event**” means the occurrence of each of an Additional Fund Disruption Event, a Fund Disruption Event and/or a Fund Extraordinary Event as determined by the Calculation Agent.

- (a) “**Additional Fund Disruption Event**” means each of Change in Law, Fund Hedging Disruption or Increased Cost of Hedging.

“**Change in Law**” means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Issuer or any of its Affiliates or agents acting on its behalf determines in good faith that (x) it has become illegal to hold, acquire, or dispose of any Fund Interests, or (y) the Issuer will incur a materially increased cost in performing its obligations under the Fund Linked Notes (including, without

limitation, due to any increase in tax liability, decrease in tax benefit, or other adverse effect on its tax position).

**“Fund Hedging Disruption”** means that the Issuer or any of its Affiliates or agents is unable, or it is impractical for the Issuer or any of its Affiliates or agents, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction or asset it deems necessary or appropriate to hedge the price risk relating to any Fund Interest of the Issuer issuing and performing its obligations with respect to the Fund Linked Notes, or (ii) realize, recover, or remit the proceeds of any such transaction or asset, including, without limitation, where such inability or impracticability has arisen by reason of (x) any restrictions or increase in charges or fees imposed by a Fund on an investor’s ability to redeem the related Fund Interest, in whole or in part, or any existing or new investor’s ability to make new or additional investments in such Fund Interest, or (y) any mandatory redemption, in whole or in part, of a Fund Interest imposed by the related Fund (in each case other than any restriction in existence on the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date).

**“Increased Cost of Hedging”** means that the Issuer or any of its Affiliates or agents would incur a materially increased (as compared with circumstances existing on the Issue Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the price risk relating to any Fund Interest of the Issuer issuing and performing its obligations with respect to the Fund Linked Notes, or (ii) realize, recover, or remit the proceeds of any transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer shall not be deemed an Increased Cost of Hedging.

- (b) **“Fund Disruption Event”** means at any time the occurrence or continuance of any of the following events, as determined by the Calculation Agent in its sole and absolute discretion, if the Calculation Agent determines any such event is material:
  - (i) Fund Valuation Disruption: **“Fund Valuation Disruption”** means (x) any continued postponement of any Scheduled Valuation Date due to such Scheduled Valuation Date not being a Scheduled Fund Redemption Valuation Date, (y) the failure of a Scheduled Fund Redemption Valuation Date in respect of a Fund Interest to be a Fund Redemption Valuation Date in respect of such Fund Interest or any continued postponement of such Fund Redemption Valuation Date, or (z) the failure of a Scheduled Fund Valuation Date in respect of a Fund Interest to be a Fund Valuation Date in respect of such Fund Interest or any continued postponement of such Fund Valuation Date;
  - (ii) Fund Settlement Disruption: **“Fund Settlement Disruption”** means a failure by a Fund on any day to pay the full amount (whether expressed as a percentage or otherwise) of any fund redemption proceeds with respect to any Fund Interest scheduled to have been paid on or by such day according to the relevant Fund Documents (without giving effect to any gating, deferral, suspension or other provisions permitting the Fund to delay or refuse redemption of Fund Interests).
- (c) **“Fund Extraordinary Event”** means each of the following events:
  - (i) Nationalization: **“Nationalization”** means that all the Fund Interests or all or substantially all the assets of a Fund are nationalized, expropriated, or are otherwise required to be transferred to any governmental agency, authority, entity, or instrumentality thereof;

- (ii) Insolvency: “**Insolvency**” means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of, or any analogous proceeding affecting a Fund, (x) all the Fund Interests of that Fund are required to be transferred to a trustee, liquidator or other similar official or (y) holders of the Fund Interests of that Fund become legally prohibited from transferring or redeeming them;
- (iii) Fund Insolvency Event: “**Fund Insolvency Event**” means a Fund or relevant Fund Service Provider (A) is dissolved or has a resolution passed for its dissolution, winding-up or official liquidation (other than pursuant to a consolidation, amalgamation or merger); (B) makes a general assignment or arrangement with or for the benefit of its creditors; (C) (x) institutes or has instituted against it, by a regulator, supervisor, or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor, or similar official, or (y) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (x) above and either (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed, or restrained in each case within fifteen calendar days of the institution or presentation thereof; (D) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official for it or for all or substantially all its assets; (E) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen calendar days thereafter; or (F) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (E) and (F) above;
- (iv) NAV Trigger Event: “**NAV Trigger Event**” means that (x) the aggregate net asset value of a Fund has decreased by an amount equal to or greater than 30 per cent. since the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date; or (y) a Fund has violated any leverage restriction that is applicable to, or affecting, it or its assets by operation of any law, any order, or judgment of any court or other agency of government applicable to it or any of its assets, the relevant Fund Documents or any contractual restriction binding on or affecting the Fund or any of its assets;
- (v) Adviser Resignation Event: “**Adviser Resignation Event**” means the resignation, termination of appointment, or replacement of a Fund’s Fund Adviser;
- (vi) Fund Modification: “**Fund Modification**” means any change or modification of the relevant Fund Documents that could reasonably be expected to affect the value of a Fund Interest or the rights or remedies of any holders thereof (in each case, as determined by the Calculation Agent) from those prevailing on the Trade Date or, in respect of a Replacement Fund Interest, the relevant replacement date; or the

imposition of any fees or charges in relation to redemptions, subscriptions, or transfers of Fund Interests;

- (vii) Strategy Breach: “**Strategy Breach**” means any breach or violation of any strategy or investment guidelines stated in the relevant Fund Documents that is reasonably likely to affect the value of a Fund Interest or the rights or remedies of any holders thereof (in each case, as determined by the Calculation Agent); or any change of the nature of a Fund, including but not limited to the type of investments, the duration, the credit risk, and diversification of the investments to which that Fund is exposed, which, in the opinion of the Calculation Agent, results in a material deterioration of the risk profile of that Fund;
- (viii) Regulatory Action: “**Regulatory Action**” means (x) the cancellation, suspension or revocation of the registration or approval of a Fund Interest or the related Fund by any governmental, legal or regulatory entity with authority over such Fund Interest or Fund, (y) any change in the legal, tax, accounting, or regulatory treatments of a Fund or its Fund Adviser that is reasonably likely to have an adverse impact on the value of the related Fund Interest or on any investor therein (as determined by the Calculation Agent), or (z) a Fund or any of its Fund Administrator or Fund Adviser becoming subject to investigation, proceeding, or litigation by any relevant governmental, legal, or regulatory authority involving the alleged violation of applicable law for any activities relating to or resulting from the operation of such Fund, Fund Administrator, or Fund Adviser;
- (ix) Reporting Disruption: “**Reporting Disruption**” means (x) the occurrence of any event affecting a Fund Interest that, in the determination of the Calculation Agent, would make it impossible or impracticable for the Calculation Agent to determine the value of such Fund Interest in respect of a Scheduled Fund Valuation Date or a Scheduled Fund Redemption Valuation Date, and such event continues for at least two consecutive Scheduled Fund Valuation Dates or Scheduled Fund Redemption Valuation Dates, as the case may be; (y) any failure of a Fund to deliver, or cause to be delivered, (A) information that such Fund has agreed to deliver, or cause to be delivered to the Calculation Agent, including, but not limited to, information to determine the occurrence of a Fund Event and the annual audited financial report and semi-annual financial report, if any, in relation to the related Fund Interests, or (B) information that has been previously delivered to the Calculation Agent, in accordance with such Fund’s, or its authorized representative’s, normal practice and that the Calculation Agent deems necessary to monitor such Fund’s compliance with any investment guidelines, asset allocation methodologies or any other similar policies relating to the related Fund Interests;
- (x) Fund Service Provider Cessation: “**Fund Service Provider Cessation**” means that one or more Fund Service Provider(s) in respect of a Fund ceases to provide the service as outlined in the relevant Fund Documents prevailing on the Trade Date or, where the related Fund Interest is a Replacement Fund Interest, the relevant replacement date, and any such Fund Service Provider is not immediately replaced by another service provider acceptable to the Calculation Agent;
- (xi) Fund Administrator Disruption: “**Fund Administrator Disruption**” means any event or circumstances compromising the independence of a Fund Administrator performing services for a Fund from the relevant Fund Adviser; or

- (xii) **Related Agreement Termination:** “**Related Agreement Termination**” means a Fund or any of its Fund Administrator or Fund Adviser is in breach of or has terminated any existing agreement with the Calculation Agent in respect of, but not limited to, retrocession, dealing fees, liquidity, and licensing.

Following the occurrence of a Fund Event, the Issuer may take the action described in (i) or (ii) below such that the Calculation Agent, in its sole and absolute discretion, determines to be practicable, which may be determined by the Calculation Agent after all necessary information has been obtained and/or released by the Fund:

- (i) require the Calculation Agent to make such determinations and/or adjustments to the Terms and Conditions and/or the applicable Final Terms as it determines appropriate to account for the Fund Event, which may include, without limitation,
  - (A) delaying any determination date (including any Valuation Date or Averaging Date) and/ or any date on which payment might otherwise have to be made under the terms of the applicable Final Terms until it determines that no Fund Event exists;
  - (B) determining that, in the sole and absolute discretion of the Calculation Agent, one or more Fund Events may continue until or after any scheduled determination dates and/or payment dates as set out in the applicable Final Terms, and thereafter determining to fix any determination date (including any Valuation or Averaging Date) and/or date on which payment should be made, and making payment on such date of such amount as is appropriate, as determined in the sole and absolute discretion of the Calculation Agent, taking into account the Fund Event, and which may be based solely on any amounts of cash that a Hypothetical Investor in the Fund actually received from the Fund during the relevant period or periods (and which may be less than any relevant net asset value published for the Fund, and may be as low as zero);
  - (C) calculating the value of a Fund Interest and/or replacing a Fund Interest (the “**Affected Fund Interest**”) with a replacement fund interest (the “**Replacement Fund Interest**”) with a value as determined by the Calculation Agent equal to the Removal Value for the Affected Fund Interest and in a fund which in the determination of the Calculation Agent has similar characteristics, investment objectives and policies to those applicable to the Fund in respect of the Affected Fund Interest immediately prior to the occurrence of the Fund Event; or
- (ii) on giving notice to the Noteholders in accordance with Condition 14, redeem all (but not less than all) of the Notes, each Note being redeemed at the Early Redemption Amount.

If the Calculation Agent replaces an Affected Fund Interest with a Replacement Fund Interest, such replacement shall take effect on the first reasonably practicable date following the Removal Date for such Affected Fund Interest on which the Calculation Agent determines that a Hypothetical Investor could acquire the Replacement Fund Interest.

Upon the occurrence of a Fund Event, the Issuer shall give notice as soon as reasonably practicable to the Noteholders in accordance with Condition 14 giving details of the action proposed to be taken in relation thereto, provided that any failure to give, or non-receipt of, such notice will not affect the validity of such action.

## 5. **Fund Potential Adjustment Events**

“**Fund Potential Adjustment Event**” means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Fund Interests or a free distribution or dividend of any such Fund Interests to existing holders by way of bonus, capitalization or similar issue;
- (ii) a distribution, issue or dividend to existing holders of relevant Fund Interests of (A) such Fund Interests or (B) other share capital or securities granting the right to payment of dividends and/or the proceeds of liquidation of the related Fund equally or proportionately with such payments to holders of such Fund Interests or (C) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the related Fund as a result of a spin-off or other similar transaction or (D) any other type of securities, rights or warrants or other assets, in any case for payment (in cash or in other consideration) at less than the prevailing market price as determined by the Calculation Agent;
- (iii) an extraordinary dividend as determined by the Calculation Agent;
- (iv) a repurchase by a Fund of relevant Fund Interests whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise other than where such repurchase is a redemption of Fund Interests initiated by an investor in such Fund Interests and consistent with the relevant Fund Documents; or
- (v) any other event that may have, in the opinion of the Calculation Agent, a diluting, concentrative or other on the theoretical value of relevant Fund Interests.

Following the declaration by a Fund of the terms of any Fund Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Fund Potential Adjustment Event has a diluting, concentrative, or other effect on the theoretical value of the relevant Fund Interest and, if so, will make the corresponding adjustment, if any, to any one or more of any of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion, determines appropriate to account for that diluting, concentrative, or other effect (provided that no adjustments will be made to account solely for changes in volatility, expected dividends or liquidity relative to the relevant Fund Interest) and determine the effective date of that adjustment.

Upon the making of any such adjustment by the Calculation Agent, the Issuer shall give notice as soon as reasonably practicable to the Noteholders in accordance with Condition 14, stating the adjustment to any of the terms of the Terms and Conditions, and/or the applicable Final Terms and giving brief details of the Fund Potential Adjustment Event, provided that any failure to give, or non receipt of, such notice will not affect the validity of any such adjustment.

## 6. Provisions relating to Exchange Traded Funds

Fund Linked Conditions 7, 8, 9 and 10 apply to Exchange Traded Funds.

## 7. Definitions (Exchange Traded Funds)

“**Averaging Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the original date that, but for the occurrence of another Averaging Date or Disrupted Day, or on account of such date not being a Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, a Common Scheduled Trading Day), would have been the final Averaging Date, or, if earlier, the Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common

Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on the relevant Averaging Dates, provided that the Averaging Cut-Off Date shall not fall prior to the original date on which the final Averaging Date was scheduled to fall.

“**Averaging Date**” means each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Scheduled Trading Day, the immediately following Scheduled Trading Day, or, if earlier, the Averaging Cut-Off Date (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Averaging Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day:

- (a) if “Omission” is specified as applying in the applicable Final Terms, then such date will be deemed not to be an Averaging Date for the purposes of determining the relevant price; provided that, if through the operation of this provision there would not be an Averaging Date, then the provisions of the definition of “Valuation Date” will apply for purposes of determining the relevant level or price on the final Averaging Date, as if such final Averaging Date were a Valuation Date that was a Disrupted Day; or
- (b) if “Postponement” is specified as applying in the applicable Final Terms, then the provisions of the definition of “Valuation Date” will apply for the purposes of determining the relevant price on that Averaging Date as if such Averaging Date were a Valuation Date that was a Disrupted Day irrespective of whether, pursuant to such determination, that deferred Averaging Date would fall on a day that already is or is deemed to be an Averaging Date; or
- (c) if “Modified Postponement” is specified as applying in the applicable Final Terms then:
  - (i) where the Fund Linked Notes relate to a single Fund, the Averaging Date shall be the first succeeding Valid Date. If the first succeeding Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for the Fund, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (a)(ii) of the definition of “Valuation Date” below;
  - (ii) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Averaging Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Fund Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Fund Share. If the first succeeding Valid Date in relation to such Fund Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in

relation to such Fund Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (b)(ii) of the definition of “Valuation Date” below;

- (iii) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Averaging Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the originally designated Averaging Date (following adjustment of such date owing to the original date not being a Common Scheduled Trading Day, if applicable) (the “**Scheduled Averaging Date**”) and the Averaging Date for a Fund Share affected by the occurrence of a Disrupted Day shall be the first succeeding Valid Date in relation to such Fund Share. If the first succeeding Valid Date in relation to such Fund Share has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date) in relation to such Fund Share, and (B) the Calculation Agent shall determine the relevant price for that Averaging Date in accordance with sub-paragraph (c)(ii) of the definition of “Valuation Date” below; or
- (iv) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, the Averaging Date for each Fund Share shall be the first succeeding Common Valid Date in relation to such Fund Share. If the first succeeding Common Valid Date has not occurred as of the Valuation Time on the Averaging Cut-Off Date or if such Averaging Date falls on the Averaging Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, then (A) the Averaging Cut-Off Date shall be deemed to be the Averaging Date (irrespective of whether the Averaging Cut-Off Date is already an Averaging Date), and (B) the Calculation Agent shall determine the relevant level or price for that Averaging Date in accordance with sub-paragraph (d)(ii) of the definition of “Valuation Date” below,

and, for the purposes of these Fund Linked Conditions “Valid Date” means a Scheduled Trading Day that is not a Disrupted Day and on which another Averaging Date does not or is deemed not to occur, and “Common Valid Date” means a Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share and on which another Averaging Date does not or is deemed not to occur.

“**Barrier Event Determination Day**” means, in respect of each Fund Share and each Observation Period:

- (a) if the applicable Final Terms provides that “Barrier Event (intraday)” is applicable, each day on which the price of such Fund Share is quoted on the relevant Exchange during such Observation Period, regardless of whether or not such day is a Scheduled Trading Day for such Fund Share (and, for the avoidance of doubt, if the Calculation Agent in its sole and absolute discretion determines that a Market Disruption Event is occurring at any time on any Barrier Event Determination Day, it shall disregard the period during which it determines in its sole and absolute discretion that such Market Disruption Event has occurred and is continuing for the purposes of determining whether or not a Barrier Event (intraday) has occurred); or

- (b) if the applicable Final Terms provides that “Barrier Event (closing)” is applicable, each Scheduled Trading Day for such Fund Share during such Observation Period that is not a Disrupted Day for such Fund Share.

“**Barrier Event Valuation Time (closing)**” means, in respect of each Fund Share to be valued, the Scheduled Closing Time on the relevant Exchange on the relevant Barrier Event Determination Day. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Barrier Event Valuation Time (closing) is after the actual closing time for its regular trading session, then the Barrier Event Valuation Time (closing) shall be such actual closing time.

“**Barrier Event Valuation Time (intraday)**” means any time during the regular trading session (without regard to any after hours or any other trading outside of the regular session) on the Exchange.

“**Barrier Level**” means, in respect of a Fund Share, such price for such Fund Share as is specified in the applicable Final Terms.

“**Basket of Funds**” means a basket composed of Fund Shares in their relative proportions or number of Fund Shares, as specified in the applicable Final Terms.

“**Common Scheduled Trading Day**” means, in respect of a Basket of Funds, each day which is a Scheduled Trading Day for all the Fund Shares in the Basket of Funds.

“**Disrupted Day**” means any Scheduled Trading Day on which a relevant Exchange or any Related Exchange fails to open for trading during its regular trading session or on which a Market Disruption Event has occurred.

“**ETF**” means any fund which is an exchange traded fund as specified in the applicable Final Terms, or if not so specified, any fund which the Calculation Agent determines to be an Exchange Traded Fund.

“**Exchange**” means, in relation to a Fund Share, the exchange or principal trading market for such ETF specified in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Fund Shares in respect of such ETF has temporarily relocated.

“**Exchange Business Day**” means any Scheduled Trading Day on which each Exchange and each Related Exchange are open for trading during their respective regular trading sessions, notwithstanding any such Exchange or Related Exchange closing prior to its Scheduled Closing Time.

“**Fund Performance**” means the Fund Performance specified in the applicable Final Terms.

“**Fund Share**” means a share of each ETF.

“**Fund Share Closing Price**” means, in respect of a Fund Share and any relevant date, subject to these Fund Linked Conditions, an amount equal to the official closing price of such Fund Share quoted on the relevant Exchange as determined by the Calculation Agent on such date.

“**Fund Share Price**” means, in respect of a Fund Share and a time on a Scheduled Trading Day and subject to these Fund Linked Conditions, the price of such Fund Share at such time on such day as determined by the Calculation Agent.

“**Observation Cut-Off Date**” means the eighth Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Observation Date or, if earlier, the Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading

Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Observation Date, provided that the Observation Cut-Off Date shall not fall prior to the original date on which such Observation Date was scheduled to fall.

“**Observation Date**” means each date specified as such in the applicable Final Terms, or if such date is not a Scheduled Trading Day the first Scheduled Trading Day thereafter (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as an Observation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If any such day is a Disrupted Day, then:

- (a) where the Fund Linked Notes relate to a single Fund, that Observation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Observation Cut-Off Date;
- (b) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, that Observation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or, if earlier, the Observation Cut-Off Date) and that Observation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, that Observation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Observation Cut-Off Date) and that Observation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is

not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Observation Date (or if the Scheduled Observation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Observation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day for such Fund Share, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions; or

- (d) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be applicable, that Observation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Observation Date up to and including the Observation Cut-Off Date is a Disrupted Day for one or more Fund Shares. In that case, or if such Observation Date falls on the Observation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Observation Cut-Off Date shall be deemed to be that Observation Date (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Fund Share for which the Observation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Observation Cut-Off Date, and otherwise in accordance with the above provisions.

**“Observation Period”** means, in respect of a Fund Share:

- (a) if the consequence of “Extension” is specified in the applicable Final Terms to be applicable, each period commencing on, the Observation Period Start Date, following adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, following adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period End Date, as specified in the applicable Final Terms); or
- (b) if the consequence of “No Extension” is specified in the applicable Final Terms to be applicable, each period commencing on the Observation Period Start Date, prior to any adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms) and ending on the immediately following Observation Period End Date, prior to any adjustment of such date pursuant to these Fund Linked Conditions or as specified in the applicable Final Terms, if applicable (and including or excluding such Observation Period Start Date, as specified in the applicable Final Terms).

**“Observation Period End Date”** means, in respect of a Fund Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date”, or otherwise as specified in the applicable Final Terms, if applicable.

**“Observation Period Start Date”** means, in respect of a Fund Share, each date specified as such in the applicable Final Terms, subject to adjustment in accordance with the provisions of “Observation Date”, “Valuation Date”, or otherwise as specified in the applicable Final Terms, if applicable.

**“Related Exchange”** means, in relation to a Fund Share, each exchange or principal trading market specified as such for such Fund Share in the applicable Final Terms, any successor to such exchange or quotation system or any substitute exchange or quotation system to which trading in the Fund Shares in respect of such Fund Share has temporarily relocated (provided the Calculation Agent has determined that there is comparable liquidity relative to such Fund Shares on such temporary substitute exchange or quotation system as on the original Related Exchange), provided however, that where “All Exchanges” is specified as the Related Exchange in the applicable Final Terms, “Related Exchange” shall mean each exchange or principal trading market where trading has a material effect (as determined by the Calculation Agent) on the overall market for such Fund Shares.

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

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

**“Scheduled Trading Day”** means any day on which each Exchange and each Related Exchange are scheduled to be open for trading for their respective regular trading sessions.

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

**“Underlying Index”** means the underlying index specified in the applicable Final Terms.

**“Valuation Cut-Off Date”** means the eighth Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the eighth Common Scheduled Trading Day) immediately following the Scheduled Valuation Date or if earlier the Scheduled Trading Day (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, the Common Scheduled Trading Day) falling on or immediately preceding the second Business Day immediately preceding the date on which payment of any amount or delivery of any assets may have to be made pursuant to any calculation or determination made on such Valuation Date, provided that the Valuation Cut-Off Date shall not fall prior to the original date on which such Valuation Date was scheduled to fall.

**“Valuation Date”** means each Valuation Date specified in the applicable Final Terms, or if that is not a Scheduled Trading Day the first Scheduled Trading Day thereafter or, if earlier, the Valuation Cut-Off Date (or, where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall be applicable, each date specified as a Valuation Date in the applicable Final Terms or, if any such date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day). If such day is a Disrupted Day, then:

- (a) where the Fund Linked Notes relate to a single Fund, the Valuation Date shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day, unless each of the Scheduled

Trading Days up to and including the Valuation Cut-Off Date is a Disrupted Day. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price in the manner set out in the applicable Final Terms or, if not set out or if not practicable, determine the relevant price in accordance with its good faith estimate of the relevant price as of the Valuation Time on the Valuation Cut-Off Date; or

- (b) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” shall not be applicable, the Valuation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Scheduled Trading Day for such Fund Share, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for the Affected Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions;
- (c) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Individual Disrupted Days” shall be applicable, the Valuation Date for each Fund Share not affected by the occurrence of a Disrupted Day shall be the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day, or in either case, if earlier, the Valuation Cut-Off Date) and the Valuation Date for each Fund Share affected (each an “**Affected Fund Share**”) by the occurrence of a Disrupted Day shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day relating to the Affected Fund Share, unless each of the Scheduled Trading Days immediately following the Scheduled Valuation Date (or if the Scheduled Valuation Date is not a Common Scheduled Trading Day, the immediately following Common Scheduled Trading Day) up to and including the Valuation Cut-Off Date is a Disrupted Day relating to the Affected Fund Share. In that case, or if such Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date for such Fund Share (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to such Fund Share, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions; or
- (d) where the Fund Linked Notes relate to a Basket of Funds and the applicable Final Terms provides that “Common Scheduled Trading Days” and “Common Disrupted Days” shall be

applicable, the Valuation Date shall be the first succeeding Common Scheduled Trading Day that is not a Disrupted Day for any Fund Share, unless each of the Common Scheduled Trading Days immediately following the Scheduled Valuation Date up to and including the Valuation Cut-Off Date is a Disrupted Day for one or more Fund Shares. In that case, or if the Valuation Date falls on the Valuation Cut-Off Date owing to the original date on which it was scheduled to fall not being a Common Scheduled Trading Day, (i) the Valuation Cut-Off Date shall be deemed to be the Valuation Date (notwithstanding the fact that such day may be a Disrupted Day for a Fund Share or not a Common Scheduled Trading Day) and (ii) the Calculation Agent shall determine the relevant price using, in relation to each Fund Share for which the Valuation Cut-Off Date is a Disrupted Day or is not a Common Scheduled Trading Day, a price determined in the manner set out in the applicable Final Terms or, if not set out or if not practicable, using its good faith estimate of the price for such Fund Share as of the Valuation Time on the Valuation Cut-Off Date, and otherwise in accordance with the above provisions.

“**Valuation Time**” means the Valuation Time specified in the applicable Final Terms or, if no Valuation Time is specified, the Scheduled Closing Time on the relevant Exchange on the relevant Valuation Date in relation to each Fund Share to be valued. If the relevant Exchange closes prior to its Scheduled Closing Time and the specified Valuation Time is after the actual closing time for its regular trading session, then the Valuation Time shall be such actual closing time.

#### 8. **Barrier Event**

- (a) A “**Barrier Event (intraday)**” means (and a Barrier Event (intraday) shall be deemed to occur if), in respect of a Fund Share, the Calculation Agent determines that the Fund Share Price of such Fund Share as of the Barrier Event Valuation Time (intraday) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Fund Share and such Barrier Event Determination Day.

For the purpose of determining whether a Barrier Event (intraday) has occurred on any day, the definition of Market Disruption Event specified in Fund Linked Condition 9 shall be amended such that (i) all references to “during the one hour period that ends at the relevant Valuation Time” shall be deleted, and (ii) in sub-paragraph (b) each reference to “Valuation Time” and “Scheduled Closing Time” shall be construed as a reference to “Barrier Event Valuation Time (intraday)”.

- (b) A “**Barrier Event (closing)**” means (and a Barrier Event (closing) shall be deemed to occur if), in respect of a Fund Share, the Calculation Agent determines that the Fund Share Closing Price of any Fund Share as of the Barrier Event Valuation Time (closing) on any Barrier Event Determination Day is less than or equal to the corresponding Barrier Level for such Fund Share and such Barrier Event Determination Day.

#### 9. **Market Disruption**

“**Market Disruption Event**” means, in respect of a Fund Share:

- (a) the occurrence or existence at any time during the one hour period that ends at the relevant Valuation Time:
- (x) of any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise:

- (i) relating to the relevant Fund Share on such Exchange; or
  - (ii) relating to securities that comprise 20 per cent. or more of the level of the relevant Underlying Index or any relevant successor index; or
  - (iii) in futures or options contracts relating to such Fund Shares or the relevant Underlying Index on any relevant Related Exchange, or
- (y) of any event (other than an event described in (b) below) that disrupts or impairs (as determined by the Calculation Agent) the ability of market participants in general to (i) effect transactions in, or obtain market values for, the Fund Shares on the Exchange, (ii) effect transactions in, or obtain market values for securities that comprise 20 per cent. or more of the level of the relevant Underlying Index, or (iii) to effect transactions in, or obtain market values for, futures or options contracts relating to such Fund Shares or the relevant Underlying Index on any relevant Related Exchange; or
- (b) the closure on any Exchange Business Day of any relevant Exchange(s) or any Related Exchange(s) prior to its Scheduled Closing Time unless such earlier closing time is announced by such Exchange(s) or such Related Exchange(s), as the case may be, at least one hour prior to (A) the actual closing time for the regular trading session on such Exchange(s) or such Related Exchange on such Exchange Business Day or, if earlier, (B) the submission deadline for orders to be entered into such Exchange or Related Exchange system for execution at the Valuation Time on such Exchange Business Day,

which in any such case the Calculation Agent determines is material.

For the purpose of determining whether a Market Disruption Event exists in respect of a Fund Share at any time, if an event giving rise to a Market Disruption Event occurs in respect of a security included in the relevant Underlying Index at that time, then the relevant percentage contribution of that security, to the level of the relevant Underlying Index shall be based on a comparison of (i) the portion of the level of the relevant Underlying Index attributable to that security, and (ii) the overall level of the relevant Underlying Index immediately before the occurrence of such Market Disruption Event.

The Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 of the occurrence of a Disrupted Day on any day that, but for the occurrence of a Disrupted Day, would have been a Valuation Date provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Disrupted Day.

#### 10. **Potential Adjustment Event**

“**Potential Adjustment Event**” means any of the following:

- (i) a subdivision, consolidation or reclassification of relevant Fund Shares (unless resulting in a Merger Event or Tender Offer), or a free distribution or dividend of any such Fund Shares to existing holders by way of bonus, capitalization or similar issue;
- (ii) a distribution, issue or dividend to existing holders of the relevant Fund Shares of (a) such Fund Shares or (b) other share capital or securities granting the right to payment of dividends and/ or the proceeds of liquidation of the ETF equally or proportionately with such payments to holders of such Fund Shares or (c) share capital or other securities of another issuer acquired or owned (directly or indirectly) by the ETF as a result of a spin-off or other similar transaction, or (d) any other type of securities, rights or warrants or other assets in any case

for payment (cash or other consideration) at less than the prevailing market price as determined by the Calculation Agent;

- (iii) an extraordinary dividend as determined by the Calculation Agent;
- (iv) a call by the ETF in respect of relevant Fund Shares that are not fully paid;
- (v) a repurchase by the ETF or any of its subsidiaries of relevant Fund Shares, whether out of profits or capital and whether the consideration for such repurchase is cash, securities or otherwise;
- (vi) in respect of an ETF, an event that results in any shareholder rights being distributed or becoming separated from Fund Shares of common stock or other shares of the capital stock of the ETF pursuant to a shareholder rights plan or arrangement directed against hostile takeovers that provides upon the occurrence of certain events for a distribution of preferred stock, warrants, debt instruments or stock rights at a price below their market value, as determined by the Calculation Agent, provided that any adjustment effected as a result of such an event shall be readjusted upon any redemption of such rights; or
- (vii) any other event that may have a diluting or concentrative effect on the theoretical value of the relevant Fund Shares.

Following a Potential Adjustment Event, the Calculation Agent will, in its sole and absolute discretion, determine whether such Potential Adjustment Event has a diluting or concentrative effect on the theoretical value of the relevant Fund Shares and, if so, will (a) make the corresponding adjustment(s), if any, to any one or more of the terms of the Terms and Conditions of the Notes and/or the applicable Final Terms as the Calculation Agent determines appropriate to account for that diluting or concentrative effect and (b) determine the effective date(s) of that adjustment(s). The Calculation Agent may, but need not, determine the appropriate adjustment(s) by reference to the adjustment(s) in respect of such Potential Adjustment Event made by an options exchange to options on the relevant Fund Shares traded on such options exchange.

Upon the making of any such adjustment, the Calculation Agent shall as soon as is reasonably practicable under the circumstances give notice to the Noteholders in accordance with Condition 14 stating the adjustment made and giving brief details of the Potential Adjustment Event, provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such adjustment.

#### 11. **De-Listing, Insolvency, Material Underlying Event, Merger Date, Merger Event, Nationalization, Tender Offer**

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

“**Insolvency**” means that by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution, or winding-up of or any analogous proceeding affecting an ETF, (A) all the Fund Shares of that ETF are required to be transferred to a trustee, liquidator, or other similar official or (B) holders of the Fund Shares of that ETF become legally prohibited from transferring them.

“**Material Underlying Event**” means any of the following:

- (i) the investment objectives and/or policies in respect of the ETF are materially changed;
- (ii) an illegality occurs or a relevant authorization or license is revoked in respect of the ETF and/ or the ETF is required by a competent authority (other than any holder of the Fund Shares) to redeem any Fund Shares;
- (iii) there is a change in any relevant jurisdiction in respect of any payments made by the ETF in respect of any Fund Share as a result of which the amounts paid or to be paid by the Issuer in connection with hedging arrangements relating to the Notes are materially reduced or otherwise adversely affected; and/or
- (iv) any other event occurs in relation to the ETF and/or the Fund Shares which is materially prejudicial to the Issuer in connection with the issue of the Notes or any hedging arrangements relating to the Notes,

as determined by the Calculation Agent.

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

“**Merger Event**” means, in respect of any relevant Fund Shares, any (i) reclassification or change of such Fund Shares that results in a transfer of or an irrevocable commitment to transfer all of such Fund Shares outstanding to another entity or person, (ii) consolidation, amalgamation, merger or binding share exchange of the ETF with or into another entity or person (other than a consolidation, amalgamation, merger or binding share exchange in which such ETF is the continuing entity and which does not result in any such reclassification or change of all such Fund Shares outstanding) or (iii) takeover offer, tender offer, exchange offer, solicitation, proposal, or other event by any entity or person to purchase or otherwise obtain 100 per cent. of the outstanding Fund Shares of the relevant ETF that results in a transfer of or an irrevocable commitment to transfer all such Fund Shares (other than such Fund Shares owned or controlled by such other entity or person), or (iv) consolidation, amalgamation, merger, or binding share exchange of the ETF or its subsidiaries with or into another entity in which the ETF is the continuing entity and which does not result in a reclassification or change of all such Fund Shares outstanding but results in the outstanding Fund Shares (other than Fund Shares owned or controlled by such other entity) immediately prior to such event collectively representing less than 50 per cent. of the outstanding Fund Shares immediately following such event (a “**Reverse Merger**”), in each case if the Merger Date is on or before the Valuation Date (or such other date as is specified in the applicable Final Terms).

“**Nationalization**” means that all the Fund Shares or all or substantially all the assets of an ETF are nationalized, expropriated or are otherwise required to be transferred to any governmental agency, authority, entity, or instrumentality thereof.

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

If a De-Listing, Merger Event, Tender Offer, Nationalization, Insolvency, or Material Underlying Event occurs in relation to any Fund Share, the Issuer in its sole and absolute discretion may take the action described in (i), (ii) or (iii) below:

- (i) require the Calculation Agent, in its sole and absolute discretion, to determine the appropriate adjustment(s), if any, to be made to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms to account for the De-Listing, Merger Event, Tender Offer, Nationalization, Insolvency, or Material Underlying Event, as the case may be, and determine the effective date(s) of that adjustment(s). The Calculation Agent may (but need not) determine the appropriate adjustment(s) by reference to the adjustment(s) in respect of the De-Listing, Merger Event, Tender Offer, Nationalization, Insolvency, or Material Underlying Event made by any options exchange to options on the relevant Fund Share traded on that options exchange;
- (ii) give notice to the Noteholders in accordance with Condition 14, and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount; or
- (iii) following such adjustment to the settlement terms of options on the Fund Shares traded on such exchange(s) or quotation system(s) as the Issuer in its sole discretion shall select (the “**Options Exchange**”), require the Calculation Agent to make a corresponding adjustment to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms, which adjustment will be effective as of the date determined by the Calculation Agent to be the effective date of the corresponding adjustment made by the Options Exchange. If options on the Fund Shares are not traded on the Options Exchange, the Calculation Agent will make such adjustment, if any, to any one or more of the terms of the Terms and Conditions and/or the applicable Final Terms as the Calculation Agent in its sole and absolute discretion determines appropriate, with reference to the rules and precedents (if any) set by the Options Exchange to account for the Merger Event, Tender Offer, De-listing, Nationalization, Insolvency, or Material Underlying Event, as the case may be, that in the determination of the Calculation Agent would have given rise to an adjustment by the Options Exchange if such options were so traded.

Upon the occurrence of a Merger Event, Tender Offer, De-listing, Nationalization, Insolvency, or Material Underlying Event, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Merger Event, Tender Offer, Nationalization, De-listing, Insolvency, or Material Underlying Event, as the case may be, giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of any such Merger Event, Tender Offer, De-listing, Nationalization, or Insolvency, as the case may be.

## 12. **Additional Disruption Events**

- (a) “**Additional Disruption Event**” means any of Change in Law, Hedging Disruption and/or Increased Cost of Hedging, in each case if specified in the applicable Final Terms.

“**Change in Law**” means that, on or after the Trade Date (i) due to the adoption of or any change in any applicable law or regulation (including, without limitation, any tax law), or (ii) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), the Calculation Agent determines in its sole and absolute discretion that (A) it has become illegal to hold, acquire, or dispose of any relevant Fund Share or (B) it will incur a materially increased cost in performing its obligations in relation to the Fund Linked Notes (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on the tax position of the Issuer and/or any of its affiliates).

“**Hedging Disruption**” means that the Issuer and/or any of its Affiliates or agents is unable, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind, or dispose of any transaction(s) or asset(s) it deems necessary to hedge the equity or other price risk of the Issuer issuing and performing its obligations with respect to the Fund Linked Notes, or (ii) realize, recover or remit the proceeds of any such transaction(s) or asset(s).

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

- (b) If an Additional Disruption Event occurs, the Issuer in its sole and absolute discretion may take the action described in (i) or (ii) below:
  - (i) require the Calculation Agent to determine in its sole and absolute discretion the appropriate adjustment, if any, to be made to any of the other terms of the Terms and Conditions and/or the applicable Final Terms to account for the Additional Disruption Event and determine the effective date of that adjustment; or
  - (ii) give notice to Noteholders in accordance with Condition 14 and redeem all, but not less than all, of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount.
- (c) Upon the occurrence of an Additional Disruption Event, the Issuer shall give notice as soon as practicable to the Noteholders in accordance with Condition 14 stating the occurrence of the Additional Disruption Event giving details thereof and the action proposed to be taken in relation thereto provided that any failure to give, or non-receipt of, such notice will not affect the validity of the Additional Disruption Event.

ANNEX 7

**ADDITIONAL TERMS AND CONDITIONS FOR INFLATION LINKED NOTES**

*The terms and conditions applicable to Inflation Linked Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Inflation Linked Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes, and the Inflation Linked Conditions, the Inflation Linked Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the Inflation Linked Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

**1. Definitions**

For the purpose of the Inflation Linked Notes:

“**Cut-Off Date**” means, in respect of a Determination Date, five Business Days prior to such Determination Date, unless otherwise stated in the applicable Final Terms.

“**Delayed Index Level Event**” means, in respect of any Determination Date and an Inflation Index, that the relevant Index Sponsor fails to publish or announce the level of such Index (the “**Relevant Level**”) in respect of any Reference Month which is to be utilized in any calculation or determination to be made by the Issuer in respect of such Determination Date, at any time on or prior to the Cut-Off Date.

“**Determination Date**” means each date specified as such in the applicable Final Terms.

“**End Date**” means each date specified as such in the applicable Final Terms.

“**Fallback Bond**” means, in respect of an Inflation Index, a bond selected by the Calculation Agent and issued by the government of the country to whose level of inflation the relevant Inflation Index relates and which pays a coupon or redemption amount which is calculated by reference to such Inflation Index, with a maturity date which falls on (a) the same day as the End Date as specified in the applicable Final Terms, (b) the next longest maturity after the End Date if there is no such bond maturing on the End Date, or (c) the next shortest maturity before the End Date if no bond defined in (a) or (b) is selected by the Calculation Agent. If the relevant Inflation Index relates to the level of inflation across the European Monetary Union, the Calculation Agent will select an inflation-linked bond that is a debt obligation of one of the governments (but not any government agency) of France, Italy, Germany, or Spain and which pays a coupon or redemption amount which is calculated by reference to the level of inflation in the European Monetary Union. In each case, the Calculation Agent will select the Fallback Bond from those inflation-linked bonds issued on or before the Issue Date and, if there is more than one inflation-linked bond maturing on the same date, the Fallback Bond shall be selected by the Calculation Agent from those bonds. If the Fallback Bond redeems, the Calculation Agent will select a new Fallback Bond on the same basis, but selected from all eligible bonds in issue at the time the original Fallback Bond redeems (including any bond for which the redeemed bond is exchanged).

“**Inflation Index**” means each inflation index specified in the applicable Final Terms and related expressions shall be construed accordingly.

“**Inflation Index Sponsor**” means, in relation to an Inflation Index, the entity that publishes or announces (directly or through an agent) the level of such Inflation Index which, as of the Issue Date, is the Inflation Index Sponsor specified in the applicable Final Terms.

“**Reference Month**” means the calendar month for which the level of the Inflation Index was reported, regardless of when this information is published or announced. If the period for which the level of the Inflation Index was reported is a period other than a month, the Reference Month shall be the period for which the level of the Inflation Index was reported.

“**Related Bond**” means, in respect of an Inflation Index, the bond specified as such in the applicable Final Terms. If the Related Bond specified in the applicable Final Terms is “Fallback Bond”, then, for any Related Bond determination, the Calculation Agent shall use the Fallback Bond. If no bond is specified in the applicable Final Terms as the Related Bond and “Fallback Bond: Not Applicable” is specified in the applicable Final Terms there will be no Related Bond. If a bond is selected as the Related Bond in the applicable Final Terms and that bond redeems or matures before the End Date, unless “Fallback Bond: Not Applicable” is specified in the applicable Final Terms, the Calculation Agent shall use the Fallback Bond for any Related Bond determination.

## 2. **Inflation Index Adjustments**

### (a) **Delay in Publication**

Subject to Inflation Linked Condition 2(b), if the Calculation Agent determines that a Delayed Index Level Event in respect of an Index has occurred with respect to any Determination Date, then the Relevant Level for such Index the subject of such Delayed Index Level Event (the “**Substitute Index Level**”) shall be determined by the Calculation Agent as follows:

- (i) if Related Bond is specified as applicable for such Index in the applicable Final Terms, the Calculation Agent shall determine the Substitute Index Level by reference to the corresponding index level determined under the terms and conditions of the relevant Related Bond; or
- (ii) if (I) Related Bond is specified as not applicable for such Index in the applicable Final Terms, or (II) the Calculation Agent is not able to determine a Substitute Index Level under (i) above, the Calculation Agent shall determine the Substitute Index Level by reference to the following formula:

Substitute Index Level = Base Level 6 (Latest Level/Reference Level)

where:

“**Base Level**” means, in respect of an Inflation Index, the level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor in respect of the month which is 12 calendar months prior to the month for which the Substitute Index Level is being determined.

“**Latest Level**” means, in respect of an Inflation Index, the latest level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor prior to the month in respect of which the Substitute Index Level is being determined.

“**Reference Level**” means, in respect of an Inflation Index, the level of such Inflation Index (excluding any “flash” estimates) published or announced by the relevant Inflation Index Sponsor in respect of the month that is 12 calendar months prior to the month in respect of the Latest Level.

The Issuer shall give notice to Noteholders in accordance with Condition 14 of any Substitute Index Level calculated pursuant to this Inflation Linked Condition 2.

(b) **Cessation of Publication**

If a level for the Inflation Index has not been published or announced for two consecutive months or the Inflation Index Sponsor announces that it will no longer continue to publish or announce the Inflation Index then the Calculation Agent shall determine a successor index (in lieu of any previously applicable Inflation Index) for the purposes of the Inflation Linked Notes by using the following methodology:

- (i) if at any time, a successor index has been designated by the Calculation Agent pursuant to the terms and conditions of the Related Bond, such successor index shall be designated a “Successor Index” notwithstanding that any other Successor Index may previously have been determined under paragraphs (ii), (iii) or (iv) below; or
- (ii) if a Successor Index has not been determined pursuant to Inflation Linked Condition 2(b)(i) and Inflation Linked Condition 2(b)(ii) a notice has been given or an announcement has been made by the Inflation Index Sponsor, specifying that the Inflation Index will be superseded by a replacement Inflation Index specified by the Inflation Index Sponsor, and the Calculation Agent determines that such replacement index is calculated using the same or substantially similar formula or method of calculation as used in the calculation of the previously applicable Inflation Index, such replacement index shall be the Inflation Index for purposes of the Inflation Linked Notes from the date that such replacement Inflation Index comes into effect; or
- (iii) if a Successor Index has not been determined pursuant to Inflation Linked Condition 2(b)(i), the Calculation Agent shall ask five leading independent dealers to state what the replacement index for the Inflation Index should be. If between four and five responses are received, and of those four or five responses, three or more leading independent dealers state the same index, this index will be deemed the “Successor Inflation Index”. If three responses are received, and two or more leading independent dealers state the same index, this index will be deemed the “Successor Inflation Index”. If fewer than three responses are received, the Calculation Agent will proceed to Inflation Linked Condition 2(b)(iv); or
- (iv) if no replacement index or Successor Inflation Index has been deemed under Inflation Linked Conditions 2(b)(i), 2(b)(ii) or 2(b)(iii), by the next occurring Cut-Off Date the Calculation Agent will determine an appropriate alternative index from such Cut-Off Date, and such index will be deemed a “Successor Inflation Index”; or
- (v) if the Calculation Agent determines that there is no appropriate alternative index, the Issuer shall give notice to the Noteholders in accordance with Condition 14 and redeem all (but not less than all) of the Notes, each nominal amount of Notes equal to the Specified Denomination being redeemed at the Early Redemption Amount.

(c) **Rebasing of the Inflation Index**

If the Calculation Agent determines that the Inflation Index has been or will be rebased at any time, the Inflation Index as so rebased (the “**Rebased Index**”) will be used for purposes of determining the level of the Inflation Index from the date of such rebasing; provided, however, that the Calculation Agent shall make adjustments as are made by the Calculation Agent pursuant to the terms and conditions of the Related Bond, if Related Bond is specified as applicable in the applicable Final Terms, to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Index before it was rebased, or, if Related Bond is specified as not applicable in the applicable Final Terms the Calculation Agent shall make adjustments to the levels of the Rebased Index so that the Rebased Index levels reflect the same rate of inflation as the Inflation Index before it was rebased.

**(d) Material Modification Prior to Last Occurring Cut-Off**

If, on or prior to the last occurring Cut-Off Date, the Inflation Index Sponsor announces that it will make a material change to the Inflation Index then the Calculation Agent shall make any such adjustments, if Related Bond is specified as applicable in the applicable Final Terms, consistent with adjustments made to the Related Bond, or, if Related Bond is specified as not applicable in the applicable Final Terms, only those adjustments to the Inflation Index necessary for the modified Inflation Index to continue as the Inflation Index.

## ANNEX 8

## ADDITIONAL TERMS AND CONDITIONS FOR PHYSICAL DELIVERY NOTES

*The terms and conditions applicable to Physical Delivery Notes shall comprise the Terms and Conditions of the Notes and the additional Terms and Conditions set out below (the “**Physical Delivery Conditions**”), in each case subject to completion and/or amendment in the applicable Final Terms. In the event of any inconsistency between the Terms and Conditions of the Notes, and the Physical Delivery Conditions, the Physical Delivery Conditions shall prevail. In the event of any inconsistency between (i) the Terms and Conditions of the Notes and/or the Physical Delivery Conditions and (ii) the Final Terms, the Final Terms shall prevail.*

**1. Delivery of Entitlement and Asset Transfer Notices**

In order to obtain delivery of the Entitlement(s) in respect of any Note:

- (a) if such Note is represented by a Global Note, the relevant Noteholder must deliver to the Relevant Clearing System, with a copy to the Principal Agent and the Issuer not later than the close of business in each place of receipt on the Cut-Off Date, a duly completed Asset Transfer Notice substantially in the form set out in the Agency Agreement (the “**Asset Transfer Notice**”); and
- (b) if such Note is in definitive form, the relevant Noteholder must deliver to any Paying Agent, with a copy to the Principal Agent and the Issuer not later than the close of business in each place of receipt on the Cut-Off Date, a duly completed Asset Transfer Notice.

Forms of the Asset Transfer Notice may be obtained during normal business hours from the specified office of any Paying Agent.

An Asset Transfer Notice may only be delivered (i) if such Note is represented by a Global Note, in such manner as is acceptable to the Relevant Clearing System or (ii) if such Note is in definitive form, in writing.

If such Note is in definitive form, such Note must be delivered together with the duly completed Asset Transfer Notice.

The Issuer shall at the risk of the relevant Noteholder deliver the Entitlement in respect of each Note.

All expenses, including any applicable depositary charges, transaction or exercise charges, stamp duty, stamp duty reserve tax, issue, registration, securities, transfer, and/or other taxes or duties (together “**Expenses**”), arising from the redemption of the Notes and the delivery of any Entitlement shall be for the account of the relevant Noteholder or Couponholder, as the case may be, and no delivery and/or transfer of any Entitlement shall be made until all Expenses have been paid to the satisfaction of the Issuer by the relevant Noteholder or Couponholder, as the case may be.

An Asset Transfer Notice must:

- (a) specify the name, address outside the United States and its possessions, and contact telephone number of the relevant Noteholder or Couponholder, as the case may be, and the person from whom the Issuer may obtain details for the delivery of the Entitlement if such delivery is to be made otherwise than in the manner specified in the applicable Final Terms;

- (b) in the case of Notes represented by a Global Note, specify the nominal amount of Notes which are the subject of such notice and the number of the Noteholder's account at the Relevant Clearing System to be debited with such Notes and irrevocably instruct and authorize the Relevant Clearing System to debit the relevant Noteholder's account with such Notes on or before the Maturity Delivery Date (as defined below);
- (c) include an undertaking to pay all Expenses and, in the case of Notes represented by a Global Note, an authority to debit a specified account of the Noteholder at the Relevant Clearing System in respect thereof and to pay such Expenses;
- (d) include such details as are required by the applicable Final Terms for delivery of the Entitlement which may include account details of an account outside the United States and its possession and/or the name and address outside the United States and its possessions of any person(s) into whose name evidence of the Entitlement is to be registered and/or any bank, broker, or agent outside the United States and its possessions to whom documents evidencing the Entitlement are to be delivered and specify the name and number of the Noteholder's account with the Relevant Clearing System to be credited with any cash payable by the Issuer, in respect of any cash amount constituting the Entitlement or any dividends relating to the Entitlement, as a result of the occurrence of a Settlement Disruption Event or a Failure to Deliver due to Illiquidity and the Issuer electing to pay the Disruption Cash Settlement Price or Failure to Deliver Settlement Price, as applicable, or in respect of any Partial Cash Settlement Amounts;
- (e) certify that the beneficial owner of each Note is not a U.S. person (as defined in Regulation S under the Securities Act), the Note is not being redeemed within the United States or its possessions or on behalf of a U.S. person and no cash, securities or other property have been or will be delivered within the United States or its possessions or to, or for the account or benefit of, a U.S. person in connection with any redemption thereof; and
- (f) authorize the production of such notice in any applicable administrative or legal proceedings.

No Asset Transfer Notice may be withdrawn after receipt thereof by the Relevant Clearing System or a Paying Agent as provided above. After delivery of an Asset Transfer Notice, the relevant Noteholder may not transfer the Notes which are the subject of such notice.

In the case of Notes represented by a Global Note, upon receipt of such notice, the Relevant Clearing System shall verify that the person specified therein as the Noteholder is the holder of the specified nominal amount of Notes according to its books.

Subject thereto, the Relevant Clearing System will confirm to the Principal Agent the ISIN, series number, and number of Notes the subject of such notice, the relevant account details (if applicable) and the details for the delivery of the Entitlement in respect of each such Note. Upon receipt of such confirmation, the Principal Agent will inform the Issuer thereof. The Relevant Clearing System, will on or before the Maturity Delivery Date, debit the securities account of the relevant Noteholder with the Notes the subject of the relevant Asset Transfer Notice.

Failure properly to complete and deliver an Asset Transfer Notice may result in such notice being treated as null and void. Any determination as to whether such notice has been properly completed and delivered as provided in these Physical Delivery Conditions shall be made, in the case of Notes represented by a Global Note, by the Relevant Clearing System, after consultation with the Principal Agent and the Issuer and shall be conclusive and binding on the Issuer and the relevant Noteholder, or, in the case of Notes in definitive form, by the relevant Paying Agent after consultation with the Principal Agent and the Issuer and shall be conclusive and binding on the Issuer and the relevant Noteholder.

If such Asset Transfer Notice is subsequently corrected to the satisfaction of the Relevant Clearing System or the relevant Paying Agent, in each case in consultation with the Principal Agent and the Issuer, it shall be deemed to be a new Asset Transfer Notice submitted at the time such correction was delivered as provided above.

The Relevant Clearing System or the relevant Paying Agent, as applicable, shall use its best efforts promptly to notify the Noteholder submitting an Asset Transfer Notice if, in consultation with the Principal Agent and the Issuer, it has determined that such Asset Transfer Notice is incomplete or not in proper form. In the absence of negligence or willful misconduct on its part, none of the Issuer, the Paying Agents, the Relevant Clearing System or the Principal Agent shall be liable to any person with respect to any action taken or omitted to be taken by it in connection with such determination or the notification of such determination to a Noteholder.

The Entitlement will be delivered at the risk of the relevant Noteholder, in the manner provided above on the Maturity Date (such date, subject to adjustment in accordance with these Physical Delivery Conditions, the “**Maturity Delivery Date**”), provided that the Asset Transfer Notice is duly delivered to the Relevant Clearing System or a Paying Agent, as the case may be, with a copy to the Principal Agent and the Issuer, as provided above, not later than the close of business in each place of receipt on the Cut-Off Date.

If an Asset Transfer Notice is delivered to the Relevant Clearing System or a Paying Agent, as the case may be, with a copy to the Principal Agent and the Issuer, later than the close of business in each place of receipt on the Cut-Off Date, then the Entitlement will be delivered as soon as practicable after the Maturity Date (in which case, such date of delivery shall be the Maturity Delivery Date). Provided that if in respect of a Note an Asset Transfer Notice is not delivered to the Relevant Clearing System or a Paying Agent, as the case may be, with a copy to the Principal Agent and the Issuer, later than the close of business in each place of receipt on the 90th calendar day following the Cut-Off Date, the Issuer’s obligations in respect of such Note shall be discharged and no further liability in respect thereof shall attach to the Issuer. For the avoidance of doubt, in such circumstances such Noteholder shall not be entitled to any payment, whether of interest or otherwise, as a result of such Maturity Delivery Date falling after the originally designated Maturity Delivery Date and no liability in respect thereof shall attach to the Issuer.

Delivery of the Entitlement in respect of the Notes is subject to all applicable laws, regulations and practices in force on the Maturity Delivery Date and none of the Issuer or any of its Affiliates or agents and the Paying Agents shall incur any liability whatsoever if it is unable to effect the transactions contemplated, after using all reasonable efforts, as a result of any such laws, regulations or practices. None of the Issuer or any of its Affiliates or agents and the Paying Agents shall under any circumstances be liable for any acts or defaults of the Relevant Clearing System in relation to the performance of its duties in relation to the Notes.

For such period of time after the Maturity Delivery Date, as any person other than the relevant Noteholder shall continue to be the legal owner of the securities or obligations comprising the Entitlement (the “**Intervening Period**”), neither of the Issuer nor any other such person shall (i) be under any obligation to deliver or procure delivery to the relevant Noteholder or any subsequent beneficial owner of such Note any letter, certificate, notice, circular or any other document or, except as provided herein, payment whatsoever received by that person in respect of such securities or obligations, (ii) be under any obligation to exercise or procure exercise of any or all rights (including voting rights) attaching to such securities or obligations during the Intervening Period or (iii) be under any liability to the relevant Noteholder or any subsequent beneficial owner of such Note in respect of any loss or damage which the relevant Noteholder or subsequent beneficial owner may sustain or suffer as a result, whether directly or

indirectly, of that person being the legal owner of such securities or obligations during such Intervening Period.

Where the Entitlement comprises shares, any dividend or other distribution in respect of such Entitlement will be payable to the party that would receive such dividend or other distribution according to market practice for a sale of the share executed on the Maturity Delivery Date and to be delivered in the same manner as the Entitlement. Any such dividend or other distribution to be paid to a Noteholder shall be paid to the account specified in the relevant Asset Transfer Notice.

The Noteholders will receive an Entitlement comprising of the nearest number (rounded down) of Relevant Assets capable of being delivered by the Issuer (taking into account that a Noteholder's entire holding may be aggregated at the Issuer's discretion for the purpose of delivering the Entitlements), and in respect of the amount of Relevant Assets not capable of being delivered, an amount in the Specified Currency which shall be the value of the amount of the Relevant Assets so rounded down, as calculated by the Calculation Agent in its sole discretion from such source(s) as it may select (converted if necessary into the Specified Currency by reference to such exchange rate as the Calculation Agent deems appropriate).

## 2. Settlement Disruption Event

If, prior to the delivery of the Entitlement in accordance with these Physical Delivery Conditions, a Settlement Disruption Event is subsisting, then the Maturity Delivery Date in respect of such Note shall be postponed until the next Settlement Business Day (as specified in the applicable Final Terms) on which no Settlement Disruption Event is subsisting and notice thereof shall be given to the relevant Noteholder, in accordance with Condition 14. Such Noteholder shall not be entitled to any payment, whether of interest or otherwise, on such Note as a result of any delay in the delivery of the Entitlement pursuant to these Physical Delivery Conditions. Where delivery of the Entitlement has been postponed as provided in this these Physical Delivery Conditions the Issuer shall not be in breach of these Conditions and no liability in respect thereof shall attach to the Issuer.

For so long as delivery of the Entitlement in respect of any Note is not practicable by reason of a Settlement Disruption Event, then in lieu of physical settlement and notwithstanding any other provision hereof, the Issuer may elect in its sole discretion to satisfy its obligations in respect of the relevant Note by payment to the relevant Noteholder of the Disruption Cash Settlement Price not later than on the third Business Day following the date that the notice of such election (the "**Election Notice**") is given to the Noteholders in accordance with Condition 14.

## 3. Failure to Deliver due to Illiquidity

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

- (a) subject as provided elsewhere in these Physical Delivery Conditions and/or the applicable Final Terms, any Relevant Assets which are not Affected Relevant Assets, will be delivered on the originally designated Maturity Delivery Date in accordance with these Physical Delivery Conditions; and
- (b) in respect of any Affected Relevant Assets, notwithstanding any other provision hereof, the Issuer may elect in its sole discretion, in lieu of delivery of the Affected Relevant Assets, to

pay to the relevant Noteholder the Failure to Deliver Settlement Price (as defined below) on the fifth Business Day following the date the Failure to Deliver Notice (as defined below) is given to the Noteholders in accordance with Condition 14. The Issuer shall give notice (such notice a “**Failure to Deliver Notice**”) as soon as reasonably practicable to the Noteholders in accordance with Condition 14 that the provisions of this Physical Delivery Condition 3 apply.

#### 4. **Option to Vary Settlement**

If the applicable Final Terms indicate that the Issuer has an option to vary settlement in respect of the Notes, the Issuer may at its sole and unfettered discretion in respect of each such Note, elect not to pay the relevant Noteholders the Final Redemption Amount or to deliver or procure delivery of the Entitlement to the relevant Noteholders, as the case may be, but, in lieu thereof to deliver or procure delivery of the Entitlement or make payment of the Final Redemption Amount on the Maturity Date to the relevant Noteholders, as the case may be. Notification of such election will be given to Noteholders in accordance with Condition 14.

#### 5. **Definitions**

For the purposes of these Physical Delivery Conditions:

“**Cut-Off Date**” means the date specified as such in the applicable Final Terms.

“**Disruption Cash Settlement Price**” means, in respect of each nominal amount of Notes equal to the Specified Denomination, an amount equal to the fair market value of such Notes (but not taking into account any interest accrued on such Note and paid pursuant to Condition 4 and Condition 5) on such day as shall be selected by the Issuer in its sole and absolute discretion provided that such day is not more than 15 calendar days before the date that the Election Notice is given as provided above less the cost to the Issuer and/or its Affiliates or agents of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as calculated by the Calculation Agent in its sole and absolute discretion.

“**Entitlement**” means, in relation to a Physical Delivery Note, the quantity of the Relevant Asset or the Relevant Assets, as the case may be, which a Noteholder is entitled to receive on the Maturity Delivery Date in respect of each such Note following payment of the Expenses, which quantity will be rounded down as provided in Physical Delivery Condition 1, as determined by the Calculation Agent and includes any documents evidencing such Entitlement.

“**Failure to Deliver Settlement Price**” means, in respect of each nominal amount of the Notes equal to the Specified Denomination, the fair market value of the Affected Relevant Assets in respect of such Notes on the fifth Business Day prior to the date on which the Failure to Deliver Notice is given as provided above, less the cost to the Issuer and/or its Affiliates or agents of unwinding or adjusting any underlying or related hedging arrangements (including the cost of funding in respect of such hedging arrangements), all as calculated by the Calculation Agent in its sole and absolute discretion.

“**Settlement Disruption Event**” means an event beyond the control of the Issuer as a result of which, in the opinion of the Calculation Agent delivery of the Entitlement by or on behalf of the Issuer in accordance with these Physical Delivery Conditions and/or the applicable Final Terms is not practicable.

**UNITED STATES TAXATION**

TO ENSURE COMPLIANCE WITH U.S. TREASURY DEPARTMENT CIRCULAR 230, NOTEHOLDERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF UNITED STATES FEDERAL TAX ISSUES IN THIS OFFERING CIRCULAR IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON BY NOTEHOLDERS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON NOTEHOLDERS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS INCLUDED HEREIN BY THE ISSUER IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE ISSUER AND ANY DEALER OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) NOTEHOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

Except as otherwise provided in the applicable Final Terms, the following is a summary of certain United States federal income tax considerations applicable to an investment in the Notes by United States Alien holders who are the original purchasers of the Notes and who, except to the extent specifically provided, have not purchased, and do not hold, the Notes in connection with a United States trade or business. For purposes of the following discussion it is assumed that Bearer Notes will be in bearer form, the Principal Agent will deliver the Bearer Notes to the holders or their agents outside the United States and its possessions and that none of Euroclear or Clearstream, Luxembourg (or the participants of either), the Common Depository, or the Common Safekeeper, as the case may be, is or will act as the Issuer's agent with respect to any matter relating to the Bearer Notes, including ownership thereof or any payments with respect thereto.

This summary is for general information only, and does not purport to discuss all aspects of United States federal income taxation that may be important to a particular holder in light of its circumstances or to holders subject to special tax rules, such as trusts, estates and controlled foreign corporations, or the beneficiaries or stockholders of such entities.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds the Notes, the U.S. federal income tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership. A partner of a partnership holding the Notes should consult its own tax advisor regarding the U.S. federal income tax consequences to the partner of the acquisition, ownership, and disposition by the partnership of the Notes.

**Bearer Notes Other than Structured Notes**

In respect of Bearer Notes other than Bearer Notes that are specified as "**Structured Notes**" in the applicable Final Terms, under the United States federal income tax laws as in effect on the date of this Offering Circular and subject to the discussion below, payments of principal and interest (including original issue discount), if any, by the Issuer or any Paying Agent (acting in its capacity as such) outside the United States and its possessions to any holder of a Bearer Note (other than Dual Currency Notes) who is a United States Alien generally will not be subject to United States federal income or withholding tax, in the case of interest (including original issue discount) provided that:

- (a) such holder does not actually or constructively own 10.00 per cent. or more of the total combined voting power of all classes of stock of the Issuer entitled to vote;
- (b) such holder is not a controlled foreign corporation for United States federal income tax purposes that is related to the Issuer (directly or indirectly) through stock ownership;

- (c) the interest is not received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business; and
- (d) the interest is not effectively connected with the conduct of a trade or business within the United States.

Under Section 871(h)(4)(A) of the Code, payments of certain types of contingent interest to a United States Alien holder (or any foreign partnership without regard to its status as a United States Alien) may be subject to United States withholding tax equal to 30.00 per cent. of each such payment (or such lower amounts as provided by treaty). In addition, interest on Bearer Notes that are Dual Currency Notes may be subject to withholding, depending upon the terms of those Bearer Notes. If any Bearer Note not specified as a Structured Note in the applicable Final Terms bears contingent interest or is a Dual Currency Note, the applicable Final Terms will specify if interest payments on such notes are subject to any United States withholding taxes.

### **Registered Notes Other than Structured Notes**

In respect of Registered Notes other than Registered Notes that are specified as “**Structured Notes**” in the applicable Final Terms, under the United States federal income tax laws as in effect on the date of this Offering Circular, and subject to the discussion below, payments of principal and interest (including original issue discount), if any, by the Issuer or any Paying Agent (acting in its capacity as such), to any holder of a Registered Note (other than Dual Currency Notes) who is a United States Alien holder generally will not be subject to United States federal income or withholding tax, in the case of interest (including original issue discount) provided that: (i) the requirements of (a) through (d) under “– **Bearer Notes**” above are met; and (ii) either (A) the holder provides the Issuer (or any paying agent) with a statement which sets forth its address, and certifies, under penalties of perjury, that it is not a United States person (which certification generally may be made on an IRS Form W-8BEN (or successor form)) or (B) a financial institution holding the Registered Note on behalf of the holder certifies, under penalties of perjury (which certification generally may be made on an IRS Form W-8IMY (or successor form)), that it has received and will provide the Issuer (or the paying agent) with a statement described in (A) above (the “**Certification Requirement**”).

Payments to United States Alien holders not meeting the requirements set forth above are subject to withholding at a rate of 30.00 per cent. unless (a) the holder is engaged in a trade or business in the United States and the holder provides the Issuer with a properly executed IRS Form W-8ECI (or successor form) certifying that the payments are effectively connected with the conduct of a trade or business in the United States, or (b) the holder provides the Issuer with a properly executed IRS Form W-8BEN (or successor form) claiming an exemption from, or reduction in the rate of, withholding under the benefit of a tax treaty. To claim benefits under an income tax treaty, a United States Alien holder must obtain a taxpayer identification number and certify as to its eligibility under the appropriate treaty’s limitations on benefits article. In addition, special rules may apply to claims for treaty benefits made by holders that are entities rather than individuals. Under Section 871(h)(4)(A) of the Code, payments of certain types of contingent interest to a United States Alien holder (or any foreign partnership without regard to its status as a United States Alien) may be subject to United States withholding tax equal to 30.00 per cent. of each such payment (or such lower amounts as provided by treaty). In addition, interest on Registered Notes that are Dual Currency Notes may be subject to withholding, depending upon the terms of those Registered Notes. If any Registered Note not specified as a Structured Note in the applicable Final Terms bears contingent interest or is a Dual Currency Note, the applicable Final Terms will specify if interest payments on such notes are subject to any United States withholding taxes.

## Structured Notes

Certain Notes will be specified as “Structured Notes” in the applicable Final Terms. The applicable Final Terms will indicate whether the Structured Notes are classified as “Principal Protected” or “Non-Principal Protected” and whether the Issuer will withhold or does not intend to withhold any United States taxes in respect of any payments on Structured Notes. Except to the extent specified in the applicable Final Terms, the Issuer generally intends to withhold on all payments designated as “interest” in the applicable Final Terms (and other amounts subject to withholding) on Structured Notes classified as Non-Principal Protected. Except to the extent specified in the Final Terms, while the United States federal income and withholding tax treatment of a Structured Note will generally depend on the particular terms of such Note, subject to the discussion below, the Issuer generally does not intend to withhold United States federal income tax with respect to payments on Structured Notes classified as Principal Protected, including payments of principal and interest (including original issue discount), if any, by the Issuer or any Paying Agent (acting in its capacity as such) outside the United States and its possession to any holder of such a Note who is a United States Alien, provided that, (i) in the case of interest (including original issue discount), the requirements of (a) through (d) under “–Bearer Notes” above are met for all Notes, and (ii) in respect of Registered Notes, the Certification Requirement is met. All holders should consult the applicable Final Terms as to the Issuer’s intention with respect to withholding. Except to the limited extent set forth in the Terms and Conditions and the applicable Final Terms, the Issuer does not assume any liability for the payment of any tax which it withholds on Structured Notes or any additional amount in respect thereof. Holders of Registered Notes should see the discussion above if the Certification Requirement is not met.

Special rules may apply to payments that are treated as dividends for certain United States federal income tax purposes. The Issuer or its agent will withhold on such payments to the extent required by law notwithstanding any indication to the contrary in the applicable Final Terms.

*The United States federal income and withholding tax consequences of certain Structured Notes are uncertain. No statutory, judicial, or administrative authority directly addresses the characterization of such Notes or notes similar to such Notes for United States federal income, withholding, or other tax purposes. All holders should consult their tax advisors regarding the United States federal income and withholding tax consequences to them of holding such Notes.*

In December 2007, the IRS released a notice (the “**Notice**”) seeking comments on the taxation of financial instruments referred to as “prepaid forward contracts” including “exchange traded notes”. According to the Notice, the IRS and the U.S. Treasury Department (the “**Treasury**”) are considering whether a holder of such an instrument should be required to accrue ordinary income on a current basis, regardless of whether any payments are made prior to maturity. The IRS and Treasury are also considering additional issues, including whether foreign holders of such instruments should be subject to withholding tax on any deemed income accruals. In addition, in late 2007, legislation was introduced in the United States Congress which, if enacted, would require that a holder that acquires such an instrument after the date of enactment of the legislation accrue income on a current basis in certain circumstances. It is not possible to determine what guidance the IRS and Treasury will ultimately issue, if any, what legislation will be enacted, if any, and whether any such guidance or legislation would be retroactive. Any such guidance or legislation may affect the United States federal income and withholding tax treatment of Structured Notes.

## Sale, Exchange or Retirement of the Notes

A United States Alien holder generally will not be subject to United States federal income tax on any gain realized on the sale, exchange, or retirement of a Note (other than gains treated as interest or original issue discount which are subject to the provisions described above, and other than gains treated as

dividends pursuant to United States federal income tax law), provided that (a) the gain is not effectively connected with the conduct of trade or business within the United States, or a permanent establishment maintained in the United States if certain tax treaties apply, (b) in the case of a United States Alien that is an individual, the United States Alien is not present in the United States for 183 days or more in the taxable year of the sale, exchange or retirement of the Note, (c) the Note is not a “United States real property interest” for United States federal income tax purposes, and (d) the United States Alien is not subject to tax pursuant to certain provisions of United States federal income tax law applicable to certain expatriates.

### **Backup Withholding and Information Reporting for Bearer Notes Other than Structured Notes**

A 28.00 per cent. backup withholding tax (which will be increased to 31.00 per cent. for the years 2011 and thereafter) and information reporting requirements apply to certain payments of principal of and interest on an obligation, and payments of the proceeds of the sale of an obligation before maturity, to certain noncorporate United States holders. Under current United States Treasury Department regulations, backup withholding and information reporting will not apply to payments of principal of or interest on a Bearer Note which are made outside the United States (other than payments made to an address in the United States or by transfer to an account maintained by the holder with a bank in the United States) by the Issuer or any Paying Agent (acting in its capacity as such) to a United States Alien holder of a Bearer Note, provided that neither the Issuer nor any such Paying Agent has actual knowledge that the holder is a United States person. In addition, backup withholding and information reporting will not apply to any payment of principal of or interest on a Bearer Note to a beneficial owner of a Bearer Note by a foreign office of a foreign custodian, foreign nominee, or other foreign agent of such beneficial owner, or to any payment of the proceeds of the sale of a Bearer Note by a foreign office of a foreign “broker” (as defined in applicable Treasury Regulations), provided that such nominee, custodian, agent or broker derives less than 50.00 per cent. of its gross income for certain periods from the conduct of a trade or business in the United States and is not (1) a “controlled foreign corporation” as to the United States or (2) a foreign partnership that is either engaged in a United States trade or business or whose United States partners in the aggregate hold more than 50.00 per cent. of the income or capital interests in the partnership within the meaning of the Code. Payment of principal of or interest on a Bearer Note to the beneficial owner thereof by a foreign office of any other custodian, nominee, or agent, and payment by a foreign office of any other broker of the proceeds of a sale of a Bearer Note, will not be subject to backup withholding, but will be subject to information reporting unless the custodian, nominee, agent, or broker has documentary evidence in its records that the beneficial owner is not a United States person and certain conditions are met, or the beneficial owner otherwise establishes an exemption. Payment of principal of or interest on a Bearer Note to the beneficial owner thereof by a United States office of a custodian, nominee, or agent, or the payment by the United States office of a broker of the proceeds of a sale of a Bearer Note, is subject to both backup withholding and information reporting unless the beneficial owner certifies (1) its non-United States status under penalties of perjury and the payor does not have knowledge that the beneficial owner is a United States person or (2) otherwise establishes an exemption. All holders should consult their tax advisors regarding the application of these regulations.

### **Backup Withholding and Information Reporting for Bearer Notes that Are Structured Notes**

The treatment of Structured Notes for purposes of United States backup withholding tax and information reporting requirements will generally depend on the particular terms of such Structured Note, the characteristics of the person or entity making a payment and the payee, and the circumstances of payment. Noteholders should consult their own tax advisors regarding the application of the backup withholding tax and information reporting rules.

**Backup Withholding and Information Reporting for Registered Notes (including Registered Notes that Are Structured Notes)**

Payments of principal and interest, and the accrual of original issue discount, if any, with respect to a Registered Note and proceeds from the sale of a Registered Note held by a United States Alien holder will not be subject to information reporting and backup withholding so long as the Certification Requirement is met and the Issuer does not have actual knowledge that the certification is false (or such holder otherwise establishes an exemption).

**Recently Enacted Legislation**

Legislation (Section 1471 of the Code) was enacted on March 18, 2010 that will, effective for payments made after December 31, 2012, impose a 30 per cent. U.S. withholding tax on certain U.S. source payments, including interest (and original issue discount), other fixed determinable annual or periodical gain, profits, and income, and on the gross proceeds from the disposition of property of a type which can produce U.S. source interest, if paid to a foreign financial institution, unless such institution enters into an agreement with the Treasury to collect and provide to the Treasury substantial information regarding U.S. account holders, including certain account holders that are foreign entities with U.S. owners, with such institution. The legislation (Section 1472 of the Code) also generally imposes a withholding tax of 30% on the above described payments and gross proceeds paid to a non-financial foreign entity unless such entity provides the withholding agent with a certification that it does not have any substantial U.S. owners or a certification identifying the direct and indirect substantial U.S. owners of the entity. Under certain circumstances, a holder may be eligible for refunds or credits of such taxes. These withholding and reporting requirements will generally apply to payments made after December 31, 2012, and if the Issuer determines withholding is appropriate with respect to the Notes, the Issuer will withhold tax at the applicable statutory rate; however, the withholding tax will generally not be imposed on payments pursuant to obligations outstanding as of March 18, 2012. Noteholders are urged to consult with their own tax advisors regarding the possible implications of this recently enacted legislation on their investment in the Notes.

THE UNITED STATES FEDERAL INCOME TAX DISCUSSION SET FORTH ABOVE IS INCLUDED FOR GENERAL INFORMATION ONLY AND MAY OR MAY NOT BE APPLICABLE DEPENDING UPON A NOTEHOLDER'S PARTICULAR SITUATION. NOTEHOLDERS SHOULD CONSULT THEIR OWN TAX ADVISERS WITH RESPECT TO THE TAX CONSEQUENCES TO THEM OF THE OWNERSHIP AND DISPOSITION OF THE NOTES, INCLUDING THE TAX CONSEQUENCES UNDER STATE, LOCAL, FOREIGN, AND OTHER TAX LAWS AND THE POSSIBLE EFFECTS OF CHANGES IN FEDERAL OR OTHER TAX LAWS.

## UNITED KINGDOM TAXATION

**The following information is of a general nature and applies only to persons who are the absolute beneficial owners of Notes and is a summary of the Issuer's understanding of current law and practice in the United Kingdom as at the date of this Offering Circular relating only to United Kingdom withholding tax treatment of payments of interest in respect of Notes. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Notes. It does not necessarily apply where the income is deemed for tax purposes to be the income of any other person. Some aspects do not apply to certain classes of person (such as dealers and persons connected with the Issuer) to whom special rules may apply. Prospective Noteholders who may be subject to tax in a jurisdiction other than the United Kingdom or who may be unsure as to their tax position should seek their own professional advice.**

Payments of interest on the Notes may be made without deduction of or withholding on account of United Kingdom income tax provided that the Notes are and continue to be listed on a "recognized stock exchange" within the meaning of section 1005 of the Income Tax Act 2007 (the "Act") and carry the right to interest. The London Stock Exchange is a recognized stock exchange. Provided, therefore, that the Notes are and remain listed on the Official List and are admitted to trading on the Regulated Market of the London Stock Exchange, interest on the Notes will be payable without withholding or deduction on account of United Kingdom tax.

Subject to the following paragraphs, if the Notes are unlisted or cease to be listed on the Official List, United Kingdom income tax of 20.00 per cent. will generally need to be withheld if the interest has United Kingdom source (subject to such relief as may be available under the provisions of any applicable double taxation treaty or to any other exemption). The question of whether interest is United Kingdom source is one of fact but simply listing the Notes in London should not, without more, make the interest "United Kingdom source". Even if the Notes are or become unlisted and the interest is United Kingdom source, an exemption may be available and interest on the Notes may be paid without withholding or deduction on account of United Kingdom tax where the Issuer reasonably believes that (and any person by or through whom interest on the Notes is paid is a company and reasonably believes that), at the time the payment is made, it is an excepted payment within section 930 of the Act, provided that HMRC has not given a direction that the interest should be paid under deduction of tax.

Noteholders may wish to note that HMRC has power to obtain information (including the name and address of the beneficial owner of the interest and the amount of interest paid or received) from any person in the United Kingdom who either pays interest to or receives interest for the benefit of another person, although HMRC published practice indicates that HMRC will not exercise its power to obtain information where such amounts are paid or received on or before April 5, 2010. HMRC also have power to obtain information from any person in the United Kingdom who pays amounts payable on the redemption of Notes which are deeply discounted securities for the purposes of the Income Tax (Trading and Other Income) Act 2005 to or receives such amounts for the benefit of another person, although HMRC published practice indicates that HMRC will not exercise its power to obtain information where such amounts are paid or received on or before April 5, 2010. Such information may include the name and address of the beneficial owner of the amount payable on redemption. Any information obtained may, in certain circumstances, be exchanged by HMRC with the tax authorities of other jurisdictions.

References to "interest" above mean interest as understood in United Kingdom tax law. In particular this may include any redemption premium (if any).

## **EUROPEAN UNION DIRECTIVE ON TAXATION OF SAVINGS INCOME**

On July 1, 2005, a European Union (“EU”) directive regarding the taxation of savings income payments came into effect. The directive obliges a Member State to provide to the tax authorities of another Member State details of payments of interest or other similar income payments made by a person within its jurisdiction for the immediate benefit of an individual or to certain non-corporate entities resident in that other Member State (or for certain payments secured for their benefit). However, Austria, Belgium, and Luxembourg have opted out of the reporting requirements and are instead applying a special withholding tax for a transitional period in relation to such payments of interest, deducting tax at rates rising over time to 35.00 per cent. This transitional period commenced on July 1, 2005 and will terminate at the end of the first fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

Also with effect from July 1, 2005, a number of non-EU countries and certain dependent or associated territories of Member States have adopted similar measures (either provision of information or transitional withholding) in relation to payments of interest or other similar income payments made by a person in that jurisdiction for the immediate benefit of an individual or to certain non-corporate entities in any Member State. The Member States have entered into reciprocal provision of information or transitional special withholding tax arrangements with certain of those dependent or associated territories. These apply in the same way to payments by persons in any Member State to individuals or certain non-corporate residents of those territories.

## SUBSCRIPTION AND SALE

The Program Agreement provides for Notes to be issued on a continuous basis to any of the Dealers. However, the Issuer has no obligation to issue any Notes and no Dealer has any obligation to subscribe for Notes. The price or prices at which a given Series will be issued will be agreed at the time of subscription and sale between the Issuer and the relevant Dealers. Notes of the same Series may be subscribed to at different times and at different prices. Notes may be resold at prices to be agreed with the relevant Dealers. There can be no assurance that the Notes will be resold or that there will be a secondary market for them.

MLI, an indirect wholly-owned subsidiary of the Issuer, will participate in the Program as the Arranger and a Dealer under the Program Agreement. MLI is regulated by the Financial Services Authority of the United Kingdom. Any obligations of MLI are the sole responsibility of MLI and do not create any obligation or guarantee on the part of the Issuer or any affiliate of the Issuer.

The Issuer has agreed to indemnify the Dealers against certain liabilities in connection with the offer and sale of Notes. The obligations of the Dealers under the Program Agreement will be subject to certain conditions set out in the Program Agreement.

### General

Save for the approval of this Offering Circular as a Base Prospectus for the purposes of the Prospectus Directive by the UK Listing Authority, the Issuer has not taken and currently does not intend to take any action that would permit a public offering of any Notes or possession or distribution of this Offering Circular or any other offering material relating to any Notes in any jurisdiction where action for that purpose is required. Each Dealer has agreed, and each further dealer or distributor will be required to agree, that it will comply with all applicable laws and regulations known by it, or that reasonably should have been known by it, in each jurisdiction in which it purchases, offers, sells, or delivers Notes or possesses or distributes this Offering Circular or any other offering material relating to any Notes and will obtain any consent, approval, or permission required by it for the purchase, offer, sale, or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales, or deliveries, and none of the Issuer, the Principal Agent, or any other Dealer or purchaser shall have any responsibility therefor. In addition, each Dealer has agreed that, unless prohibited by applicable law, it will make available upon the request of each person to whom it offers or sells Notes a copy of this Offering Circular (as amended or supplemented).

None of the Issuer, the Principal Agent, or any of the Dealers has represented that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

With regard to each Tranche of Notes, the relevant Dealers will be required to comply with the restrictions set forth in this Offering Circular, as it shall be amended from time to time, and with such other additional restrictions as the Issuer and the relevant Dealers shall agree to and as shall be set out in the applicable Final Terms.

Neither this Offering Circular nor any Final Terms constitute, nor may be used for or in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or to any person to whom it is unlawful to make such an offer or solicitation. The distribution of this Offering Circular and the offering and sale of the Notes may be restricted by law in certain jurisdictions. Persons into whose possession this Offering Circular comes are required by the Dealers and the Issuer to inform themselves about and to observe any such restrictions.

## 1. European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive was implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Notes which are the subject of the offering contemplated by this Offering Circular as completed by the Final Terms in relation thereto to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of Notes to the public in that Relevant Member State:

- (a) if the Final Terms in relation to the Notes specify that an offer of those Notes may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a “**Non-exempt Offer**”), following the date of publication of a prospectus in relation to such Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, provided that any such prospectus has subsequently been completed by the Final Terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, in the period beginning and ending on the dates specified in such prospectus or Final Terms, as applicable;
- (b) at any time to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- (c) to any legal entity which has two or more of (1) an average of at least 250 employees during the last (or, in the case of Sweden, last two) financial year(s); (2) a total balance sheet of more than €43,000,000; and (3) an annual net turnover of more than €50,000,000, as shown in its last (or in the case of Sweden, last two) annual or consolidated accounts;
- (d) at any time to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer; or
- (e) at any time in any other circumstance falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in (b) to (e) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an “**offer of Notes to the public**” in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, and the expression “**Prospectus Directive**” means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

## 2. United States

- (a) The Notes and certain of the securities that are Underlying Assets, if any, of the Notes have not been and will not be registered under the Securities Act or under any state securities laws.

The Notes may not be offered, sold, resold, traded, pledged, redeemed, transferred or delivered, directly or indirectly, within the United States of America (including the states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (the “**United States**”) or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act or pursuant to an exemption from the registration requirements of the Securities Act.

Each Dealer has represented and agreed, and each further dealer or distributor will be required to agree, that it has offered and sold any Notes, and will offer and sell any Notes (i) as part of their distribution at any time and (ii) otherwise until 40 days after the later of the commencement of the offering of Notes of the same Tranche to persons other than distributors and the date of issue thereof (the “**Restricted Period**”), only in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, each Dealer has further represented and agreed, and each further dealer or distributor will be required to further agree, that it, its affiliates or any persons acting on its or their behalf have not engaged and will not engage in any directed selling efforts with respect to any Note, and it and they have complied and will comply with the offering restrictions requirement of Regulation S. Each Dealer who has purchased Notes of a Tranche (or in the case of a sale of a Tranche of Notes issued to or through more than one Dealer, each of such Dealers as to the Notes of such Tranche purchased by or through it or, in the case of a syndicated issue, the relevant Lead Manager) shall determine and notify in writing to the Principal Agent the completion of the distribution of the Notes of such Tranche. On the basis of such notification or notifications, the Principal Agent has agreed to notify such Dealer or Lead Manager in writing of the end of the Restricted Period with respect to such Tranche of Notes. Each Dealer has also agreed that, at or prior to confirmation of sale of Notes of any Series, it will have sent to each distributor, dealer, person receiving a selling concession, fee, or other remuneration, or purchaser that purchases Notes from it during the Restricted Period a confirmation or notice to substantially the following effect:

“The Securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), and may not be offered or sold within the United States or to, or for the account or benefit of U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering of Notes of the same Tranche to persons other than distributors and the date of issue thereof, except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S.”

Terms used in the preceding paragraph 2(a) have the meanings given to them by Regulation S under the Securities Act.

- (b) In addition, with respect to Bearer Notes:
- (i) except to the extent permitted under Treasury Regulations Section 1.163-5(c)(2)(i)(D) (the “**D Rules**”), each Dealer has represented (a) that it has not offered or sold, and agrees that during the restricted period it will not offer or sell, Bearer Notes to a person who is within the United States or its possessions or to a United States person, and (b) that it has not delivered and has agreed that it will not deliver within the United States or its possessions Bearer Notes that are sold during the restricted period;
  - (ii) each Dealer has represented that it has, and has agreed that throughout the restricted period it will have, in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling Bearer Notes are aware that

such Bearer Notes may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the D Rules;

- (iii) if it is a United States person, each Dealer has represented that it is acquiring the Bearer Notes for purposes of resale in connection with their original issuance and if it retains Bearer Notes for its own account, it will only do so in accordance with the requirements of the D Rules;
- (iv) with respect to each affiliate that acquires Bearer Notes from a Dealer for the purpose of offering or selling such Bearer Notes during the restricted period, such Dealer has repeated and confirmed the representations and agreements contained in sub-paragraphs (i), (ii), and (iii) on such affiliate's behalf; and
- (v) each Dealer has represented that it will obtain for the benefit of the Issuer and the several Dealers the representations and agreements contained in sub-paragraphs (i), (ii), (iii), and (iv) from any other distributor.

Terms used in this paragraph 2(b) have the meanings given to them by the U.S. Internal Revenue Code of 1986, as amended and the regulations thereunder, including the D Rules.

Each issue of Dual Currency Notes, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s), or Physical Delivery Notes shall be subject to such additional United States selling restrictions as the Issuer and the relevant Dealer(s) may agree as a term of the issue and purchase of such Notes, which additional selling restrictions shall be set out in the applicable Final Terms. Each Relevant Dealer agrees, and each further dealer or distributor will be required to agree, that it shall offer, sell, and deliver such Notes only in compliance with such additional United States selling restrictions.

### **3. United Kingdom**

Each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that:

- (a) in relation to any Notes which have a maturity of less than one year, (i) it is a person whose ordinary activities involve it in acquiring, holding, managing, or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of Notes would otherwise constitute a contravention of section 19 of the FSMA by the Issuer;
- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer; and

- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

#### 4. **Argentina**

The Issuer has not made, and will not make, any application to obtain an authorization from the *Comisión Nacional de Valores* (“**CNV**”) for the public offering of the Notes in Argentina. The CNV has not approved the Notes, the offering, nor any document relating to the offering of the Notes. Each Dealer has represented and agreed that it has not offered or sold, and will not offer or sell, any of such Notes in Argentina, except in transactions that will not constitute a public offering of Notes within the meaning of Section 16 of the Argentine Public Offering Law No 17,811. Argentine insurance companies may not purchase the Notes.

#### 5. **Australia**

Each Dealer, and each further Dealer appointed under the Program:

- (a) must not make any offer or invitation in Australia or which is received in Australia in relation to the issue, sale or purchase of any Notes unless the offeree or invitee is required to pay at least A\$500,000 for the Notes or its foreign currency equivalent (in either case disregarding amounts, if any, lent by the Issuer or other person offering the Notes or its associates (within the meaning of those expressions in Part 6D.2 of the Corporations Act 2001 (Cth) of Australia (the “**Corporations Act**”))), or it is otherwise an offer or invitation in respect of which by virtue of section 708 of the Corporations Act no disclosure is required to be made under Part 6D.2 of the Corporations Act and provided that in any case the offeree or invitee is not a retail client (within the meaning of section 761G of the Corporations Act); and
- (b) has not circulated or issued and must not circulate or issue a disclosure document relating to the Notes in Australia or which is received in Australia which requires lodging under Division 5 of Part 6D.2 or under Part 7 of the Corporations Act.

#### 6. **People’s Republic of China**

No offering document has been filed with or approved by the People’s Republic of China (for such purposes, not including Hong Kong and Macau Special Administrative Regions or Taiwan) authorities, and is not an offer of Notes (whether public offering or private placement) within the meaning of the Securities Law or other pertinent laws and regulations of the People’s Republic of China. No offering document shall be offered to the general public if used within the People’s Republic of China, and the Notes so offered cannot be sold to anyone that is not a qualified purchaser of the People’s Republic of China. Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Program will be required to represent, warrant and agree, that the Notes are not being offered or sold and may not be offered or sold, directly or indirectly, in the People’s Republic of China, except under circumstances that will result in compliance with applicable laws and regulations. Structured products shall not be offered and resold to the general public of the People’s Republic of China, directly or indirectly.

#### 7. **France**

This Offering Circular has not been approved by the *Autorité des marchés financiers* (“**AMF**”).

Each of the Dealers and the Issuer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree that:

- (a) it has only made and will only make an offer of Notes to the public (*offre au public*) in France or an admission of Notes to trading on a regulated market in France in the period beginning (i) when a prospectus in relation to those Notes has been approved by the AMF, on the date of such publication or, (ii) when a prospectus in relation to those Notes has been approved by the competent authority of another Member State of the European Economic Area which has implemented the Prospectus Directive, on the date of notification of such approval to the AMF and, in either case, when the formalities required by French laws and regulations have been carried out, and ending at the latest on the date which is 12 months after the date of the approval of the prospectus, all in accordance with articles L.412-1 and L.621-8 to L.621-8-3 of the French *Code monétaire et financier* and the *Règlement général* of the AMF; or
- (b) it has only made and will only make an offer of Notes to the public in France or an admission of Notes to trading on a regulated market in France in circumstances which do not require the publication by the offeror of a prospectus pursuant to the French *Code monétaire et financier* and the *Règlement général* of the AMF; and
- (c) otherwise, it has not offered or sold and will not offer or sell, directly or indirectly, Notes to the public in France, and it has not distributed or caused to be distributed and will not distribute or cause to be distributed this Offering Circular, the applicable Final Terms or any other offering material relating to the Notes to the public in France, and such offers, sales and distributions have been and will be made in France only to (i) providers of the investment service of portfolio management for the account of third parties, (ii) qualified investors (*investisseurs qualifiés*) other than individuals, acting for their own account and/or (iii) a restricted circle of investors (*cercle restreint d'investisseurs*) acting for their own account provided that a prospectus in relation to those Notes has been approved by the competent authority of another Member State of the European Economic Area which has implemented the Prospectus Directive and that such approval has been notified to the AMF together with a translation of the summary of the prospectus in French, all as defined in, and in accordance with, articles L.411-2, D.411-1 to D.411-4, D.744-1, D.754-1 and D.764-1 of the French *Code monétaire et financier*. The direct or indirect resale of Notes to the public in France may be made only as provided by, and in accordance with, articles L.411-1, L.411-2, L.412-1 and L.621-8 to L.621-8-3 of the French *Code monétaire et financier*.

In addition, each of the Dealers and the Issuer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that it has not distributed or caused to be distributed and will not distribute or cause to be distributed in the Republic of France, this Offering Circular or any other offering material relating to the Notes other than to investors to whom offers and sales of Notes in the Republic of France may be made as described above.

## 8. Hong Kong

Each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that:

- (a) it has not offered or sold and will not offer or sell in the Hong Kong Special Administrative Region of the People's Republic of China ("**Hong Kong**"), by means of any document, any Notes other than (i) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the "**SFO**") and any rules made under the SFO, or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong (the "**CO**") or which do not constitute an offer to the public within the meaning of the CO; and

- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation, or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the Notes that are or are intended to be disposed of (i) only to persons outside Hong Kong or (ii) only to “professional investors” as defined in the SFO and any rules made under the SFO.

## 9. Indonesia

**THE NOTES OFFERED HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE INDONESIAN CAPITAL MARKET LAW (LAW NO. 8/1995) AND THEREFORE ARE NOT AUTHORIZED BY THE CAPITAL MARKET AND FINANCIAL INSTITUTION SUPERVISORY AGENCY IN INDONESIA AS A PUBLIC OFFERING OF SECURITIES. DUE TO THE COMPLEXITY OF THE NOTES OFFERED, THE NOTES MAY NOT BE SUITABLE FOR CERTAIN INVESTORS. INVESTORS WHO INTEND TO BUY THE NOTES SHOULD CONSULT WITH THEIR FINANCIAL ADVISORS, BROKERS OR OTHER FINANCIAL EXPERTS BEFORE MAKING ANY DECISION TO BUY THE NOTES.**

## 10. Israel

This Offering Circular is intended solely for investors listed in the First Supplement of the Israeli Securities Law of 1968, as amended. A prospectus has not been prepared or filed, and will not be prepared or filed, in Israel relating to the Notes offered hereunder. The Notes cannot be resold in Israel other than to investors listed in the First Supplement of the Israeli Securities Law of 1968, as amended.

## 11. Republic of Italy

To the extent that the offering of the Notes has not been registered, and until the offering of the Notes has been registered, pursuant to Italian securities legislation, no Notes may be offered, sold or delivered, nor may copies of this Offering Circular or of any other document relating to the Notes be distributed in the Republic of Italy, except:

- (a) to qualified investors (*investitori qualificati*) as defined in Article 34-ter, first paragraph, letter b of CONSOB Regulation No. 11971 of May 14, 1999, as amended (“**CONSOB Regulation No. 11971**”), pursuant to Article 100 of Legislative Decree No. 58 of February 24, 1998, as amended (the “**Italian Financial Services Act**”); or
- (b) in circumstances which are exempted from the rules on solicitation of investments pursuant to Article 100 of the Italian Financial Services Act and Article 34-ter, first paragraph, of CONSOB Regulation No. 11971.

Any offer, sale or delivery of the Notes or distribution of copies of the Offering Circular or any other document relating to the Notes in the Republic of Italy under (a) or (b) above must be:

- (i) made by an investment firm, bank, or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Italian Financial Services Act, CONSOB Regulation No. 16190 of October 29, 2007 (as amended from time to time) and Legislative Decree No. 385 of September 1, 1993, as amended (the “**Italian Banking Act**”); and
- (ii) in compliance with Article 129 of the Italian Banking Act, as amended, and the implementing guidelines of the Bank of Italy, as amended from time to time, pursuant

to which the Bank of Italy may request information on the issue or the offer of securities in the Republic of Italy; and

- (iii) in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or other Italian authority.

*Please note that in accordance with Article 100-bis of the Italian Financial Services Act, where no exemption from the rules on solicitation of investments applies under (a) and (b) above, the subsequent distribution of the Notes on the secondary market in Italy must be made in compliance with the public offer and the prospectus requirement rules provided under the Italian Financial Services Act and CONSOB Regulation No. 11971. Failure to comply with such rules may result in the sale of such Notes being declared null and void and in the liability of the intermediary transferring the financial instruments for any damages suffered by the investors.*

## 12. Japan

The Notes have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended, the “**FIEL**”). Each Dealer has agreed, and each further dealer or distributor will be required to agree, that it has not offered or sold and will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan) or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan and that thereafter it will not offer or sell such Notes in Japan or to or for the benefit of a resident of Japan except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEL and any other applicable laws, regulations, and ministerial guidelines of Japan.

If the offer is made by way of qualified institutional investors private placement as set out in Article 2, Paragraph 3, Item 2(i) of the FIEL (the “**QII Private Placement**”), the Notes are being offered to qualified institutional investors (the “**QIIs**”) as defined in Article 10 of the Cabinet Office Ordinance Concerning the Definition of Terms provided in Article 2 of the FIEL and the investor of any Notes is prohibited from transferring such Notes in Japan to any person in any way other than to QIIs.

Except in the case the offering is made by way of QII Private Placement or by way of secondary offering to a resident of Japan, whether private or public, the Notes are being offered only to a small number of potential investors (i.e., less than 50 offerees, except QIIs who are offered the Notes pursuant to the QII Private Placement) as set out in Article 2, Paragraph 3, Item 2(ha) of the FIEL, and the investor of any Notes (other than the above mentioned QII investors) is prohibited from transferring such Notes to another person in any way other than as a whole to one transferee.

## 13. The Grand Duchy of Luxembourg

Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Program will be required to represent, warrant, and agree that in addition to the circumstances described above in “European Economic Area”, Dealers may also offer the Notes for sale in The Grand Duchy of Luxembourg:

- (a) at any time, to national and regional governments, central banks, international and supranational institutions (such as the International Monetary Fund, the European Central Bank, the European Investment Bank) and other similar international organizations;
- (b) at any time, to legal entities which are authorized or regulated to operate in the financial markets (including, credit institutions, investment firms, other authorized or regulated financial institutions, insurance companies, undertakings for collective investment and their

management companies, pension and investment funds and their management companies, commodity dealers) as well as entities not so authorized or regulated whose corporate purpose is solely to invest in securities; and

- (c) at any time, to certain natural persons or small and medium-sized enterprises (as defined in the Luxembourg law dated July 10, 2005 on prospectuses for securities implementing the Prospectus Directive into Luxembourg law) recorded in the register of natural persons or small and medium-sized enterprises considered as qualified investors as held by the *Commission de Surveillance du Secteur Financier* as competent authority in Luxembourg in accordance with the Prospectus Directive.

#### 14. Malaysia

No approval from the Securities Commission of Malaysia is or will be obtained, nor will any prospectus be filed or registered with the Securities Commission of Malaysia for the offering of the Notes in Malaysia. This Offering Circular does not constitute and is not intended to constitute an invitation or offer for subscription or purchase of the Notes, nor may this Offering Circular or any other offering material or document relating to the Notes be published or distributed, directly or indirectly, to any person in Malaysia unless such invitation or offer falls within (i) Schedule 5 to the Capital Markets and Services Act 2007 (“CMSA”), (ii) Schedules 6 or 7 to the CMSA as an “excluded offer or excluded invitation” or “excluded issue” within the meaning of sections 229 and 230 of the CMSA, and (iii) Schedule 8 so the trust deed requirements in the CMSA are not applicable. No offer or invitation in respect of the Notes may be made in Malaysia except as an offer or invitation falling under Schedules 5, and 6 or 7 and 8 to the CMSA.

#### 15. The Netherlands

The Issuer is not a bank licensed by or registered with the Dutch Central Bank (*De Nederlandsche Bank N. V.*) pursuant to the Dutch Financial Supervision Act (*Wetop het financieel toezicht*).

In respect of the Notes, each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that Zero Coupon Notes (as defined below) in definitive form of the Issuer may only be transferred and accepted, directly or indirectly, within, from or into The Netherlands through the mediation of either the Issuer or a member of Euronext Amsterdam N.V. in full compliance with the Dutch Savings Certificates Act of 21 May 1985 (*Wet inzake spaarbewijzen*, as amended) and its implementing regulations. No such mediation is required: (a) in respect of the transfer and acceptance of rights representing an interest in a Zero Coupon Note in global form, or (b) in respect of the initial issue of Zero Coupon Notes in definitive form to the first holders thereof, or (c) in respect of the transfer and acceptance of Zero Coupon Notes in definitive form between individuals not acting in the conduct of a business or profession, or (d) in respect of the transfer and acceptance of such Zero Coupon Notes within, from or into The Netherlands (if all Zero Coupon Notes) (either in definitive form or as rights representing an interest in a Zero Coupon Note in global form) of any particular Series are issued outside The Netherlands and are not distributed into The Netherlands in the course of initial distribution or immediately thereafter. As used herein, “**Zero Coupon Notes**” are Notes that are in bearer form and that constitute a claim for a fixed sum against the Issuer and on which interest does not become due during their tenor or on which no interest is due whatsoever.

#### 16. Netherlands Antilles

The sale of Notes to an Unauthorized Netherlands Antilles Person is prohibited under Netherlands Antilles Law. An “**Unauthorized Netherlands Antilles Person**” for the purposes of this Offering Circular means any citizen or inhabitant of the Netherlands Antilles (including personal holding companies,

corporations, partnerships, or other legal entities created or organized under the laws of the Netherlands Antilles), who is treated as a “resident” as defined in Article I of the Foreign Exchange Act of the Netherlands Antilles and who has not obtained a license and exemption from the Bank of the Netherlands Antilles to participate in the relevant issue of the Notes as described in this Offering Circular.

#### **17. Panama**

The Notes have not been and will not be registered with the National Securities Commission of the Republic of Panama under Decree Law No. 1 of July 8, 1999 (the “**Panamanian Securities Act**”) and may not be publicly offered or sold within Panama, except in certain limited transactions exempt from the registration requirements of the Panamanian Securities Act. The Notes do not benefit from the tax incentives provided by the Panamanian Securities Act and are not subject to regulation or supervision by the National Securities Commission of the Republic of Panama.

#### **18. Philippines**

THE NOTES BEING OFFERED OR SOLD HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE (THE “**CODE**”). ANY FUTURE OFFER OR SALE THEREOF IS SUBJECT TO REGISTRATION REQUIREMENTS UNDER THE CODE UNLESS SUCH OFFER OR SALE QUALIFIES AS AN EXEMPT TRANSACTION.

#### **19. Russia**

Neither the Notes nor this Offering Circular have been, or are intended to be, registered with the Federal Financial Markets Service or any other state bodies that may from time to time be responsible for such registration and the Notes are not being offered, sold, or delivered in the Russian Federation or to any Russian resident except as may be permitted by Russian law. This Offering Circular does not constitute a public offer or advertisement for the Notes in the Russian Federation, and is not an offer, or an invitation to make offers, to sell, purchase, exchange, or otherwise transfer the Notes to any persons in the Russian Federation.

#### **20. Singapore**

This Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore (the “**MAS**”) under the Securities and Futures Act, Chapter 289 of Singapore (the “**SFA**”).

Where the Notes are cash settled or where there is physical delivery of Notes linked to Underlying Assets which are shares or units of shares (other than shares or other units of a collective investment scheme) of a corporation (whether incorporated in Singapore or not) or debentures or units of debentures of an entity, interests in a limited partnership or limited liability partnership formed in Singapore or elsewhere, or such other product or class of products prescribed by the MAS, each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Program will be required to represent, warrant and agree, that it has not offered or sold any Notes or Underlying Assets or caused the Notes or Underlying Assets to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Notes or cause the Notes to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes or Underlying Assets, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of

the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Notes or Underlying Assets are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes or Underlying Assets pursuant to an offer made under Section 275 of the SFA except:

- (i) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (ii) where no consideration is or will be given for the transfer;
- (iii) where the transfer is by operation of law; or
- (iv) as specified in Section 276(7) of the SFA.

Where the Fund Linked Notes do not provide for any right or interest (including an option) in respect of units in an underlying fund (which is a "collective investment scheme" (as defined in the SFA) and therefore open-ended), each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Program will be required to represent, warrant and agree, that it has not offered or sold any Fund Linked Notes or caused the Fund Linked Notes to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Fund Linked Notes or cause the Fund Linked Notes to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Fund Linked Notes whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Fund Linked Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that

corporation or that trust has acquired the Fund Linked Notes pursuant to an offer made under Section 275 or the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 276(7) of the SFA.

The offer or invitation of the Underlying Assets which constitute units in an underlying fund (the “**Fund**”) (which is a “collective investment scheme” (as defined in the SFA) (the “**CIS Underlying Assets**”)) do not relate to a collective investment scheme which is authorized under Section 286 of the SFA or recognized under Section 287 of the SFA. The Fund is not authorized or recognized by the MAS and the CIS Underlying Assets are not allowed to be offered to the retail public. This Offering Circular and any other document or material issued in connection with the offer or sale is not a prospectus as defined in the SFA. Accordingly, statutory liability under the SFA in relation to the content of prospectuses would not apply. Potential investors should consider carefully whether the investment is suitable for them.

This Offering Circular has not been registered as a prospectus with the MAS. Accordingly, this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the CIS Underlying Assets may not be circulated or distributed, nor may the CIS Underlying Assets be offered or sold or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 304 of the SFA, (ii) to a relevant person, or any person pursuant to Section 305(2), and in accordance with the conditions specified in Section 305 of the SFA or (iii) pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where CIS Underlying Assets are subscribed or purchased under Section 305 by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the CIS Underlying Assets pursuant to an offer made under Section 305 of the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 305(5) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 305A(3)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 305A(5) of the SFA.

Where the Fund Linked Notes do provide for a right or interest (including an option) in respect of units in a Fund (which is a “collective investment scheme” (as defined in the SFA) (the “**CIS Underlying Asset**”)), the offer or invitation of the Fund Linked Notes of the Program, which is the subject of this Offering Circular, does not relate to a collective investment scheme which is authorized under Section 286 of the SFA or recognized under Section 287 of the SFA. The Program is not authorized or recognized by the MAS and the Fund Linked Notes and the CIS Underlying Assets are not allowed to be offered to the retail public. This Offering Circular and any other document or material issued in connection with the offer or sale is not a prospectus as defined in the SFA. Accordingly, statutory liability under the SFA in relation to the content of prospectuses would not apply. Potential investors should consider carefully whether the investment is suitable for them.

This Offering Circular has not been registered as a prospectus with the MAS. Each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Program will be required to represent, warrant and agree, that it has not offered or sold any Fund Linked Notes or CIS Underlying Assets or caused the Fund Linked Notes or CIS Underlying Assets to be made the subject of an invitation for subscription or purchase nor will it offer or sell the Fund Linked Notes or CIS Underlying Assets or cause the Fund Linked Notes or CIS Underlying Assets to be made the subject of an invitation for subscription or purchase, nor has it circulated or distributed nor will it circulate or distribute this Offering Circular and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Fund Linked Notes or Underlying Assets whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 304 of the SFA, (ii) to a relevant person, or any person pursuant to Section 305(2), and in accordance with the conditions specified in Section 305 of the SFA or (iii) pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where Fund Linked Notes or CIS Underlying Assets are subscribed or purchased under Section 305 by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Fund Linked Notes or CIS Underlying Assets pursuant to an offer made under Section 305 of the SFA except:

- (1) to an institutional investor or to a relevant person defined in Section 305(5) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 305A(3)(i)(B) of the SFA;
- (2) where no consideration is or will be given for the transfer;
- (3) where the transfer is by operation of law; or
- (4) as specified in Section 305A(5) of the SFA.

## 21. Switzerland

If the applicable Final Terms state that the Notes may not be publicly offered in Switzerland, (i) each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that it will not, directly or indirectly, (a) publicly offer, sell, or advertise the Notes in or from Switzerland, as such term is defined or interpreted under the Swiss Code of Obligations or the Swiss Federal Act on Collective Investment Schemes, or (b) publicly distribute or otherwise make publicly available the Offering Circular (including the applicable Final Terms) or any other document related to the Notes in Switzerland and (ii) each Dealer has acknowledged and agreed, and each further Dealer appointed under the Program will be required to acknowledge and agree, that neither the Offering Circular nor any other document related to the Notes constitutes a prospectus in the sense of Article 652a or 1156 of the Swiss Code of Obligations, or a simplified prospectus in the sense of Article 5 of the Swiss Collective Investment Schemes Act.

Each Dealer has acknowledged and agreed, and each further Dealer appointed under the Program will be required to acknowledge and agree, that the Notes do not constitute a participation in a collective investment scheme in the meaning of the Swiss Federal Act on Collective Investment Schemes and they are not subject to approval or supervision by the Swiss Financial Market Supervisory Authority (FINMA).

## 22. Taiwan

The Notes may not be issued, sold, or offered in Taiwan. No subscription or other offer to purchase the Notes shall be binding on the Issuer until received and accepted by the Issuer or any Dealer outside of Taiwan (the “**Place of Acceptance**”), and the purchase/sale contract arising therefrom shall be deemed a contract entered into in the Place of Acceptance.

## 23. Uruguay

The Notes have not been registered under the Uruguayan Securities Market Law or recorded in the Uruguayan Central Bank. The Notes are not available publicly in Uruguay and are offered only on a private basis. No action may be taken in Uruguay that would render any offering of the Notes a public offering in Uruguay. No Uruguayan regulatory authority has approved the Notes or passed on the Issuer’s solvency. In addition, any resale of the Notes must be made in a manner that will not constitute a public offering in Uruguay.

## GENERAL INFORMATION

### 1. Authorization

The Program, including the maximum aggregate amount of U.S. \$65,000,000,000 was authorized by resolutions of the Board of Directors of the Issuer adopted June 25, 2008 and July 21, 2009, and by written consents of a committee appointed by the Board of Directors dated July 21, 2009 and July 21, 2010.

### 2. Clearing Systems

It is expected that the Notes will be accepted for clearance through Euroclear and Clearstream, Luxembourg. A Common Code and ISIN number will be contained in the applicable Final Terms. If the Notes are to be cleared through an additional or alternative clearing system, the appropriate information will be specified in the applicable Final Terms.

### 3. Listing

Application has been made to the UK Listing Authority for Notes issued under the Program to be admitted to the Official List and to the London Stock Exchange for the Notes to be admitted to trading on the London Stock Exchange's Regulated Market.

### 4. Documents Available

For the period of 12 months following the date of this Offering Circular, copies of the documents described below will, where published, be available from the specified office of the Principal Agent.

As long as any Notes remain outstanding, copies of the Amended and Restated Certificate of Incorporation of the Issuer, as amended, the Bylaws of the Issuer, as amended, the Annual Report on Form 10-K of the Issuer for the year ended December 31, 2009, the Quarterly Report on Form 10-Q of the Issuer for the quarter ended March 31, 2010, any Current Report on Form 8-K of the Issuer, the Agency Agreement, and the Program Agreement will be available without charge at the office of the Principal Agent. Copies of the Offering Circular, any supplements to the Offering Circular and the applicable Final Terms with respect to a Tranche of Notes also will be available without charge at the office of the Principal Agent. However, the applicable Final Terms relating to an unlisted Note only will be available for inspection by a Noteholder upon proof satisfactory to the Principal Agent as to ownership of the Note.

### 5. Significant Change and Material Adverse Change

There has been no significant change in the financial or trading position of the Issuer on a consolidated basis since March 31, 2010, which is the date of the most recently published interim unaudited financial statements of the Issuer.

There has been no material adverse change in the prospects of the Issuer on a consolidated basis since December 31, 2009.

### 6. Litigation and Regulatory Matters

In the ordinary course of business, the Issuer and its subsidiaries are routinely defendants in or parties to many pending and threatened legal actions and proceedings, including actions brought on behalf of various classes of claimants. Certain of these actions and proceedings are based on alleged violations of consumer protection, securities, environmental, banking, employment and other laws. In certain of these

actions and proceedings, claims for substantial monetary damages are asserted against the Issuer and its subsidiaries.

In the ordinary course of business, the Issuer and its subsidiaries are also subject to regulatory examinations, information gathering requests, inquiries and investigations. Certain subsidiaries of the Issuer are registered broker/dealers or investment advisors and are subject to regulation by the SEC, the Financial Industry Regulatory Authority, Inc., the New York Stock Exchange, the Financial Services Authority, and other U.S., international and state securities regulators. In connection with formal and informal inquiries by those agencies, such subsidiaries receive numerous requests, subpoenas and orders for documents, testimony and information in connection with various aspects of their regulated activities.

In view of the inherent difficulty of predicting the outcome of such litigation and regulatory matters, particularly where the claimants seek very large or indeterminate damages or where the matters present novel legal theories or involve a large number of parties, the Issuer cannot state with confidence what the eventual outcome of the pending matters will be, what the timing of the ultimate resolution of these matters will be, or what the eventual loss, fines, or penalties related to each pending matter may be.

In accordance with applicable accounting guidance, the Issuer establishes reserves for litigation and regulatory matters when those matters present loss contingencies that are both probable and estimable, although there may be an exposure to loss in excess of any amounts accrued. When loss contingencies are not both probable and estimable, the Issuer does not establish reserves. As a litigation or regulatory matter develops, the Issuer, in conjunction with its outside counsel handling the matter, if any, evaluates on an ongoing basis whether such matter presents a loss contingency that is probable and/or estimable. If, at the time of evaluation, the loss contingency related to a litigation or regulatory matter is not both probable and estimable, the matter will continue to be monitored for further developments that would make such loss contingency both probable and estimable. Once the loss contingency related to a litigation or regulatory matter is deemed to be both probable and estimable, the Issuer will establish a reserve with respect to such loss contingency and continue to monitor the matter for further developments that could affect the amount of the reserve that has been previously established. Excluding fees paid to external legal service providers, litigation-related expenses of U.S.\$558 million and U.S.\$181 million were recognized during the three months ended March 31, 2010 and 2009.

In some of the matters described below, including but not limited to the Lehman Brothers Holdings, Inc. matters, loss contingencies are not both probable and estimable in the view of management, and accordingly, reserves have not been established for those matters. However, information is provided below or included in the Issuer's 2009 Annual Report on Form 10-K regarding the nature of the contingency and, where specified, the amount of the claim associated with the loss contingency. Based on current knowledge, management does not believe that loss contingencies arising from pending litigation and regulatory matters, including the litigation and regulatory matters described below, will have a material adverse effect on the consolidated financial position or liquidity of the Issuer, but may be material to the Issuer's results of operations for any particular reporting period.

### **Adelphia Litigation**

Adelphia Recovery Trust is the plaintiff in a lawsuit pending in the U.S. District Court for the Southern District of New York, entitled *Adelphia Recovery Trust v. Bank of America, N.A., et al.* The lawsuit was filed on July 6, 2003 and originally named over 700 defendants, including Bank of America, N.A. ("BANA"), Banc of America Securities LLC ("BAS"), Merrill Lynch & Co., Inc. ("ML&Co."), Merrill Lynch Capital Corp., Fleet National Bank and Fleet Securities, Inc. (collectively "Fleet") and other affiliated entities, and asserted over 50 claims under federal statutes and state common law relating to loans and other services provided to various affiliates of Adelphia Communications Corporation ("ACC") and entities owned by members of the founding family of ACC. The plaintiff seeks compensatory damages

of approximately US\$5 billion, plus fees, costs and exemplary damages. The District Court granted in part defendants' motions to dismiss, which resulted in the dismissal of approximately 650 defendants from the lawsuit. The plaintiff appealed the dismissal decision. The primary claims remaining against BANA, BAS, ML&Co., Merrill Lynch Capital Corp. and Fleet include fraud, aiding and abetting fraud and aiding and abetting breach of fiduciary duty. There are several pending defense motions for summary judgment. Trial is scheduled for September 13, 2010.

### **Auction Rate Securities Claims**

On March 25, 2008, a putative class action, entitled *Burton v. Merrill Lynch & Co., Inc., et al.*, was filed in the U.S. District Court for the Southern District of New York against Merrill Lynch Pierce, Fenner and Smith Incorporated (“MLPF&S”) and ML&Co. on behalf of persons who purchased and continue to hold auction rate securities (“ARS”) offered for sale by MLPF&S between March 25, 2003 and February 13, 2008. The complaint alleges, among other things, that MLPF&S failed to disclose material facts about ARS. A similar action, entitled *Stanton v. Merrill Lynch & Co., Inc., et al.*, was filed the next day in the same court. On October 31, 2008, the two cases, entitled *In Re Merrill Lynch Auction Rate Securities Litigation*, were consolidated, and, on December 10, 2008, plaintiffs filed a consolidated class action amended complaint. Plaintiffs seek to recover alleged losses in the market value of ARS allegedly caused by the decision of MLPF&S and ML&Co. to discontinue supporting auctions for ARS. Plaintiffs seek unspecified damages, including rescission, other compensatory and consequential damages, costs, fees and interest. On February 27, 2009, defendants filed a motion to dismiss the consolidated amended complaint in *In Re Merrill Lynch Auction Rate Securities Litigation*. On May 22, 2009, the plaintiffs filed a second amended consolidated complaint. On July 24, 2009, ML&Co. filed a motion to dismiss the second amended consolidated complaint. On March 31, 2010, the U.S. District Court for the Southern District of New York dismissed the second amended consolidated complaint with prejudice in *Burton v. Merrill Lynch & Co., Inc., et al.* On April 22, 2010, plaintiff Colin Wilson filed a notice of appeal from the order of the U.S. District Court for the Southern District of New York dismissing the second amended consolidated complaint.

On May 22, 2008, a putative class action, entitled *Bondar v. Bank of America Corporation*, was filed in the U.S. District Court for the Northern District of California against the Issuer, Banc of America Investment Services, Inc. (“BAI”) and BAS on behalf of persons who purchased ARS from the defendants. The amended complaint, which was filed on January 22, 2009, alleges, among other things, that the Issuer, BAI and BAS manipulated the market for, and failed to disclose material facts about ARS, and seeks to recover unspecified damages for losses in the market value of ARS allegedly caused by the decision of BAS and other broker/dealers to discontinue supporting auctions for ARS. On February 12, 2009, the Judicial Panel on Multidistrict Litigation (“MDL Panel”) consolidated Bondar and two related, individual federal actions into one proceeding in the U.S. District Court for the Northern District of California. On September 9, 2009, defendants filed their motion to dismiss the second amended consolidated complaint.

On September 4, 2008, two civil antitrust putative class actions, *Mayor and City Council of Baltimore, Maryland v. Citigroup et al.*, and *Mayfield et al. v. Citigroup Inc. et al.*, were filed in the U.S. District Court for the Southern District of New York against the Issuer, ML&Co., and other financial institutions alleging that the defendants conspired to restrain trade in ARS by artificially supporting auctions and later withdrawing that support. *City Council of Baltimore* is filed on behalf of a class of issuers of ARS underwritten by the defendants between May 12, 2003 and February 13, 2008 who seek to recover the alleged above-market interest payments they claim they were forced to make when the Issuer, ML&Co. and others allegedly discontinued supporting ARS. In addition, the plaintiffs who also purchased ARS seek to recover claimed losses in the market value of those securities allegedly caused by the decision of the financial institutions to discontinue supporting auctions for the securities. These plaintiffs seek treble damages and seek to rescind at par their purchases of ARS. *Mayfield* is filed on behalf of a

class of persons who acquired ARS directly from defendants and who held those securities as of February 13, 2008. Plaintiffs seek to recover alleged losses in the market value of ARS allegedly caused by the decision of the Issuer and ML&Co. and others to discontinue supporting auctions for the securities. Plaintiffs seek treble damages and seek to rescind at par their purchases of ARS. On January 15, 2009, defendants, including the Issuer and ML&Co., filed a motion to dismiss the complaints. On January 25, 2010, the District Court dismissed the two cases with prejudice. On March 1, 2010, plaintiffs in the *Mayor and City Council of Baltimore, Maryland v. Citigroup et al.*, and *Mayfield et al. v. Citigroup Inc. et al.* cases filed a notice of appeal from the order of the U.S. District Court for the Southern District of New York dismissing those cases.

Since October 2007, numerous arbitrations and individual lawsuits have been filed against the Issuer, BANA, BAS, BAI, MLPF&S and in some cases ML&Co. by parties who purchased ARS. Plaintiffs in these cases, which assert substantially the same types of claims, allege that defendants manipulated the market for, and failed to disclose material facts about, ARS. Plaintiffs seek compensatory and punitive damages totaling in excess of US\$2.6 billion as well as rescission, among other relief.

### **Countrywide Bond Insurance Litigation**

On September 30, 2008, Countrywide Financial Corporation (“CFC”) and other Countrywide entities were named as defendants in an action filed by MBIA Insurance Corporation (“MBIA”), entitled *MBIA Insurance Corporation, Inc. v. Countrywide Home Loans, et al.*, in New York Supreme Court, New York County. The action relates to bond insurance policies provided by MBIA with regard to certain securitized pools of home equity lines of credit and fixed-rate second lien mortgage loans. MBIA allegedly has paid claims as a result of defaults in the underlying loans, and claims that these defaults are the result of improper underwriting. On August 24, 2009, MBIA filed an amended complaint in the action, which includes allegations regarding five additional securitizations, and adds the Issuer and Countrywide Home Loans Servicing, LP as defendants. The amended complaint alleges misrepresentation and breach of contract, among other claims, and seeks unspecified actual and punitive damages, and attorneys’ fees from the Countrywide defendants and from the Issuer as an alleged successor to the Countrywide defendants. On October 9, 2009, the Issuer and the Countrywide defendants filed a motion to dismiss certain claims asserted in the amended complaint.

On January 28, 2009, Syncora Guarantee Inc. (“Syncora”) filed suit, entitled *Syncora Guarantee Inc. v. Countrywide Home Loans, Inc., et al.*, in New York Supreme Court, New York County against CFC and certain other Countrywide entities. The action relates to bond insurance policies provided by Syncora with regard to certain securitized pools of home equity lines of credit. Syncora allegedly has paid claims as a result of defaults in the underlying loans, and claims that these defaults are the result of improper loan underwriting. The complaint alleges misrepresentation and breach of contract, among other claims, and seeks unspecified actual and punitive damages, and attorneys’ fees. The defendants have moved to dismiss certain of the claims.

On July 10, 2009, MBIA filed a complaint, entitled *MBIA Insurance Corporation, Inc. v. Bank of America Corporation, Countrywide Financial Corporation, Countrywide Home Loans, Inc., Countrywide Securities Corporation, et al.*, in Superior Court of the State of California, County of Los Angeles, against the Issuer, CFC, various Countrywide entities and other individuals and entities. MBIA, which amended the complaint on November 3, 2009, purports to bring the action as subrogee to the note holders for certain securitized pools of home equity lines of credit and fixed-rate second lien mortgage loans. The complaint is based upon the same allegations set forth in the complaints filed in the *MBIA Insurance Corporation Inc. v. Countrywide Home Loan et al.*, action and asserts claims for, among other things, misrepresentation, breach of contract, and violations of certain California statutes. The complaint seeks unspecified damages and declaratory relief. On December 4, 2009, the Issuer and various defendants filed

demurrers in response to the amended complaint. On April 29, 2010, in the action in New York Supreme Court, entitled *MBIA Insurance Corporation, Inc. v. Countrywide Home Loans, et al.*, the court issued an order granting in part and denying in part defendants' motion to dismiss, declining to dismiss plaintiff's claims against the Issuer.

On December 11, 2009, Financial Guaranty Insurance Company ("FGIC") filed a complaint, entitled *Financial Guaranty Insurance Co., v. Countrywide Home Loans, Inc.*, in New York Supreme Court, New York County, against Countrywide Home Loans, Inc. ("CHL"). The action relates to bond insurance policies provided by FGIC with regard to certain securitized pools of home equity lines of credit and fixed-rate second lien mortgage loans. FGIC allegedly has paid claims as a result of defaults in the underlying loans, and claims that these defaults are the result of improper loan underwriting. The complaint alleges misrepresentation and breach of contract, among other claims, and seeks unspecified actual and punitive damages, and attorneys' fees.

On February 26, 2010, CHL filed a motion to dismiss certain claims asserted in *Financial Guaranty Insurance Company v. Countrywide Home Loans, Inc.* On April 30, 2010, FGIC filed an amended complaint, which adds the Issuer, CFC, Countrywide Securities Corporation ("CSC") and Countrywide Bank F.S.B. as defendants.

On March 24, 2010, CHL, CSC and CFC filed a separate but related action against FGIC in New York Supreme Court seeking monetary damages of at least \$100 million against FGIC in connection with FGIC's failure to pay claims under certain bond insurance policies provided by FGIC.

On March 24, 2010, CHL, CSC, CWHEQ, Inc. and CWABS, Inc. initiated a proceeding in New York Supreme Court under Article 78 of the New York Civil Practice Law and Rules challenging the November 24, 2009 order of the New York State Insurance Department, which directed FGIC to cease payment of claims under certain bond insurance policies. In the Article 78 proceeding, CHL, CSC, CWHEQ, Inc. and CWABS, Inc. assert that the New York State Insurance Department's 24 November 2009 order to FGIC to stop paying insurance proceeds was in excess of the Insurance Department's powers and violated New York Insurance law and related regulations. The parties are therefore seeking a declaration that the November 24, 2009 order is void.

### **Countrywide Equity and Debt Securities Matters**

CFC, certain other Countrywide entities, and certain former officers and directors of CFC, among others, have been named as defendants in two putative class actions filed in the U.S. District Court for the Central District of California relating to certain CFC equity and debt securities. One case, entitled *In re Countrywide Financial Corp. Securities Litigation*, was filed on January 25, 2008 by certain New York state and municipal pension funds on behalf of purchasers of CFC's common stock and certain other equity and debt securities. The complaint alleges, among other things, that CFC made misstatements (including in certain SEC filings) concerning the nature and quality of its loan underwriting practices and its financial results, in violation of the antifraud provisions of the Exchange Act and Sections 11 and 12 of the Securities Act. Plaintiffs also assert claims against BAS, MLPF&S and other underwriter defendants under Sections 11 and 12 of the Securities Act. Plaintiffs seek unspecified compensatory damages, among other remedies. On December 1, 2008, the court granted in part and denied in part the defendants' motions to dismiss the first consolidated amended complaint, with leave to amend certain claims. Plaintiffs filed a second consolidated amended complaint. On April 6, 2009, the District Court denied the motions to dismiss the amended complaint made by CFC and the underwriters. On December 9, 2009, the District Court granted in part and denied in part plaintiffs' motion for class certification. On December 23, 2009, defendants sought interlocutory appeal of certain aspects of the District Court's class certification decision. On April 2, 2010, the plaintiffs and CFC in *In re Countrywide Financial Corp. Securities Litigation* reached an agreement in principle to settle the case for \$600 million and dismiss all claims with prejudice.

This amount was fully accrued as of March 31, 2010. The proposed settlement, which would settle claims against CFC and all other defendants (except for defendant KPMG LLP), is subject to negotiation and execution of a mutually acceptable settlement agreement and court approval.

The other case, entitled *Argent Classic Convertible Arbitrage Fund L.P. v. Countrywide Financial Corp. et al.*, was filed in the U.S. District Court for the Central District of California on October 5, 2007 against CFC on behalf of purchasers of certain Series A and B debentures issued in various private placements pursuant to a May 16, 2007 CFC offering memorandum. This matter involves allegations similar to those in the *In re Countrywide Financial Corporation Securities Litigation* case, asserts claims under the antifraud provisions of the Exchange Act and California state law, and seeks unspecified damages. Plaintiff filed an amended complaint that added the Issuer as a defendant. On March 9, 2009, the District Court dismissed the Issuer from the case; CFC remained as a named defendant. On December 9, 2009, the District Court denied plaintiff's motion for class certification. CFC and Argent Classic, on its own behalf, have reached a settlement in principle to dismiss the case with prejudice subject to execution of a definitive settlement agreement. In *Argent Classic Convertible Arbitrage Fund L.P. v. Countrywide Financial Corp. et al.*, CFC and Argent Classic, on its own behalf, have agreed to settle the matter in an amount that is not material to the Issuer's earnings and on May 4, 2010, filed with the U.S. District Court for the Central District of California a stipulation to dismiss the case with prejudice as to all parties.

CFC has also responded to subpoenas from the SEC and the U.S. Department of Justice (the "DOJ").

### **Countrywide FTC Investigation**

On June 20, 2008, the Federal Trade Commission ("FTC") issued Civil Investigative Demands to CFC regarding Countrywide's mortgage servicing practices. On January 6, 2010, FTC Staff sent a letter to the Issuer offering an opportunity to discuss settlement and enclosing a proposed consent order and draft complaint that reflects FTC Staff's views that certain servicing practices of CHL and Countrywide Home Loans Servicing, LP, which is now known as BAC Home Loans Servicing, LP, violate Section 5 of the Federal Trade Commission Act (the "FTC Act") and the Fair Debt Collection Practices Act. FTC Staff also advised that if consent negotiations are not successful, it will recommend that an enforcement action seeking injunctive relief and consumer redress be filed against CHL and BAC Home Loans Servicing, LP for violations of Section 5 of the FTC Act and the Fair Debt Collections Practices Act. The Issuer believes that the servicing practices of Countrywide Home Loans, Inc. and BAC Home Loans Servicing, LP did not and do not violate Section 5 of the FTC Act and the Fair Debt Collections Practices Act. The Issuer is currently involved in discussions with FTC Staff concerning the Staff's views.

### **Countrywide Mortgage-Backed Securities Litigation**

CFC, certain other Countrywide entities, certain former CFC officers and directors, as well as BAS and MLPF&S, are named as defendants in a consolidated putative class action, entitled *Luther v. Countrywide Home Loans Servicing LP, et al.*, filed on November 14, 2007 in the Superior Court of the State of California, County of Los Angeles, that relates to public offerings of various mortgage-backed securities ("MBS"). The consolidated complaint alleges, among other things, that the mortgage loans underlying these securities were improperly underwritten and failed to comply with the guidelines and processes described in the applicable registration statements and prospectus supplements, in violation of Sections 11 and 12 of the Securities Act, and seeks unspecified compensatory damages, among other relief. In March 2009, defendants moved to dismiss the case in the Superior Court. On June 15, 2009, the Superior Court entered an order staying the state court proceeding and directing the plaintiffs to file suit in Federal Court. On August 24, 2009, the plaintiffs filed a complaint in the U.S. District Court for the Central District of California seeking a declaratory judgment that the Superior Court had subject matter jurisdiction over their claims. The District Court dismissed the declaratory judgment action. On January 6,

2010, the Superior Court lifted the stay entered on June 15, 2009 and dismissed plaintiffs' consolidated complaint with prejudice for lack of subject matter jurisdiction. On January 14, 2010, one of the plaintiffs in the *Luther case*, the Maine State Retirement System, filed a new putative class action complaint in the U.S. District Court for the Central District of California entitled *Maine State Retirement System v. Countrywide Financial Corporation, et al.* The complaint names CFC, certain other Countrywide entities, certain former CFC officers and directors, as well as BAS and MLPF&S as defendants. Plaintiff's allegations, claims and remedies sought are substantially similar and concern the same offerings of MBS at issue in the Luther case that was dismissed by the Superior Court.

On August 15, 2008, a complaint, entitled *New Mexico State Investment Council, et al. v. Countrywide Financial Corporation, et al.*, was filed in the First Judicial Court for the County of Santa Fe against CFC, certain other CFC entities and certain former officers and directors of CFC by three New Mexico governmental entities that allegedly acquired certain of the MBS also at issue in the Luther case. The complaint initially asserted claims under the Securities Act and New Mexico state law and seeks unspecified compensatory damages and rescission. On March 25, 2009, the court denied the motion to dismiss the complaint. The individual defendants were dismissed based on lack of personal jurisdiction. On November 13, 2009, plaintiffs voluntarily dismissed the New Mexico state law claims. Trial is scheduled for October 2010.

On October 13, 2009, the Federal Home Loan Bank of Pittsburgh ("**FHLB Pittsburgh**") filed a complaint, entitled *Federal Home Loan Bank of Pittsburgh v. Countrywide Securities Corporation et al.*, in the Court of Common Pleas of Allegheny County Pennsylvania against CFC, CSC, CHL, CWALT, Inc. and CWMB, Inc., among other defendants, alleging violations of the Securities Act and the Pennsylvania Securities Act of 1972, as well as fraud and negligent misrepresentation under Pennsylvania common law in connection with various offerings of MBS. The complaint asserts, among other things, misstatements and omissions concerning the credit quality of the mortgage loans underlying the securities and the loan origination practices associated with those loans and seeks unspecified damages and rescission, among other relief. The Countrywide defendants moved to dismiss the complaint on February 26, 2010.

On December 23, 2009, the Federal Home Loan Bank of Seattle ("**FHLB Seattle**") filed three complaints in the Superior Court of Washington for King County alleging violations of the Securities Act of Washington in connection with various offerings of MBS and makes allegations similar to those in the FHLB Pittsburgh matter. The complaints seek rescission, interest, costs and attorneys' fees. The case, entitled *Federal Home Loan Bank of Seattle v. Banc of America Securities LLC, et al.*, was filed against CFC, CWALT, Inc., BAS, Banc of America Funding Corporation, and the Issuer. The case, entitled *Federal Home Loan Bank of Seattle v. Countrywide Securities Corporation, et al.*, was filed against CFC, CSC, CWALT, Inc., Merrill Lynch Mortgage Investors, Inc., and Merrill Lynch Mortgage Capital, Inc. The case, entitled *Federal Home Loan Bank of Seattle v. UBS Securities LLC, et al.*, was filed against CFC, CWMB, Inc., CWALT, Inc., and UBS Securities LLC.

On March 15, 2010, the Federal Home Loan Bank of San Francisco ("**FHLB San Francisco**") filed two complaints in the Superior Court of the State of California, County of San Francisco. The case entitled *Federal Home Loan Bank of San Francisco v. Deutsche Bank Securities Inc., et al.* was filed against CSC, MLPF&S and other defendants. The case entitled *Federal Home Loan Bank of San Francisco v. Credit Suisse Securities (USA) LLC, et al.* was filed against BAS, Banc of America Funding Corp., Banc of America Mortgage Securities, Inc., CSC, CWALT, Inc., CFC and other defendants. The complaints allege violations of the California Corporate Securities Act, the Securities Act, the California Civil Code and common law in connection with various offerings of mortgage-backed securities. The complaints assert, among other things, misstatements and omissions concerning the credit quality of the mortgage loans underlying the securities and the loan origination practices associated with those loans. The complaints seek unspecified damages and rescission, among other relief.

### **Data Treasury Litigation**

The Issuer and BANA were named as defendants in two cases filed by Data Treasury Corporation (“**Data Treasury**”) in the U.S. District Court for the Eastern District of Texas. In one case filed on June 25, 2005 (Ballard), Data Treasury alleged that defendants “provided, sold, installed, utilized, and assisted others to use and utilize image-based banking and archival solutions” in a manner that infringed United States Patent Nos. 5,910,988 and 6,032,137. In the other case filed on February 24, 2006 (“**Huntington**”), Data Treasury alleged that the Issuer and BANA, along with LaSalle Bank Corporation and LaSalle Bank, N.A., were “making, using, selling, offering for sale, and/or importing into the United States, directly, contributory, and/or by inducement, without authority, products and services that fall within the scope of the claims of” United States Patent Nos. 5,265,007; 5,583,759; 5,717,868; and 5,930,778. The Huntington case also claimed infringement against the LaSalle defendants of the patents at issue in the Ballard case. The Ballard and Huntington cases are now consolidated in the *Data Treasury Corporation v. Wells Fargo, et al.*, action, although the claims related to the Huntington patents are currently stayed. Data Treasury seeks significant compensatory damages and equitable relief in the Ballard case and unspecified compensatory damages and injunctive relief in the Huntington case. The District Court has scheduled the Ballard case for trial in October 2010.

### **Enron Litigation**

On April 8, 2002, ML&Co. and MLPF&S were added as defendants in a consolidated class action, entitled *Newby v. Enron Corp. et al.*, filed in the U.S. District Court for the Southern District of Texas on behalf of certain purchasers of Enron’s publicly traded equity and debt securities. The complaint alleges, among other things, that ML&Co. and MLPF&S engaged in improper transactions that helped Enron misrepresent its earnings and revenues. On March 5, 2009, the District Court granted ML&Co. and MLPF&S’s motion for summary judgment and dismissed the claims against ML&Co. and MLPF&S with prejudice. Subsequently, the lead plaintiff, ML&Co. and certain other defendants filed a motion to dismiss and for entry of final judgment. The District Court granted the motion on 2 December 2009 and dismissed all claims against ML&Co. and MLPF&S with prejudice.

### **Heilig-Meyers Litigation**

In *AIG Global Securities Lending Corp., et al. v. Banc of America Securities LLC*, filed on December 7, 2001 and formerly pending in the U.S. District Court for the Southern District of New York, the plaintiffs purchased asset backed securities (“**ABS**”) issued by a trust formed by Heilig-Meyers Co., and allege that BAS, as underwriter, made misrepresentations in connection with the sale of those securities in violation of the federal securities laws and New York common law. The case was tried and a jury rendered a verdict against BAS in favor of the plaintiffs for violations of Section 10(b) of the Exchange Act and Rule 10b-5 and for common law fraud. The jury awarded aggregate compensatory damages of US\$84.9 million plus prejudgment interest totaling approximately US\$59 million. On May 14, 2009, the District Court denied BAS’s post trial motions to set aside the verdict. BAS has filed an appeal in the U.S. Court of Appeals for the Second Circuit.

### **IndyMac Litigation**

On January 20, 2009, BAS and MLPF&S, in their capacity as underwriters, along with IndyMac MBS, IndyMac ABS, and other underwriters and individuals, were named as defendants in a putative class action complaint, entitled *IBEW Local 103 v. Indymac MBS et al.*, filed in the Superior Court of the State of California, County of Los Angeles, by purchasers of IndyMac mortgage pass-through certificates. The complaint alleges, among other things, that the mortgage loans underlying these securities were improperly underwritten and failed to comply with the guidelines and processes described in the applicable

registration statements and prospectus supplements, in violation of Sections 11 and 12 of the Securities Act, and seeks unspecified compensatory damages and rescission, among other relief.

On May 14, 2009, the Issuer (as the alleged successor-in-interest to MLPF&S), CSC, IndyMac MBS, IndyMac ABS, and other underwriters and individuals, were named as defendants in a putative class action complaint, entitled *Police & Fire Retirement System of the City of Detroit v. IndyMac MBS, Inc., et al.*, filed in the U.S. District Court for the Southern District of New York. On June 29, 2009, the Issuer (as the alleged successor-in-interest to CSC and MLPF&S) and other underwriters and individuals were named as defendants in another putative class action complaint, entitled *Wyoming State Treasurer, et al. v. John Olinski, et al.*, also filed in the U.S. District Court for the Southern District of New York. The allegations, claims, and remedies sought in these cases are substantially similar to those in the *IBEW Local 103* case. On July 29, 2009, *Police & Fire Retirement System and Wyoming State Treasurer* were consolidated by the U.S. District Court for the Southern District of New York and a consolidated amended complaint was filed on October 9, 2009. The consolidated complaint named the Issuer as a defendant based on allegations that the Issuer is the “successor-in-interest” to CSC and MLPF&S. BAS and CSC were not named as defendants. Prior to the consolidation of these matters, the *IBEW Local 103* case was voluntarily dismissed by plaintiffs and its allegations and claims were incorporated into the consolidated amended complaint. A motion to dismiss the consolidated amended complaint was filed on November 23, 2009.

### **In re Initial Public Offering Securities Litigation**

Beginning in 2001, BAS, ML&Co., MLPF&S, other underwriters, and various issuers and others, were named as defendants in certain putative class action lawsuits that have been consolidated in the U.S. District Court for the Southern District of New York as *In re Initial Public Offering Securities Litigation*. Plaintiffs contend that the defendants failed to make certain required disclosures and manipulated prices of securities sold in initial public offerings through, among other things, alleged agreements with institutional investors receiving allocations to purchase additional shares in the aftermarket and seek unspecified damages. On December 5, 2006, the U.S. Court of Appeals for the Second Circuit reversed the District Court’s order certifying the proposed classes. On September 27, 2007, plaintiffs filed a motion to certify modified classes, which defendants opposed. On October 10, 2008, the District Court granted plaintiffs’ request to withdraw without prejudice their class certification motion. The parties agreed to settle the matter in an amount that is not material to the Issuer’s Consolidated Financial Statements and, on October 5, 2009, the District Court granted final approval of the settlement. Certain objectors to the settlement have filed an appeal of the District Court’s certification of the settlement class to the U.S. Court of Appeals for the Second Circuit. On March 2, 2010, the objectors withdrew their discretionary appeal to certification of the settlement class and filed an appeal of the order by the U.S. District Court for the Southern District of New York approving the settlement.

### **Interchange and Related Litigation**

The Issuer, BANA, BA Merchant Services LLC (f/k/a National Processing, Inc.) and MBNA America Bank, N.A. are defendants in putative class actions filed on behalf of retail merchants that accept Visa and MasterCard payment cards. Additional defendants include Visa, MasterCard, and other financial institutions. Plaintiffs seeking unspecified treble damages and injunctive relief, allege that the defendants conspired to fix the level of interchange and merchant discount fees and that certain other practices, including various Visa and MasterCard rules, violate federal and California antitrust laws. The class actions, the first of which was filed on June 22, 2005, are coordinated for pre-trial proceedings in the U.S. District Court for the Eastern District of New York, together with individual actions brought only against Visa and MasterCard, under the caption *In Re Payment Card Interchange Fee and Merchant Discount Anti-Trust Litigation*. On January 8, 2008, the District Court dismissed all claims for pre-2004 damages. On

May 8, 2008, plaintiffs filed a motion for class certification, which the defendants opposed. On January 29, 2009, the class plaintiffs filed a second amended consolidated complaint.

The class plaintiffs have also filed two supplemental complaints against certain defendants, including the Issuer, BANA, BA Merchant Services LLC (f/k/a National Processing, Inc.) and MBNA America Bank, N.A., relating to MasterCard's 2006 initial public offering ("**MasterCard IPO**") and Visa's 2008 initial public offering ("**Visa IPO**"). The supplemental complaints, which seek unspecified treble damages and injunctive relief, assert, among other things, claims under federal antitrust laws. On November 25, 2008, the District Court granted defendants' motion to dismiss the supplemental complaint relating to the MasterCard IPO, with leave to amend. On January 29, 2009, plaintiffs amended the MasterCard IPO supplemental complaint and also filed a supplemental complaint relating to the Visa IPO.

Defendants have filed motions to dismiss the second amended consolidated complaint and the MasterCard IPO and Visa supplemental complaints.

The Issuer and certain of its affiliates have entered into agreements with Visa and other financial institutions that provide for sharing liabilities in connection with certain antitrust litigation against Visa, including the Interchange case (the "**Visa-Related Litigation**"). Under these agreements, the Issuer's obligations to Visa in the Visa-Related Litigation are capped at the Issuer's membership interest in Visa USA, which currently is 12.9 percent. Under these agreements, Visa Inc. placed a portion of the proceeds from the Visa IPO into an escrow to fund liabilities arising from the Visa-Related Litigation, including the 2008 settlement of *Discover Financial Services v. Visa USA, et al.* and the 2007 settlement of *American Express Travel Related Services Company v. Visa USA, et al.* Since the Visa IPO, Visa Inc. has added funds to the escrow, which has the effect of repurchasing Visa Inc. Class A common stock equivalents from the Visa USA members, including the Issuer.

#### **Lehman Brothers Holdings, Inc. Litigation**

Beginning in September 2008, BAS, MLPF&S, CSC and LaSalle Financial Services Inc., along with other underwriters and individuals, were named as defendants in several putative class action complaints filed in the U.S. District Court for the Southern District of New York and state courts in Arkansas, California, New York and Texas. Plaintiffs allege that the underwriter defendants violated Sections 11 and 12 of the Securities Act by making false or misleading disclosures in connection with various debt and convertible stock offerings of Lehman Brothers Holdings, Inc. and seek unspecified damages. All cases against the defendants have now been transferred or conditionally transferred to the multi-district litigation captioned *In re Lehman Brothers Securities and ERISA Litigation* pending in the U.S. District Court for the Southern District of New York. BAS, MLPF&S and other defendants moved to dismiss the consolidated amended complaint. BAS, MLPF&S and other defendants' motion to dismiss the consolidated amended complaint was denied without prejudice on March 17, 2010 when plaintiffs advised the U.S. District Court for the Southern District of New York that they would seek to file a third amended complaint.

#### **Lehman Set-off Litigation**

On November 26, 2008, BANA commenced an adversary proceeding against Lehman Brothers Holdings, Inc. ("**LBHI**") and Lehman Brothers Special Financing, Inc. ("**LBSF**") in LBHI's and LBSF's Chapter 11 bankruptcy proceedings in the U.S. Bankruptcy Court for the Southern District of New York. In the adversary proceeding, BANA is seeking a declaration that it properly set-off funds held in Lehman deposit accounts against monies owed to BANA by LBSF and LBHI under various derivatives and guarantee agreements. LBSF and LBHI answered the complaint, and LBHI filed counterclaims against BANA and Bank of America Trust and Banking Corporation (Cayman) Limited ("**BofA Cayman**") on January 2, 2009, alleging that BANA's set-off was improper and violated the automatic stay in bankruptcy.

LBHI's counterclaims sought among other relief, the return of the set-off funds. BANA and BofA Cayman filed their answer to LBHI's counterclaims, which denied the material allegations of the counterclaims, on February 9, 2009. On July 23, 2009, LBHI voluntarily dismissed its counterclaims against BofA Cayman, but BANA remains a defendant. On September 14, 2009, LBHI, LBSF and BANA submitted cross-motions for summary judgment.

### **Lyondell Litigation**

On July 23, 2009, an adversary proceeding, entitled *Official Committee of Unsecured Creditors v. Citibank, N.A., et al.*, was filed in the U.S. Bankruptcy Court for the Southern District of New York. This adversary proceeding, in which MLPF&S, Merrill Lynch Capital Corporation and more than 50 other individuals and entities were named as defendants, relates to ongoing Chapter 11 bankruptcy proceedings in *In re Lyondell Chemical Company, et al.* The plaintiff in the adversary proceeding, the Official Committee of Unsecured Creditors of Lyondell Chemical Company (the "Committee"), alleged in its complaint that certain loans made and liens granted in connection with the December 20, 2007 merger between Lyondell Chemical Company and Basell AF S.C.A. were avoidable fraudulent transfers under state and federal fraudulent transfer laws. MLPF&S is named as a defendant in its capacity as: (i) a joint lead arranger under a senior credit facility and individually as lender thereunder; and (ii) a joint lead arranger under a bridge loan facility and individually as lender thereunder. Merrill Capital Corporation is named as a defendant in its capacity as: (i) a joint lead arranger under the senior credit facility and individually as lender thereunder; and (ii) administrative agent under the bridge loan facility. The Committee sought both to avoid the obligations under the loans made under the facilities and to recover fees and interest paid in connection therewith. The Committee also sought unspecified damages from MLPF&S for allegedly aiding and abetting a breach of fiduciary duty in connection with its role as advisor to Basell's parent company, Access Industries.

On October 1, 2009, a second adversary proceeding, entitled *The Wilmington Trust Co. v. LyondellBasell Industries AF S.C.A., et al.*, was filed in the U.S. Bankruptcy Court for the Southern District of New York. This adversary proceeding, in which MLPF&S, Merrill Lynch Capital Corporation and Merrill Lynch International Bank Limited ("MLIB") along with more than 70 other entities are named defendants, was filed by the successor trustee for holders of certain Lyondell senior notes, and asserts causes of action for declaratory judgment, breach of contract, and equitable subordination. The complaint alleges that the 2007 leveraged buyout of Lyondell violated a 2005 intercreditor agreement executed in connection with the August 2005 issuance of the Lyondell senior notes and therefore asks the Bankruptcy Court to declare the 2007 intercreditor agreement, and specifically the debt priority provisions contained therein, null and void. The breach of contract action, brought against Merrill Lynch Capital Corporation and one other entity as signatories to the 2005 intercreditor agreement, seeks unspecified damages. The equitable subordination action is brought against all defendants and seeks to subordinate the bankruptcy claims of those defendants to the claims of the holders of the Lyondell senior notes. A motion to dismiss this complaint was filed.

On February 16, 2010, certain defendants, including MLPF&S, Merrill Lynch Capital Corporation and MLIB, advised the Bankruptcy Court that they have reached a settlement in principle with the Lyondell debtors in bankruptcy, the Committee and Wilmington Trust that would dispose of all claims asserted against MLPF&S, Merrill Lynch Capital Corporation and MLIB in these adversary proceedings. On March 11, 2010, the U.S. Bankruptcy Court for the Southern District of New York approved the settlement in principle, which is not material to the Issuer's earnings. The settlement became effective on April 30, 2010.

### **MBIA Insurance Corporation CDO Litigation**

On April 30, 2009, MBIA and LaCrosse Financial Products, LLC filed a complaint against MLPF&S and Merrill Lynch International, entitled *MBIA Insurance Corporation and LaCrosse Financial Products LLC, v. Merrill Lynch Pierce Fenner & Smith, Inc., et al.*, in New York Supreme Court, New York County. The complaint relates to certain credit default swap (“CDS”) agreements and insurance agreements by which plaintiffs provided credit protection to the Merrill Lynch entities and other parties on certain CDO securities held by them. Plaintiffs claim that the Merrill Lynch entities did not adequately disclose the credit quality and other risks of the CDO securities and underlying collateral. The complaint alleges claims for fraud, negligent misrepresentation and breach of contract, among other claims, and seeks rescission and unspecified compensatory and punitive damages, among other relief. Defendants filed a motion to dismiss on July 1, 2009. On April 9, 2010, the New York Superior Court, New York County, issued an order granting the motion to dismiss as to the fraud, negligent misrepresentation and rescission claims, and denying the motion to dismiss solely as to the breach of contract claim.

### **Mediafiction Litigation**

Approximately a decade ago, MLIB acted as manager for a US\$284 million issuance of notes for an Italian library of movies, backed by the future flow of receivables to such movie rights. Mediafiction S.p.A (“**Mediafiction**”) was responsible for collecting payments in connection with the rights to the movies and forwarding the payments to MLIB for distribution to note holders. Mediafiction failed to make the required payments to MLIB and a declaration of bankruptcy under Italian law was made with respect to Mediafiction on March 9, 2006. On July 18, 2006, MLIB filed an opposition to have its claims recognized in the Mediafiction bankruptcy proceeding for amounts that Mediafiction failed to pay on the notes. Thereafter, Mediafiction filed a counterclaim alleging that the agreement between MLIB and Mediafiction was null and void and seeking return of the payments previously made by Mediafiction to MLIB. In October 2008, the Court of Rome granted Mediafiction’s counter claim against MLIB in the amount of US\$137 million. MLIB has appealed the ruling to the Court of Appeals of the Court of Rome.

### **ML&Co. Acquisition-related Matters**

Since January 2009, the Issuer and certain of its current and former officers and directors, among others, have been named as defendants in putative class actions, referred to as the securities actions, brought by shareholders alleging violations of federal securities laws in connection with certain public statements and the proxy statement with respect to the Issuer’s acquisition of ML&Co. (the “**Acquisition**”). Several of these actions have been consolidated and a consolidated amended class action complaint has been filed in the U.S. District Court for the Southern District of New York, as described below.

In addition, several derivative actions, referred to as the derivative actions, have been filed against certain current and former directors and officers of the Issuer, and certain other parties, and the Issuer as nominal defendant, in the federal and state courts, as described below.

Other putative class actions, referred to as the ERISA actions, have been filed in the U.S. District Court for the Southern District of New York against the Issuer and certain of its current and former officers and directors seeking recovery for losses from the Bank of America 401(k) Plan pursuant to ERISA and a consolidated amended class action complaint in these ERISA actions has been filed, as described below.

### **In Re Bank of America Securities, Derivative & ERISA Litigation**

On June 10, 2009, the MDL Panel issued an order transferring the actions related to the Acquisition pending in federal courts outside the U.S. District Court for the Southern District of New York for

coordinated or consolidated pretrial proceedings with the securities actions, ERISA actions, and derivative actions pending in the U.S. District Court for the Southern District of New York. The securities actions, ERISA actions and derivative actions have been separately consolidated and are now pending under the caption *In re Bank of America Securities, Derivative, and Employment Retirement Income Security Act (ERISA) Litigation*.

On September 25, 2009, plaintiffs in the securities actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation* filed a consolidated amended class action complaint. The amended complaint is brought on behalf of a purported class, which consists of purchasers of the Issuer's common and preferred securities between September 15, 2008 and January 21, 2009, holders of the Issuer's common stock or Series B Preferred Stock as of October 10, 2008 and purchasers of the Issuer's common stock issued in the offering that occurred on or about October 7, 2008, and names as defendants the Issuer, ML&Co. and certain of their current and former directors, officers and affiliates. The amended complaint alleges violations of Sections 10(b), 14(a) and 20(a) of the Exchange Act, and SEC rules promulgated thereunder, based on, among other things, alleged false statements and omissions related to: (i) the financial condition and 2008 fourth quarter losses experienced by the Issuer and ML&Co.; (ii) due diligence conducted in connection with the Acquisition; (iii) bonus payments to ML&Co. employees; and (iv) the Issuer's contacts with government officials regarding the Issuer's consideration of invoking the material adverse change clause in the merger agreement and the possibility of obtaining government assistance in completing the Acquisition. The amended complaint also alleges violations of Sections 11, 12(a)(2) and 15 of the Securities Act related to an offering of the Issuer's common stock announced on or about October 6, 2008, and based on, among other things, alleged false statements and omissions related to bonus payments to ML&Co. employees and the benefits and impact of the Acquisition on the Issuer, and names BAS and MLPF&S, among others, as defendants on the Section 11 and 12(a)(2) claims. The amended complaint seeks unspecified damages and other relief. On November 24, 2009, the Issuer, BAS, ML&Co., MLPF&S and the officer and director defendants moved to dismiss the consolidated amended class action complaint.

On October 9, 2009, plaintiffs in the derivative actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation* filed a consolidated amended derivative and class action complaint. The amended complaint names as defendants certain of the Issuer's current and former directors, officers and financial advisors, and certain of ML&Co.'s current and former directors and officers. The amended complaint alleges, among other things, that: (i) certain of the Issuer's officers breached fiduciary duties by conducting an inadequate due diligence process surrounding the Acquisition, failing to make adequate disclosures regarding ML&Co.'s 2008 fourth quarter losses and an alleged agreement to permit ML&Co. to pay bonuses, and failing to invoke the material adverse change clause or otherwise renegotiate the Acquisition; (ii) certain of the Issuer's officers and certain ML&Co. officers received incentive compensation that was inappropriate in view of the work performed and the results achieved and, therefore, that such person should return unearned compensation; (iii) certain of the Issuer's officers and directors exposed the Issuer to significant liability under state and federal law and should be held responsible to the Issuer for contribution; (iv) certain ML&Co. officers and directors and certain financial advisors to the Issuer aided and abetted breaches of fiduciary duties by causing and/or assisting with the consummation of the Acquisition; and (v) certain of the Issuer's officers and directors, certain of the ML&Co. officers and directors and certain of the Issuer's financial advisors violated Section 14(a) of the Exchange Act and Rule 14a-9 promulgated thereunder by allegedly making material misrepresentations and/or material omissions in the proxy statement for the Acquisition and related materials and failing to update those materials to reflect, among other things, ML&Co.'s 2008 fourth quarter losses and ML&Co.'s ability and intention to pay bonuses to its employees in 2008. The amended complaint also purports to bring a direct class action claim for breach of a duty of full disclosure and complete candor by failing to correct or update disclosures made in the proxy statement for the Acquisition and for concealing an alleged agreement authorizing ML&Co. to pay bonuses. The direct claim is brought

on behalf of a purported class of all persons who owned shares of the Issuer's common stock as of October 10, 2008 and is brought against certain of the Issuer's current and former officers and directors. The Issuer is named as a nominal defendant with respect to the derivative claims and is not named as a defendant in the direct class action claim. The amended complaint seeks an unspecified amount of monetary damages, equitable remedies, and other relief. On December 8, 2009, the Issuer, the officer and director defendants and the financial advisors moved to dismiss the consolidated amended derivative and class complaint. On February 8, 2010, the plaintiffs voluntarily dismissed their claims against each of the former ML&Co. officers and directors without prejudice.

On October 9, 2009, plaintiffs in the ERISA actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation* filed a consolidated amended complaint for breaches of duty under ERISA. The amended complaint is brought on behalf of a purported class that consists of participants in the Issuer's 401(k) Plan, the Issuer's 401(k) Plan for Legacy Companies, the Countrywide Financial Corporation 401(k) Plan (collectively the "**401(k) Plans**"), and the Issuer's Pension Plan. The amended complaint names as defendants the Issuer, members of the Issuer's Corporate Benefits Committee, members of the Compensation and Benefits Committee of the Issuer's Board of Directors and certain of the Issuer's current and former directors and officers. The amended complaint alleges violations of ERISA, based on, among other things: (i) an alleged failure to prudently and loyally manage the 401(k) Plans and Pension Plan by continuing to offer the Issuer's common stock as an investment option or measure for participant contributions; (ii) an alleged failure to monitor the fiduciaries of the 401(k) Plans and Pension Plan; (iii) an alleged failure to provide complete and accurate information to the 401(k) Plans and Pension Plan participants with respect to the ML&Co. and Countrywide acquisitions and related matters; and (iv) alleged co-fiduciary liability for these purported fiduciary breaches. The amended complaint seeks an unspecified amount of monetary damages, equitable remedies, and other relief. On December 8, 2009, the Issuer and the officer and director defendants moved to dismiss the consolidated amended complaint.

#### **Other Acquisition-related Litigation**

Since January 21, 2009, the Issuer and certain of its current and former directors have been named as defendants in several putative class and derivative actions, including *Rothbaum v. Lewis*, *Southeastern Pennsylvania Transportation Authority v. Lewis*, *Tremont Partners LLC v. Lewis*, *Kovacs v. Lewis*, *Stern v. Lewis*, and *Houx v. Lewis*, brought by shareholders in the Delaware Court of Chancery alleging breaches of fiduciary duties in connection with the Acquisition. On April 27, 2009, the Delaware Court of Chancery consolidated the derivative actions under the caption *In re Bank of America Corporation Stockholder Derivative Litigation*. On April 30, 2009, the putative class claims in the actions, entitled *Stern v. Lewis* and *Houx v. Lewis*, were voluntarily dismissed without prejudice by order of the Chancery Court. On May 8, 2009, plaintiffs filed an amended consolidated complaint in the Chancery Court, asserting claims derivatively on behalf of the Issuer that the defendants breached their fiduciary duty of loyalty by, among other things, failing to make adequate disclosures regarding ML&Co.'s 2008 fourth quarter losses and bonuses paid to ML&Co. employees in 2008 and breached their fiduciary duty of loyalty and committed waste by failing to invoke the material adverse change clause in the merger agreement or otherwise renegotiate the Acquisition. The amended consolidated complaint seeks damages sustained as a result of the alleged wrongdoing, disgorgement of bonuses paid to the defendants and to the Issuer's management team or to former ML&Co. executives, as well as attorneys' fees and costs and other equitable relief. On June 19, 2009, the Issuer and the individual defendants filed motions to dismiss. On October 12, 2009, the Chancery Court denied defendants' motions to dismiss.

On February 17, 2009, an additional derivative action, entitled *Cunniff v. Lewis, et al.*, was filed in North Carolina Superior Court. The complaint, which names certain of the Issuer's current and former officers and directors as defendants and names the Issuer as a nominal defendant, alleges that defendants

violated fiduciary duties in connection with the Acquisition by, among other things, failing to disclose: (i) the financial condition and 2008 fourth quarter losses experienced by ML&Co. and (ii) the extent of the due diligence conducted in connection with the Acquisition. The complaint also brings a cause of action for waste of corporate assets for, among other things, allegedly subjecting the Issuer to potential material liability for securities fraud. The complaint seeks unspecified damages and other relief. On October 6, 2009, the Superior Court granted defendants' motion to stay the action in favor of derivative actions pending in the Delaware Court of Chancery.

On September 25, 2009, an alleged shareholder of the Issuer filed an action against the Issuer, and its then Chief Executive Officer in Superior Court of the State of California, San Francisco County. The complaint alleges state law causes of action for breach of fiduciary duty, misrepresentation and fraud in connection with plaintiff's purchase of the Issuer's common stock, based on alleged failures to disclose information regarding ML&Co.'s value. The action, entitled *Catalano v. Bank of America*, seeks unspecified damages and other relief. Defendants have removed the action to the U. S. District Court for the Northern District of California, and have requested that the MDL Panel transfer the action to the U.S. District Court for the Southern District of New York for coordinated or consolidated pre-trial proceedings with the related litigation pending in that Court. On December 11, 2009, defendants removed the action to the U.S. District Court for the Northern District of California. On February 5, 2010, the MDL Panel transferred the action to the U.S. District Court for the Southern District of New York for coordinated or consolidated pre-trial proceedings with the related litigation pending in that Court.

On December 22, 2009, the Issuer and certain of its officers were named in a purported class action filed in the U.S. District Court for the Southern District of New York, entitled *Iron Workers of Western Pennsylvania Pension Plan v. Bank of America Corp., et al.* The action is purportedly brought on behalf of all persons who purchased or acquired certain Issuer debt securities between September 15, 2008 and January 21, 2009 and alleges that defendants violated Sections 10(b) and 20(a) of the Exchange Act, and SEC rules promulgated thereunder, based on, among other things, alleged false statements and omissions related to: (i) the financial condition and 2008 fourth quarter losses experienced by the Issuer and ML&Co.; (ii) due diligence conducted in connection with the Acquisition; (iii) bonus payments to ML&Co. employees; and (iv) certain defendants' contacts with government officials regarding the Issuer's consideration of invoking the material adverse change clause in the merger agreement and the possibility of obtaining additional government assistance in completing the Acquisition. The complaint seeks unspecified damages and other relief. The parties in the securities actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation* have requested that the District Court consolidate this action with their actions.

On January 13, 2010, the Issuer, ML&Co. and certain of the Issuer's current and former officers and directors were named in a purported class action filed in the U.S. District Court for the Southern District of New York entitled *Dornfest v. Bank of America Corp., et al.* The action is purportedly brought on behalf of investors in Issuer option contracts between September 15, 2008 and January 22, 2009 and alleges that during the class period approximately 9.5 million Issuer call option contracts and approximately eight million Issuer put option contracts were already traded on seven of the Options Clearing Corporation exchanges. The complaint alleges that defendants violated Sections 10(b) and 20(a) of the Exchange Act, and SEC rules promulgated thereunder, based on, among other things, alleged false statements and omissions related to: (i) the financial condition and 2008 fourth quarter losses experienced by the Issuer and ML&Co.; (ii) due diligence conducted in connection with the Acquisition; (iii) bonus payments to ML&Co. employees; and (iv) certain defendants' contacts with government officials regarding the Issuer's consideration of invoking the material adverse change clause in the merger agreement and the possibility of obtaining additional government assistance in completing the Acquisition. The plaintiff class allegedly suffered damages because they invested in Issuer option contracts at allegedly artificially inflated prices and were adversely affected as the artificial inflation was removed from the market price of the securities.

The complaint seeks unspecified damages and other relief. Plaintiffs in the securities actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation* have requested that the District Court consolidate this action with their actions.

On March 25, 2010, the parties in *Catalano v. Bank of America* filed a stipulation and proposed order dismissing the action without prejudice to any rights plaintiff may have as a member of any putative class alleged in the consolidated securities action pending in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation*. On April 9, 2010, the U.S. District Court for the Southern District of New York consolidated two purported class actions, *Iron Workers of Western Pennsylvania Pension Plan v. Bank of America Corp., et al.* and *Dornfest v. Bank of America Corp., et al.*, with the consolidated securities actions in the *In re Bank of America Securities, Derivative and Employment Retirement Income Security Act (ERISA) Litigation*, and ruled that the plaintiffs in the two purported class actions may pursue those actions as individual actions, but not as class actions.

On February 17, 2010, an alleged shareholder of the Issuer filed a purported derivative action, entitled *Bahnmeier v. Lewis, et al.*, in the U.S. District Court for the Southern District of New York. The complaint names as defendants certain of the Issuer's current and former directors and officers, and one of ML&Co.'s former officers. The complaint alleges, among other things, that the individual defendants breached their fiduciary duties by failing to provide accurate and complete information to shareholders regarding, among other things: (i) the potential for litigation resulting from Countrywide's lending practices and the risk posed to the Issuer's capital levels as a result of Countrywide's loan losses; (ii) the deterioration of ML&Co.'s financial condition during the fourth quarter of 2008, which was allegedly sufficient to trigger the material adverse change clause in the merger agreement with ML&Co.; (iii) the agreement to permit ML&Co. to pay up to US\$5.8 billion in bonuses to its employees; and (iv) the discussions with regulators in December 2008 concerning possibly receiving additional government assistance in completing the Acquisition. The complaint also asserts claims against the individual defendants for breach of fiduciary duty by failing to maintain adequate internal controls, unjust enrichment, abuse of control and gross mismanagement in connection with the supervision and management of the operations, business and disclosure controls of the Issuer. The Issuer is named as a nominal defendant only and no monetary relief is sought against it. The complaint seeks, among other things, an unspecified amount of monetary damages, equitable remedies and other relief.

### **Regulatory Matters**

The Issuer and ML&Co. have also received and are responding to inquiries from a variety of regulators and governmental authorities relating to among other things: (i) the payment by ML&Co. of bonuses for 2008 and disclosures related thereto; (ii) disclosures relating to ML&Co.'s losses in the fourth quarter of 2008; (iii) disclosures relating to the Issuer's consideration of whether there had been a material adverse change relating to ML&Co. and discussions with U.S. government officials in late December 2008; and (iv) the Acquisition and related proxy statement.

On August 3, 2009, the SEC filed a complaint against the Issuer, entitled *SEC v. Bank of America*, in the U.S. District Court for the Southern District of New York, alleging that the Issuer's proxy statement filed on November 3, 2008 failed to disclose the discretionary incentive compensation that ML&Co. could award to its employees prior to completion of the Acquisition. On September 14, 2009, the District Court declined to approve a proposed consent judgment agreed to by the Issuer and the SEC. On 9 October 2009, the Issuer's Board of Directors approved a limited waiver of the Issuer's attorney-client and attorney work product privileges as to certain subject matters under investigation by the U.S. Congress, and federal and state regulatory authorities.

On January 12, 2010, the SEC filed a second complaint against the Issuer, entitled *SEC v. Bank of America Corp.*, in the U.S. District Court for the Southern District of New York alleging that the Issuer violated the federal proxy rules for failing to disclose information concerning ML&Co.'s known and estimated losses prior to the shareholder vote on December 5, 2008, to approve the Acquisition. The SEC alleges that the Issuer was required to describe in its proxy and registration statement any material changes in ML&Co.'s affairs that were not already reflected in ML&Co.'s quarterly reports or certain other public filings, and to update shareholders on any "fundamental change" arising after the effective date of the registration statement. The SEC alleges that the Issuer's failure to provide such an update violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder. The SEC is seeking an injunction against the Issuer to prohibit any future violations of Section 14(a) and Rule 14a-9, as well as an unspecified civil monetary penalty.

On February 1, 2010, the Issuer entered into a proposed settlement with the SEC to resolve all cases filed by the SEC relating to the Acquisition. Also, on February 4, 2010, the Issuer entered into an agreement with the Office of the Attorney General for the State of North Carolina ("NC AG") to resolve all matters that are the subject of an investigation by that Office relating to the Acquisition. Under the terms of the proposed settlements, the Issuer agreed, without admitting or denying any wrongdoing, to pay US\$150 million as a civil penalty to be distributed to former Bank of America shareholders as part of the SEC's Fair Fund program and a payment of US\$1 million to be made to the NC AG for its consumer protection purposes. The payment to the NC AG is not a penalty or a fine. As part of the settlements, the Issuer also agreed to implement a number of additional undertakings for a period of three years, including: engaging an independent auditor to perform an assessment and provide an attestation report on the effectiveness of the Issuer's disclosure controls and procedures; furnishing management certifications signed by the CEO and CFO with respect to proxy statements; retaining disclosure counsel to the Audit Committee of the Issuer's Board; adopting independence requirements beyond those already applicable for all members of the Compensation and Benefits Committee of the Board; continuing to retain an independent compensation consultant to the Compensation and Benefits Committee; implementing and disclosing written incentive compensation principles on the Issuer's website and providing the Issuer's shareholders with an advisory vote concerning any proposed changes to such principles; and providing the Issuer's shareholders with an annual "say on pay" advisory vote regarding the compensation of senior executives. These proposed undertakings may be amended or modified in light of any new regulation or requirement that comes into effect during the three-year period and is applicable to the Issuer with respect to the same subject matter. On February 22, 2010, the District Court approved the settlement subject to the Issuer and the SEC making certain modifications to the settlement to require agreement between the SEC and the Issuer on the selection of the independent auditor and disclosure counsel and to clarify certain issues regarding the distribution of the civil penalty. The parties made the modifications and on February 24, 2010, the District Court entered the Consent Judgment encompassing the settlement terms.

On February 4, 2010, the Office of the New York State Attorney General ("NY AG") filed a civil complaint in the Supreme Court of New York State, entitled *People of the State of New York v. Bank of America, et al.* The complaint names as defendants the Issuer and the Issuer's former chief executive and chief financial officers, Kenneth D. Lewis, and Joseph L. Price, and alleges violations of Sections 352, 352-c(1)(a), 352-c(1)(c), and 353 of the New York General Business Law, commonly known as the Martin Act, and Section 63(12) of the New York Executive Law. The complaint is based on, among other things, alleged false statements and omissions and fraudulent practices related to: (i) the disclosure of ML&Co.'s financial condition and its interim and projected losses during the fourth quarter of 2008; (ii) the Issuer's contacts with federal government officials regarding the Issuer's consideration of invoking the material adverse effect clause in the merger agreement and the possibility of obtaining additional government assistance; (iii) the disclosure of the payment and timing of year-end incentive compensation to ML&Co. employees; and (iv) public statements regarding the due diligence conducted in connection with the

Acquisition and positive statements regarding the Acquisition. The complaint seeks an unspecified amount in disgorgement, penalties, restitution, and damages and other equitable relief.

### **Merrill Lynch Subprime-related Matters**

#### **Louisiana Sheriffs' Pension & Relief Fund v. Conway, et al.**

On October 3, 2008, a putative class action was filed against ML&Co., Merrill Lynch Capital Trust I, Merrill Lynch Capital Trust II, Merrill Lynch Capital Trust III, MLPF&S (collectively the Merrill Lynch entities), and certain present and former ML&Co. officers and directors, and underwriters, including BAS, in New York Supreme Court, New York County. The complaint seeks relief on behalf of all persons who purchased or otherwise acquired debt securities issued by the Merrill Lynch entities pursuant to a shelf registration statement dated March 31, 2006. The complaint alleged that prospectuses misstated the financial condition of the Merrill Lynch entities and failed to disclose their exposure to losses from investments tied to subprime and other mortgages, as well as their liability arising from its participation in the ARS market. On October 22, 2008, the action was removed to the U.S. District Court for the Southern District of New York and on November 5, 2008 it was accepted as a related case to *In re Merrill Lynch & Co., Inc. Securities, Derivative, and ERISA Litigation*. On April 21, 2009, the parties reached an agreement in principle to settle the Louisiana Sheriff's matter in an amount that is not material to the Issuer's Consolidated Financial Statements and dismiss all claims with prejudice. On November 30, 2009, the U.S. District Court for the Southern District of New York granted final approval of the settlement.

#### **Connecticut Carpenters Pension Fund, et al. v. Merrill Lynch & Co., Inc., et al.; Iron Workers Local No. 25 Pension Fund v. Credit-Based Asset Servicing and Securitization LLC, et al.; Public Employees' Ret. System of Mississippi v. Merrill Lynch & Co. Inc. et al.; Wyoming State Treasurer v. Merrill Lynch & Co. Inc.**

Beginning in December 2008, ML&Co. affiliated entities, including Merrill Lynch Mortgage Investors, Inc., and officers and directors of Merrill Lynch Mortgage Investors, Inc., and others were named in four putative class actions arising out of the underwriting and sale of more than US\$55 billion of MBS. The complaints alleged, among other things, that the relevant registration statements and accompanying prospectuses or prospectus supplements misrepresented or omitted material facts regarding the underwriting standards used to originate the mortgages in the mortgage pools underlying the MBS, the process by which the mortgage pools were acquired, and the appraisals of the homes secured by the mortgages. Plaintiffs seek to recover alleged losses in the market value of the MBS allegedly caused by the performance of the underlying mortgages or to rescind their purchases of the MBS. These cases were consolidated under the caption *Public Employees' Ret. System of Mississippi v. Merrill Lynch & Co. Inc.* and, on May 20, 2009, a consolidated amended complaint was filed. On June 17, 2009, all defendants filed a motion to dismiss the consolidated amended complaint. On March 31, 2010, the U.S. District Court for the Southern District of New York issued an order granting in part and denying in part defendants' motion to dismiss the consolidated amended complaint.

#### **Federal Home Loan Bank of Seattle Litigation**

On December 23, 2009, FHLB Seattle filed a complaint, entitled *Federal Home Loan Bank of Seattle v. Merrill Lynch, Pierce, Fenner & Smith, Inc., et al.*, in the Superior Court of Washington for King County against MLPF&S, Merrill Lynch Mortgage Investors, Inc., and Merrill Lynch Mortgage Capital, Inc. The complaint alleges violations of the Securities Act of Washington in connection with the offering of various MBS and asserts, among other things, misstatements and omissions concerning the credit quality of the mortgage loans underlying the MBS and the loan origination practices associated with those loans. The complaint seeks rescission, interest, costs and attorneys' fees.

ML&Co. is cooperating with the SEC and other governmental authorities investigating subprime mortgage-related activities.

### Montgomery

On January 19, 2010, a putative class action entitled *Montgomery v. Bank of America, et al.*, was filed in the U.S. District Court for the Southern District of New York against the Issuer, BAS, MLPF&S and a number of its current and former officers and directors on behalf of all persons who acquired certain preferred stock offered pursuant to a shelf registration statement dated May 5, 2006, specifically two offerings dated January 24, 2008 and another dated May 20, 2008. The *Montgomery* complaint asserts claims under Sections 11, 12(a)(2), and 15 of the Securities Act, and alleges that the prospectus supplements associated with the offerings: (i) failed to disclose that the Issuer's loans, leases, CDOs, and commercial MBS were impaired to a greater extent than disclosed; (ii) misrepresented the extent of the impaired assets by failing to establish adequate reserves or properly record losses for its impaired assets; and (iii) misrepresented the adequacy of the Issuer's internal controls, and the Issuer's capital base in light of the alleged impairment of its assets.

### Municipal Derivatives Matters

The Antitrust Division of the DOJ, the SEC, and the Internal Revenue Service (“IRS”) are investigating possible anticompetitive bidding practices in the municipal derivatives industry involving various parties, including BANA, dating back to the early 1990s. The activities at issue in these industry-wide government investigations concern the bidding process for municipal derivatives that are offered to states, municipalities and other issuers of tax-exempt bonds. The Issuer has cooperated, and continues to cooperate, with the DOJ, the SEC and the IRS. On January 11, 2007, the Issuer entered into a Corporate Conditional Leniency Letter (the “Letter”) with DOJ. Under the Letter and subject to the Issuer's continuing cooperation, the DOJ will not bring any criminal antitrust prosecution against the Issuer in connection with the matters that the Issuer reported to DOJ. Subject to satisfying the DOJ and the court presiding over any civil litigation of the Issuer's cooperation, the Issuer is eligible for: (i) a limit on liability to single, rather than treble, damages in certain types of related civil antitrust actions; and (ii) relief from joint and several antitrust liability with other civil defendants.

On February 4, 2008, BANA received a Wells notice advising that the SEC staff is considering recommending that the SEC bring a civil injunctive action and/or an administrative proceeding against BANA “in connection with the bidding of various financial instruments associated with municipal securities.” An SEC action or proceeding could seek a permanent injunction, disgorgement plus prejudgment interest, civil penalties and other remedial relief. ML&Co. is also being investigated by the SEC and the DOJ concerning bidding practices in the municipal derivatives industry.

Beginning in March 2008, the Issuer, BANA and other financial institutions, including ML&Co., have been named as defendants in complaints filed in federal courts in the District of Columbia, New York and elsewhere. Plaintiffs in those cases purport to represent classes of government and private entities that purchased municipal derivatives from defendants. The complaints allege that defendants conspired to allocate customers and fix or stabilize the prices of certain municipal derivatives from 1992 through the present. The plaintiffs' complaints seek unspecified damages, including treble damages. These lawsuits were consolidated for pre-trial proceedings in the *In re Municipal Derivatives Antitrust Litigation*, pending in the U.S. District Court for the Southern District of New York. BANA, BAS, ML&Co. and other financial institutions have also been named in several related individual suits originally filed in California state courts on behalf of a number of cities and counties in California and asserting state law causes of action. All of these cases have been removed to the U.S. District Court for the Southern District of New York and are now part of *In re Municipal Derivatives Antitrust Litigation*. The amended complaints filed

in these actions continue to allege a substantially similar conspiracy and now assert violations of the Sherman Act and California's Cartwright Act. Six individual actions have been filed in the U.S. District Courts for the Eastern and Central Districts of California. All of these cases allege a substantially similar conspiracy and violations of the Sherman and Cartwright Acts, and seek unspecified damages, and in some cases, treble damages. All six cases are in the process of being transferred for consolidation in the *In re Municipal Derivatives Antitrust Litigation*.

On September 3, 2009, BANA was sued by the West Virginia Attorney General on behalf of the State of West Virginia for the same conspiracy alleged in the *In re Municipal Derivatives Antitrust Litigation*. The suit was originally filed in the Circuit Court of Mason County, West Virginia. BANA removed the case to the U.S. District Court for the Southern District of West Virginia (Huntington Division). The State's motion to remand is fully briefed. Upon removal, BANA noticed the State's case as a tag-along action subject to transfer by the MDL Panel. The MDL Panel has issued a Conditional Transfer Order transferring the action to the U.S. District Court for the Southern District of New York. The State objected and filed a motion to vacate. That motion was denied on February 2, 2010.

Beginning in April 2008, the Issuer and BANA received subpoenas, interrogatories and/or civil investigative demands from a number of state attorneys general requesting documents and information regarding municipal derivatives transactions from 1992 through the present. The Issuer and BANA are cooperating with the state attorneys general.

### **Ocala Litigation**

On November 25, 2009, BANA was named as a defendant in two related lawsuits filed in the U.S. District Court for the Southern District of New York. In *BNP Paribas Mortgage Corporation v. Bank of America, N.A. and Deutsche Bank, AG v. Bank of America, N.A.*, plaintiffs assert breach of contract, negligence and indemnification claims in connection with BANA's roles as, among other things, collateral agent, custodian and indenture trustee of Ocala Funding, LLC ("**Ocala**"). Ocala was a mortgage warehousing facility that provided funding to Taylor, Bean & Whitaker Mortgage Corp. ("**TBW**") by issuing commercial paper and term securities backed by mortgage loans originated by TBW. Plaintiffs claim that they purchased in excess of US\$1.6 billion in securities issued by Ocala and that BANA allegedly failed, among other things, to protect the collateral backing plaintiffs' securities. Plaintiffs seek unspecified compensatory damages, among other relief. On February 4, 2010, BANA moved to dismiss the complaints. On March 17, 2010, each plaintiff filed an amended complaint in lieu of an opposition to the motion to dismiss filed by BANA that restated the previously asserted claims and added claims for breach of fiduciary duty. On April 30, 2010, BANA filed a motion to dismiss each of these amended complaints.

### **Parmalat Finanziaria S.p.A. Matters**

On December 24, 2003, Parmalat Finanziaria S.p.A. ("**Parmalat**") was admitted into insolvency proceedings in Italy, known as "extraordinary administration." The Issuer, through certain of its subsidiaries, including BANA, provided financial services and extended credit to Parmalat and its related entities. On June 21, 2004, Extraordinary Commissioner Dr. Enrico Bondi filed with the Italian Ministry of Production Activities a plan of reorganization for the restructuring of the companies of the Parmalat group that are included in the Italian extraordinary administration proceeding. In July 2004, the Italian Ministry of Production Activities approved the Extraordinary Commissioner's restructuring plan, as amended, for the Parmalat group companies that are included in the Italian extraordinary administration proceeding. This plan was approved by the voting creditors and the Court of Parma, Italy in October of 2005.

Litigation and investigations relating to Parmalat are pending in both Italy and the United States.

### Proceedings in Italy

On May 26, 2004, the Public Prosecutor's Office for the Court of Milan, Italy filed criminal charges against Luca Sala, Luis Moncada, and Antonio Luzi, three former employees of the Issuer, alleging the crime of market manipulation in connection with a press release issued by Parmalat. On December 18, 2008, the Court of Milan, Italy fully acquitted each of the former employees of all charges. On June 17, 2009, the Public Prosecutor's Office for the Court of Milan, Italy filed an appeal of the decision. The Public Prosecutor's Office also filed a related charge in May 2004 against the Issuer asserting administrative liability based on an alleged failure to maintain an organizational model sufficient to prevent the alleged criminal activities of its former employees. The trial on this administrative charge is ongoing, with hearing dates scheduled in 2010.

On July 31, 2009, the Public Prosecutor's Office for the Court of Parma, Italy filed formal charges against 10 former employees and one current employee of the Issuer, alleging the commission of crimes of fraudulent bankruptcy, fraud, usury and embezzlement in connection with the insolvency of Parmalat. The first preliminary hearing was held on November 16, 2009, with further hearings in 2010.

### Proceedings in the United States

All cases listed herein have been transferred to the U.S. District Court for the Southern District of New York for coordinated pre-trial purposes under the caption *In re Securities Litigation Parmalat*.

Since December 2003, certain purchasers of Parmalat-related private placement offerings have filed complaints against the Issuer and various related entities in the following actions: *Principal Global Investors, LLC, et al. v. Bank of America Corporation, et al.* in the U.S. District Court for the Southern District of Iowa; *Monumental Life Insurance Company, et al. v. Bank of America Corporation, et al.* in the U.S. District Court for the Northern District of Iowa; *Prudential Insurance Company of America and Hartford Life Insurance Company v. Bank of America Corporation, et al.* in the U.S. District Court for the Northern District of Illinois; *Allstate Life Insurance Company v. Bank of America Corporation, et al.* in the U.S. District Court for the Northern District of Illinois; *Hartford Life Insurance v. Bank of America Corporation, et al.* in the U.S. District Court for the Southern District of New York; and *John Hancock Life Insurance Company, et al. v. Bank of America Corporation et al.* in the U.S. District Court for the District of Massachusetts. The actions variously allege violations of federal and state securities laws and state common law, and seek rescission and unspecified damages based upon the Issuer's and related entities' alleged roles in certain private placement offerings issued by Parmalat-related companies. The plaintiffs seek rescission and unspecified damages resulting from alleged purchases of approximately US\$305 million in private placement instruments.

As a result of an agreement among the parties to settle the matter in an amount that is not material to the Issuer's earnings, on March 11, 2010, the U.S. District Court for the Southern District of New York signed a stipulation of voluntary dismissal in *Hartford Life Insurance v. Bank of America Corporation, et al.* dismissing the case. Further to the agreement, on March 22, 2010, the U.S. District Court for the Southern District of New York signed a stipulation of voluntary dismissal in *Prudential Life Insurance Company of America and Hartford Life Insurance Company v. Bank of America Corporation, et al.* dismissing Hartford's claims from the case.

On November 23, 2005, the Official Liquidators of Food Holdings Limited and Dairy Holdings Limited, two entities in liquidation proceedings in the Cayman Islands, filed a complaint, entitled *Food Holdings Ltd, et al. v. Bank of America Corp., et al.* (the "**Food Holdings Action**"), in the U.S. District Court for the Southern District of New York against the Issuer and several related entities. The complaint in the Food Holdings Action alleges that the Issuer and other defendants conspired with Parmalat in carrying out transactions involving the plaintiffs in connection with the funding of Parmalat's Brazilian

entities, and asserts claims for fraud, negligent misrepresentation, breach of fiduciary duty and other related claims. The complaint seeks in excess of US\$400 million in compensatory damages and interest, among other relief. A bench trial was held the week of 14 September 2009. On February 17, 2010, the District Court issued an Opinion and Order dismissing all of the claims. On March 18, 2010, the Food Holdings Limited plaintiffs filed a notice of appeal from the opinion and order dismissing their claims to the U.S. Court of Appeals for the Second Circuit. On April 1, 2010, the Issuer filed a cross-appeal as to certain rulings.

### **Pender Litigation**

The Issuer is a defendant in a putative class action entitled *William L. Pender, et al. v. Bank of America Corporation, et al.* (formerly captioned *Anita Pothier, et al. v. Bank of America Corporation, et al.*), which is pending in the U.S. District Court for the Western District of North Carolina. The action, filed on June 30, 2004, is brought on behalf of participants in or beneficiaries of The Bank of America Pension Plan (formerly known as the NationsBank Cash Balance Plan) and The Bank of America 401(k) Plan (formerly known as the NationsBank 401(k) Plan). The Issuer, BANA, The Bank of America Pension Plan, The Bank of America 401(k) Plan, the Bank of America Corporation Corporate Benefits Committee and various members thereof, and PricewaterhouseCoopers LLP are defendants. The complaint alleges violations of ERISA, including that the design of The Bank of America Pension Plan violated ERISA's defined benefit pension plan standards and that such plan's definition of normal retirement age is invalid. In addition, the complaint alleges age discrimination by The Bank of America Pension Plan, unlawful lump sum benefit calculation, violation of ERISA's "anti-backloading" rule, that certain voluntary transfers of assets by participants in The Bank of America 401(k) Plan to The Bank of America Pension Plan violated ERISA, and other related claims. The complaint alleges that plan participants are entitled to greater benefits and seeks declaratory relief, monetary relief in an unspecified amount, equitable relief, including an order reforming The Bank of America Pension Plan, attorneys' fees and interest. On September 26, 2005, the bank defendants filed a motion to dismiss. On December 1, 2005, the plaintiffs moved to certify classes consisting of, among others, (i) all persons who accrued or who are currently accruing benefits under The Bank of America Pension Plan and (ii) all persons who elected to have amounts representing their account balances under The Bank of America 401(k) Plan transferred to The Bank of America Pension Plan. On April 7, 2010, the U.S. District Court for the Western District of North Carolina dismissed plaintiffs' claim of age discrimination by The Bank of America Pension Plan and plaintiffs' sole claim against PricewaterhouseCoopers LLP, and reserved judgment on the rest of defendants' motion to dismiss.

### **Tribune PHONES Litigation**

On March 5, 2010, an adversary proceeding, entitled *Wilmington Trust Company v. JPMorgan Chase Bank, N.A., et al.* was filed in the U.S. Bankruptcy Court for the District of Delaware. This adversary proceeding, in which BANA, BAS, MLPF&S and Merrill Lynch Capital Corporation, among others, were named as defendants, relates to the pending Chapter 11 cases in *In re Tribune Company, et al.* The plaintiff in the adversary proceeding, Wilmington Trust Company ("**Wilmington Trust**"), is the indenture trustee for approximately \$1.2 billion of Exchangeable Subordinated Debentures (the "**PHONES**") issued by Tribune Company ("**Tribune**"). In its complaint, Wilmington Trust challenges certain financing transactions entered into among the defendants and Tribune and certain of its operating subsidiaries under certain credit agreements dated May 17, 2007 and December 20, 2007 (collectively known as the "**Credit Agreements**"). The complaint alleges that the defendants were only willing to enter into the Credit Agreements if they could subordinate the PHONES to Tribune's indebtedness under the Credit Agreements. Wilmington Trust seeks to: (i) equitably subordinate the defendants' claims under the Credit Agreements to the PHONES; (ii) transfer any liens securing defendants' claims under the Credit

Agreements to Tribune's bankruptcy estate; and (iii) disallow all claims of the defendants against the Tribune debtors until the PHONES are paid in full.

The complaint also asserts a claim for breach of fiduciary duty against Citibank, N.A. ("**Citibank**"), as former indenture trustee for the PHONES, in an unspecified amount. For allegedly aiding and abetting Citibank's alleged breach of fiduciary duty, Wilmington Trust seeks damages in an unspecified amount from each of the defendants, equitable subordination of the defendants' bankruptcy claims and the imposition of a constructive trust over the defendants' legal interests in Tribune and its subsidiaries.

On March 18, 2010, the Tribune debtors filed a motion, which the Bankruptcy Court heard on April 13, 2010, seeking a determination that Wilmington Trust has violated the automatic stay by filing the complaint and to halt all further proceedings regarding the complaint.

### **Other Regulatory Matters**

Except as disclosed in this section 6, the Issuer and its subsidiaries, taken as a whole, is not and has not been involved in any governmental, legal, or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) in the 12 months preceding the date of this document, which may have, or in such period have had, a significant effect on the financial position or profitability of the Issuer and its subsidiaries, taken as a whole.

### **7. Independent Registered Public Accounting Firm**

The financial statements of the Issuer as of December 31, 2009 and December 31, 2008 and for each of the three years in the period ended December 31, 2009, which are incorporated by reference in this Offering Circular have been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm with respect to the Issuer within the meaning of the applicable rules and regulations adopted by the SEC and the Public Company Accounting Oversight Board (United States), as stated in their report incorporated therein. PricewaterhouseCoopers LLP is a member of the American Institute of Certified Public Accountants and is registered with the Public Company Accounting Oversight Board (United States).

### **8. Post-issuance Information**

The Issuer does not intend to provide any post-issuance information in relation to any issue of Notes or any Underlying Asset(s). However, the Issuer may prepare one or more supplements to this Offering Circular to reflect, among other things, developments in its business or affairs.

## ANNEX A

## FORM OF FINAL TERMS FOR NOTES

*[Not to be used for Dual Currency Notes, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s) or Physical Delivery Notes]*

Final Terms dated [ ]

## BANK OF AMERICA CORPORATION

*Issue of [Aggregate Nominal Amount of Tranche of Notes] [Title of Notes] under the U.S. \$65,000,000,000 Bank of America Corporation Euro Medium-Term Note Program*

## PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions as set forth in the Offering Circular dated July 22, 2010 which constitutes a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospective Directive**”). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with such Offering Circular. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Offering Circular. The Offering Circular is available for viewing during normal business hours at [address] and [website] and copies may be obtained from [address].

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under an Offering Circular with an earlier date.]*

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

[By investing in the Notes each investor represents that:

- (a) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to invest in the Notes and as to whether the investment in the Notes is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the Issuer or any Dealer as investment advice or as a recommendation to invest in the Notes, it being understood that information and explanations related to the “Terms and Conditions of the Notes” shall not be considered to be investment advice or a recommendation to invest in the Notes. No

communication (written or oral) received from the Issuer or any Dealer shall be deemed to be an assurance or guarantee as to the expected results of the investment in the Notes.

- (b) Assessment and Understanding. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms and conditions and the risks of the investment in the Notes. It is also capable of assuming, and assumes, the risks of the investment in the Notes.
- (c) Status of Parties. Neither the Issuer nor any Dealer is acting as fiduciary for or adviser to it in respect of the investment in the Notes.]

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

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

- |    |                                    |  |
|----|------------------------------------|--|
| 1. | Issuer:                            | Bank of America Corporation  |
| 2. | (i) Series Number:                 | [    ]   |
|    | (ii) Tranche Number:               | [    ]   |
|    |                                    | <i>(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible)</i>  |
| 3. | Specified Currency:                | [    ]   |
| 4. | Aggregate Nominal Amount of Notes: |  |
|    | (i) Series:                        | [    ]   |
|    | (ii) Tranche:                      | [    ]   |
| 5. | Issue Price:                       | [    ] per cent. of the Aggregate Nominal Amount<br>[plus accrued interest from <i>[insert date]</i> , (if applicable)]  |
| 6. | Specified Denominations:           | [    ] <i>(Notes (including Notes denominated in Sterling) in respect of which the issue proceeds are to be accepted by the Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of section 19 of the Financial Services and Markets Act 2000 and which have a maturity of less than one year must have a minimum redemption value of £100,000 (or its equivalent in other currencies))</i> |
| 7. | (i) Issue Date:                    | [    ]   |
|    | (ii) Interest Commencement Date:   | [    ]/[Not Applicable]  |

- [This should be the same as the Issue Date unless this Series is fungible with an existing Series and accrued interest from the previous Interest Period End Date has not been added to the Issue Price in paragraph 5]*
8. Maturity Date: *[specify date or (for Floating-Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year]*
9. Interest Basis: *[[ ] per cent. Fixed-Rate]  
[[LIBOR/EURIBOR] +/- [ ] per cent. Floating-Rate]  
[Zero Coupon] [Other (specify)]  
[(further particulars specified below)]*
10. Redemption/Payment Basis: *[Redemption at par]  
[Partly Paid]  
[Installment]  
[Amortizing]  
[Other (specify)]*
11. Settlement: *Cash Settlement*
12. Change of Interest or Redemption/Payment Basis: *[Specify details of any provision for convertibility of Notes into another Interest Basis or Redemption/Payment Basis]  
[Not Applicable]*
13. Put/Call Options: *[Issuer Call/(Further particulars specified below)]  
[Investor Put/(Further particulars specified below)]  
[Not Applicable]*
14. (i) Status of the Notes: *[Senior/Subordinated]*
- (ii) [Date of [Board] approval for issuance of Notes obtained:] *[ ] (N.B. Only relevant where Board (or similar) authorization is required for the particular tranche of Notes)  
[Not Applicable]*
15. Method of Distribution: *[Syndicated]/[Non-syndicated]*

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

16. Fixed-Rate Note Provisions: *[Applicable/Not Applicable] (If not applicable, delete the remaining sub-paragraphs of this paragraph.)*
- (i) Rate(s) of Interest: *[ ] per cent. per annum [payable [annually/ semi annually/ quarterly/ monthly] in arrear] (If payable other than in arrear, amend Condition 4)*
- (ii) Interest Payment Date(s): *[[ ] in each year, from and including [ ] up to and including Maturity Date]/[specify other] (N.B.*

*This will need to be amended in the case of short or long coupons)*

- (iii) Fixed Coupon Amount(s):                   [[    ] per [    ] in nominal amount]/[Not Applicable]
- (iv) Broken Amount(s):                           [    ] [*Insert particulars of any initial or final broken amounts of interest which do not correspond with the Fixed Coupon Amount(s)*]/[Not Applicable]
- (v) Fixed Day Count Fraction:                   [30/360 / Actual/Actual (ICMA)] [*Specify other*]
- (vi) Determination Date(s):                   [    ] in each year (*insert regular Interest Payment Dates, ignoring Issue Date and Maturity Date in the case of a long or short first or last coupon. N.B. only relevant where Day Count Fraction is Actual/Actual (ICMA). This will need to be amended in the case of regular Interest Payment Dates which are not of equal duration.*)
- (vii) Other terms relating to the method of calculating interest for Fixed-Rate Notes:                   [Not Applicable/*Give details*]
17. Floating-Rate Note Provisions:                   [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Interest Period(s):                           The period from (and including), an Interest Period End Date (or the Interest Commencement Date), to (but excluding) the next, or first Interest Period End Date, as the case may be
- (ii) Interest Payment Date(s):                   [    ] in each year, from (and including) [    ] to (and including) [    ]
- (iii) First Interest Payment Date:                   [    ]
- (iv) Interest Period End Dates:                   [Each Interest Payment Date] [[    ]] in each year from (and including) [    ] to (and including) [    ]. Interest Period End Dates will not adjust in accordance with the Business Day Convention.
- (v) Business Day Convention:                   [Floating Rate Convention] [Following Business Day Convention] [Modified Following Business Day Convention] [Preceding Business Day Convention] [*Other (give details)*]
- (vi) Additional Business Center(s) (Condition 4):                   [    ]
- (vii) Formula for determining Interest Amounts:                   [Not Applicable/Applicable (*specify details of formula*)]

- (viii) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination] [ISDA Determination] [Other (*give details*)]
- (ix) Calculation Agent responsible for calculating the Rate(s) of Interest and Interest Amount(s): [ ]
- (x) Screen Rate Determination: [Applicable/Not Applicable] (*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- Reference Rate: [ ] (*Either LIBOR, EURIBOR, or other, although additional information is required if other – including fall back provisions in the Agency Agreement*)
- Interest Determination Date(s): [ ] (*Second London Business Day (as defined in Condition 4(b)(v)) prior to the start of each Interest Period if LIBOR (other than Sterling or euro LIBOR), first day of each Interest Period if Sterling LIBOR and the second day on which the TARGET2 System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR*)
- Relevant Screen Page: [ ] (*in the case of EURIBOR, if not EURIBOR01, ensure it is a page which shows a composite rate or amend the fall back provisions appropriately*)
- (xi) ISDA Determination: [Applicable/Not Applicable] (*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- Floating-Rate Option: [ ]
- Designated Maturity: [ ]
- Reset Date: [ ]
- (xii) Margin(s): [[+/-] [ ] per cent. per annum] [Not Applicable]
- (xiii) Minimum Interest Rate: [[ ] per cent. per annum] [Not Applicable]
- (xiv) Maximum Interest Rate: [[ ] per cent. per annum] [Not Applicable]
- (xv) Floating Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
 [Actual/Actual (ICMA)]  
 [Actual/365 (Fixed)]  
 [Actual/365 (Sterling)]  
 [Actual/360]  
 [30/360 or 360/360 or Bond Basis]  
 [30E/360 or Eurobond Basis]  
 [30E/360 (ISDA)]  
 [Other (*specify*)]  
 (*See Condition 4 for alternatives*)

- (xvi) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating-Rate Notes, if different from those set out in the Terms and Conditions: [    ]
18. Zero Coupon Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Accrual Yield: [    ] per cent. per annum
- (ii) Reference Price: [    ]
- (iii) Any other formula/basis of determining amount payable: [    ]
- (iv) Day Count Fraction in relation to Early Redemption Amounts and late payment: [Condition 6(f) applies/specify other] *(Consider applicable [Fixed] Day Count Fraction if not U.S. Dollar denominated)*

#### PROVISIONS RELATING TO REDEMPTION

19. Issuer Call Option: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [    ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [    ]
- (iii) If redeemable in part: [    ]
- (a) Minimum Redemption Amount: [    ]
- (b) Higher Redemption Amount: [    ]
- (iv) Notice period (if other than as set out in the Terms and Conditions): [    ]
20. Investor Put Option: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [    ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): *(Note: this must never be less than 100% of the Specified Denomination)*
- (iii) Notice period (if other than as set out in the Terms and Conditions): [    ]

21. Final Redemption Amount of each Note: [] per Note of [] Specified Denomination/*specify other*  
 [See Appendix]
22. Early Redemption Amount:  
 Early Redemption Amount of each Note payable on redemption for taxation reasons or on event of default or other early redemption and/or the method of calculating the same (if required or if different from that set out in the Condition 6(f)): []

**GENERAL PROVISIONS APPLICABLE TO THE NOTES**

23. Form of Notes: [Bearer Notes/Registered Notes]  
*[If Bearer Notes:* [Bearer Temporary Global Note exchangeable for a Bearer Permanent Global Note which is exchangeable for Bearer Definitive Notes in the circumstances specified in the Bearer Permanent Global Note] (Interests in the Bearer Notes will not be exchangeable for Notes in registered form)]  
*[If Registered Notes to be held through the Relevant Clearing System:*  
 [Registered Global Note exchangeable for Registered Definitive Notes in the limited circumstances specified in the Registered Global Note] (Interests in the Registered Global Note will not be exchangeable for Notes in bearer form)]  
*[If Registered Notes not to be held through the Relevant Clearing System:*  
 [Registered Definitive Notes]]
24. New Global Note: [Yes/No] *[Note this will be “No” in the case of Registered Notes]*
25. Special provisions relating to Payment Business Days for the purposes of Condition 5(e):  
 Additional Financial Centers: [Not Applicable/Give details.] *(Note this item relates to whether a date is a Payment Business Day in the place of payment and not to Interest Payment Dates or Interest Period End Dates, to which paragraphs 16(iv), (v) and (vi) relate. Additional Financial Centers will usually only need to be specified where additional paying agents have been appointed)*

- Payment Business Day Convention: [Following/Modified Following]
26. Payment Disruption Event: [Applicable/Not Applicable]
27. Talons for future Coupons or Receipts to be attached to Bearer Definitive Notes: [Yes/No (*If yes, give details*)]
28. Details relating to Partly Paid Notes (amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences, if any, of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment): [Not Applicable/*Give details.*] (NB: a new form of Bearer Temporary Global Note and/or Bearer Permanent Global Note may be required for Partly Paid issues)
29. Details relating to Installment Notes: [ ] [Not Applicable/*Give details*]  
 Installment Amount(s): [ ]  
 Installment Date(s): [ ]  
 Amortization Table for Amortizing Notes: [*Specify*]
30. Redenomination provisions: [Not Applicable] [The provisions in [Condition 7] [annexed to these Final Terms] apply] [*If Floating-Rate Notes specify provisions relating to Interest*]
31. Consolidation provisions: [Not Applicable/The provisions annexed to these Final Terms apply]
32. Other final terms: [Not Applicable/*give details*](*When adding any other final terms consideration should be given as to whether such terms constitute a “significant new factor” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive*)

## DISTRIBUTION

33. (i) If syndicated, names [and addresses<sup>1</sup> of Managers [and underwriting commitments and date of the syndication agreement]<sup>1</sup>: [Not Applicable/*give names, [and addresses]*<sup>2</sup> of *dealers [and underwriting commitments and date of syndication agreement]*<sup>1</sup>]
- (ii) Stabilizing Manager (if any): [Not Applicable/*give name*]
34. If non-syndicated, name [and address]<sup>2</sup> of Dealer: [Not applicable/*give name [and address]*<sup>2</sup>]
35. Total commission and concession: [ ] per cent. of the Aggregate Nominal Amount<sup>3</sup>

1 Addresses only in regard to Notes with a denomination of less than €50,000. Also for Notes with a denomination of less than €50,000, need to specify underwriting commitments and date of subscription agreement.

2 Addresses only in regard to Notes with a denomination of less than €50,000.

3 Relevant only in regard to Notes with a denomination of less than €50,000.

- 36. U.S. Selling Restrictions: Regulation S Compliance Category: 2; [TEFRA D]/[TEFRA not applicable]
- 37. Non-exempt Offer: [An offer of the Notes may be made by the Managers [and *[specify, if applicable]*] other than pursuant to Article 3(2) of the Prospectus Directive in *[specify relevant Member State(s) – which must be jurisdictions where the Offering Circular and any supplements have been passported]* [**“Public Offer Jurisdictions”**] during the period from [specify date] until [specify date] [**“Offer Period”**]. See further paragraph 8 of Part B below.] [Not Applicable]
- 38. Additional selling restrictions: [Not Applicable/*Give details*]

**ISSUE AND LISTING AND ADMISSION TO TRADING**

These Final Terms comprise the final terms required for issue [and public offer in the countries specified in paragraph 37] [and admission to trading on the London Stock Exchange] of the Notes described herein pursuant to the U.S. \$65,000,000,000 Euro Medium-Term Note Program of Bank of America Corporation.

**RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in these Final Terms. [[Relevant third party information] has been extracted from [ ]. The Issuer confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by [ ], no facts have been omitted which would render the reproduced information inaccurate or misleading.]

Acknowledged and accepted by

Bank of America Corporation

By: .....

Name: .....

Title: .....

**PART B – OTHER INFORMATION**

**1. LISTING**

- (i) Listing: [London/other (*specify*)/None] [*If “none” delete the remaining sub-paragraphs of this paragraph*]
- (ii) Admission to trading: [Application has been made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [ ] with effect from [ ].] [Not Applicable.] (*N.B. Admission to trading will be Not Applicable for Notes listed on the Professional Securities Market in London.*) (*Where documenting a fungible issue, indicate that original Notes are already admitted to trading*)
- (iii) [Estimate of total expenses related to admission to trading:]<sup>4</sup> [ ]

**2. RATINGS**

The Notes to be issued have been rated:

[S&P: [ ]]

[Moody’s: [ ]]

[[Other]: [ ]]

*(Need to include a brief explanation of the meaning of the ratings if this has previously been published by the rating provider)<sup>5</sup>*

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

A rating is not a recommendation to buy, sell, or hold the Notes and may be subject to suspension, change, or withdrawal at any time by the assigning rating agency.

**3. [INTEREST OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE]**

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

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

- (i) [Reason for the offer: [ ] (*See wording in Offering Circular – if reasons for offer different from making profit and/or hedging*)

4 Relevant only in regard to Notes with a denomination of at least €50,000.  
 5 Relevant only in regard to Notes with a denomination of less than €50,000.

*certain risks will need to include those reasons here, unless the denomination of the Notes is at least €50,000.)]*

- (ii) [Estimated net proceeds: [ ] *(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)]*
- (iii) [Estimated total expenses: [ ] *[Include breakdown of expenses into each principal intended “use”, presented in order of priority of such “uses”.] (Only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above.)]*
5. **[YIELD (Fixed-Rate Notes only)  
Indication of yield:]** [ ] *[The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]*
6. **[HISTORIC INTEREST RATES  
(Floating-Rate Notes only)<sup>6</sup>]** [Details of historic [LIBOR/EURIBOR/OTHER] rates can be obtained from Reuters]
7. **OPERATIONAL INFORMATION**
- (i) ISIN Code: [ ]
- (ii) Common Code: [ ]
- (iii) Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking, société anonyme and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]
- (iv) Intended to be held in a manner which would allow Eurosystem eligibility: [Yes] [No] [only applicable for Bearer Global Notes issued in NGN form and Registered Global Notes which are to be held under the NSS]
- [Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositaries as Common Safekeeper [, and registered in the name of a nominee of one of the ICSDs acting as Common Safekeeper, in respect of Registered Global Notes that are held under the New Safekeeping Structure for registered global securities] *(include this text for Registered Notes which are to be held under the NSS)* and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy

<sup>6</sup> Relevant only in regard to Notes with a denomination of less than €50,000.

and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.] *(include this text if “yes” is selected in which case Bearer Notes must be issued in NGN form)*

- (v) Delivery: Delivery [against/free of] payment
- (vi) Names and addresses of additional Paying Agent(s) (if any): [ ]

8. **[TERMS AND CONDITIONS OF THE OFFER]<sup>7</sup>**

- Offer Period: [[ ] to [ ]]
- Offer Price: [ ]
- Conditions to which the offer is subject: [Not applicable/*give details*]
- Description of the application process: [Not applicable/*give details*]
- Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants: [Not applicable/*give details*]
- Details of the minimum and/or maximum amount of application:<sup>8</sup> [Not applicable/*give details*]
- Details of the method and time limits for paying up and delivering the Notes: [Not applicable/*give details*]
- Manner and date in which results of the offer are to be made public: [Not applicable/*give details*]
- Procedure for exercise of any right of pre-emption, negotiability of subscription rights and treatment of subscription rights not exercised: [Not applicable/*give details*]
- Categories of potential investors to which the Notes are offered and whether tranche(s) have been reserved for certain countries:<sup>9</sup> [ ]
- Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made: [Not applicable/*give details*]

<sup>7</sup> Relevant only in regard to Notes with a denomination of less than €50,000.

<sup>8</sup> Whether in number of Notes or aggregate amount to invest.

<sup>9</sup> If the offer is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain of these, indicate any such tranche.

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

[Not applicable/*give details*]

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

[Not applicable/*give details*]

**ANNEX B**

**FORM OF FINAL TERMS FOR NOTES LINKED TO UNDERLYING ASSET(S)**

*[To be used for Dual Currency, Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, Notes Linked to other Underlying Asset(s) or Physical Delivery Notes]*

Final Terms dated [ ]

**BANK OF AMERICA CORPORATION**

*Issue of [Aggregate Nominal Amount of Tranche of Notes] [Title of Notes] under the  
U.S. \$65,000,000,000  
Bank of America Corporation Euro Medium-Term Note Program*

**PART A — CONTRACTUAL TERMS**

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions as set forth in the Offering Circular dated July 22, 2010 which constitutes a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospective Directive**”). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with such Offering Circular. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Offering Circular. The Offering Circular is available for viewing during normal business hours at [address] and [website] and copies may be obtained from [address].

*[The following alternative language applies if the first tranche of an issue which is being increased was issued under an Offering Circular with an earlier date.]*

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

Purchase of these Notes involves substantial risks. Prospective investors should ensure that they understand the nature of the risks posed by, and the extent of their exposure under, the Notes. Prospective investors should make all pertinent inquiries they deem necessary without relying on the Issuer or the Dealer. Prospective investors should consider the suitability of the Notes as an investment in light of their own circumstances, investment objectives, tax position, and financial condition. Prospective investors should consider carefully all the information set forth in these Final Terms along with all the information set forth in the Offering Circular. Prospective investors should pay particular attention to the section entitled “Risk Factors” in the Offering Circular (pages 16 to 39 inclusive).

[By investing in the Notes each investor represents that:

- (a) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to invest in the Notes and as to whether the investment in the Notes is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the Issuer or any Dealer as investment advice or as a recommendation to invest in the Notes, it being understood that information and explanations related to the “Terms and Conditions of the Notes” shall not be considered to be investment advice or a recommendation to invest in the Notes. No communication (written or oral) received from the Issuer or any Dealer shall be deemed to be an assurance or guarantee as to the expected results of the investment in the Notes.
- (b) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms and conditions and the risks of the investment in the Notes. It is also capable of assuming, and assumes, the risks of the investment in the Notes.
- (c) **Status of Parties.** Neither the Issuer nor any Dealer is acting as fiduciary for or adviser to it in respect of the investment in the Notes.]

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

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

- |    |  |   |
|----|--|---|
| 1. | Issuer:  | Bank of America Corporation   |
| 2. | (i) Series Number:   | [     ]   |
|    | (ii) Tranche Number:   | [     ]   |
|    |  | <i>(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible)</i> |
| 3. | Specified Currency (or Currencies in the case of Dual Currency Notes): | [     ]   |
| 4. | Aggregate Nominal Amount of Notes:                                     | [     ]   |
|    | (i) Series:  | [     ]   |
|    | (ii) Tranche:  | [     ]   |
| 5. | Issue Price:   | [[     ] per cent. of the Aggregate Nominal Amount [plus accrued interest from <i>[insert date]</i> ] (if applicable)]      |
| 6. | Specified Denominations:   | [     ]<br><i>(Notes (including Notes denominated in Sterling) in respect of which the issue proceeds are to be</i>         |

*accepted by the Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of section 19 of the Financial Services and Markets Act 2000 and which have a maturity of less than one year must have a minimum redemption value of £100,000 (or its equivalent in other currencies))*

7. (i) Issue Date: [     ] ]
- (ii) Interest Commencement Date: [     ] [Not Applicable]
- [This should be the same as the Issue Date unless this Series is fungible with an existing Series and accrued interest from the previous Interest Period End Date has not been added to the Issue Price in paragraph 5]*
8. Maturity Date: [Specify date]
9. Type of Notes: The Notes are [Index Linked Notes — Annex 1 is applicable] [Share Linked Notes — Annex 2 is applicable] [GDR/ADR Linked Notes — Annex 3 is applicable] [FX Linked Notes — Annex 4 is applicable] [Commodity Linked Notes — Annex 5 is applicable] [Fund Linked Notes – Annex 6 is applicable] [Inflation Linked Notes – Annex 7 is applicable] [Hybrid Notes — Annexes [     ] and [     ] are applicable] [Other] (*Specify*)
10. Interest Basis
- [ [     ] per cent. Fixed-Rate]  
 [[LIBOR/EURIBOR] +/- [     ] per cent. Floating-Rate] [Zero Coupon]  
 [Index Linked]  
 [Share Linked]  
 [GDR/ADR Linked]  
 [FX Linked]  
 [Commodity Linked]  
 [Fund Linked]  
 [Inflation Linked]  
 [Hybrid]  
 [Other (*specify*)]  
 (further particulars specified below)  
 [The Notes are not interest bearing]
11. Redemption/Payment Basis:
- [Redemption at par]  
 [Index Linked]  
 [Share Linked]  
 [GDR/ADR Linked]  
 [FX Linked]  
 [Commodity Linked]  
 [Fund Linked]  
 [Inflation Linked]  
 [Dual Currency]

- [Hybrid]  
 [Partly Paid]  
 [Amortizing]  
 [Installment]  
 [Other (*specify*)]  
 (further particulars specified below)
12. Cash Settlement/Physical Settlement: [Cash Settlement is applicable/Physical Settlement is applicable/Cash Settlement and/or Physical Settlement is applicable]
13. Change of Interest Basis or Redemption/ Payment Basis: [*Specify details of any provision for convertibility of Notes into another Interest Basis or Redemption/Payment Basis*] [Not Applicable]
14. Put/Call Options: [Investor Put]  
 [Issuer Call] [(*further particulars specified below*)]  
 [Not Applicable]
15. (i) Status of the Notes: [Senior/Subordinated]  
 (ii) [Date of [Board] approval for issuance of Notes obtained:] [ ] (*N.B. Only relevant where Board (or similar) authorization is required for the particular tranche of Notes*)  
 [Not Applicable]
16. Method of Distribution: [Syndicated]/[Non-syndicated]

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

17. Fixed-Rate Note Provisions: [Applicable/Not Applicable] (*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- (i) Rate(s) of Interest: [ ] per cent. per annum [payable [annually/ semi-annually/quarterly/monthly] in arrear] (*if payable other than in arrear, amend Condition 4*)
- (ii) Interest Payment Date(s): [[ ] in each year, from and including [ ] up to and including Maturity Date]/[*Specify other*] (*N.B. This will need to be amended in the case of short or long coupons*)
- (iii) Fixed Coupon Amount(s): [[ ] per [ ] in nominal amount]/[Not Applicable]
- (iv) Broken Amount(s): [ ] [*Insert particulars of any initial or final broken amounts of interest which do not correspond with the Fixed Coupon Amount(s)*]/[Not Applicable]
- (v) Fixed Day Count Fraction: [30/360 / Actual/Actual (ICMA)] [*Specify other*]
- (vi) Determination Date(s): [[ ] in each year/Not Applicable] (*Insert regular Interest Payment Dates, ignoring Issue Date or Maturity Date in the case of a long or short first or last coupon. N.B. Only relevant where Day Count Fraction is Actual/Actual (ICMA). This will need to*

*be amended in the case of regular Interest Payment Dates which are not of equal duration.)*

- (vii) Other terms relating to the method of calculating interest for Fixed-Rate Notes: [Not Applicable/Give details]
18. Floating-Rate Note Provisions: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Interest Period(s): The period from (and including), an Interest Period End Date (or the Interest Commencement Date), to (but excluding) the next, or first Interest Period End Date, as the case may be
- (ii) Interest Payment Date(s): [ ] in each year, from (and including) [ ] to (and including) [ ]
- (iii) First Interest Payment Date: [ ]
- (iv) Interest Period End Dates: [Each Interest Payment Date] [[ ] in each year from (and including) [ ] to (and including) [ ].] Interest Period End Dates will not adjust in accordance with the Business Day Convention.
- (v) Business Day Convention: [Floating Rate Convention]  
 [Following Business Day Convention]  
 [Modified Following Business Day Convention]  
 [Preceding Business Day Convention]  
 [Other (give details)]
- (vi) Additional Business Center(s) (Condition 4): [ ]
- (vii) Formula for determining Interest Amounts: [Not Applicable/Applicable (specify details of formula)]
- (viii) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination] [ISDA Determination] [Range Accrual] [Other (give details)]
- [If Range Accrual insert following language:*
- The Rate of Interest for each Interest Period shall be determined by the Calculation Agent in accordance with the following formula:
- Coupon x (n/N)
- Where:
- “**Coupon**” means [ ].

“**n**” means the total number of calendar days in the relevant Interest Period on which the Reference Rate (as defined below) is within the Range.

“**N**” means the actual number of calendar days in the relevant Interest Period.

“**Range**” means for each Interest Period in the period from (and including) [ ] to (but excluding) [ ], equal to or greater than zero but less than or equal to [ ] per cent.

“**Reference Rate**” means, in respect of a calendar day, the rate for deposits in [ ] for a period of [ ] months which appears on [insert page reference] (or such successor page or service as may in the determination of the [Calculation Agent] replace such page or service) (the “**Screen Page**”) as of [insert time] on such calendar day or if the Screen Page is not available or the relevant rate is not quoted and it is impossible or otherwise impracticable to obtain the relevant rate, the rate determined by the Calculation Agent in its sole discretion from such source(s) and at such time as it may select,

provided that if a calendar day is not a Business Day the Reference Rate for such calendar day shall be the Reference Rate for the immediately preceding Business Day,

provided further that for each calendar day in an Interest Period falling after the seventh (7) Business Day prior to the [end of such Interest Period], the Reference Rate shall be the Reference Rate on such seventh (7) Business Day.

- (ix) Calculation Agent responsible for calculating the Rate(s) of Interest and Interest Amount(s): [ ]
- (x) Screen Rate Determination: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- Reference Rate: [ ] *(Either LIBOR, EURIBOR or other, although additional information is required if other – including fallback provisions in the Agency Agreement)*
- Interest Determination Date(s): [ ] *(Second London Business Day (as defined in Condition 4(b)(v)) prior to the start of each Interest Period if LIBOR (other than Sterling or euro LIBOR), first day of each Interest Period if sterling LIBOR and the second day on which the TARGET2*

*System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*

- Relevant Screen Page: [    ]  
*(In the case of EURIBOR, if not EURIBOR01 ensure it is a page which shows a composite rate or amend the fall back provisions appropriately)*
- (xi) ISDA Determination: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraph of this paragraph)*
  - Floating-Rate Option: [    ]
  - Designated Maturity: [    ]
  - Reset Date: [    ]
- (xii) Margin(s): [[+/-][    ] per cent. per annum] [Not Applicable]
- (xiii) Minimum Interest Rate: [[    ] per cent. per annum] [Not Applicable]
- (xiv) Maximum Interest Rate: [[    ] per cent. per annum] [Not Applicable]
- (xv) Floating Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
[Actual/Actual (ICMA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[30E/360 (ISDA)]  
[Other (specify)]  
*(See Condition 4 for alternatives)*
- (xvi) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating-Rate Notes, if different from those set out in the Terms and Conditions: [    ]
- 19. Zero Coupon Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
  - (i) Accrual Yield: [    ] per cent. per annum
  - (ii) Reference Price: [    ]
  - (iii) Any other formula/basis of determining amount payable: [    ]
  - (iv) Day Count Fraction in relation to Early Redemption Amounts and late payment: [Condition 6(f) applies/specify other] *(Consider applicable Day Count Fraction if not U.S. Dollar denominated)*

20. Dual Currency Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate of Exchange or method of calculating Rate of Exchange: [Give or annex details]
- (ii) Calculation Agent, if any, responsible for calculating the principal and/or interest due: [ ]
- (iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable: [ ]
- (iv) Person at whose option Specified Currency(ies) is/are payable: [ ]
- (v) Day Count Fraction: [ ]
21. Index Linked Interest Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- [The provisions of Annex 1 to the Terms and Conditions – *Additional Terms and Conditions for Index Linked Notes* should apply]
- (i) Index/ Basket of Indices/ Index Sponsor(s): [ ]
- [The [ ] Index is a Unitary Index / Multi-Exchange Index / Proprietary Index]  
 [The Index Sponsor for the [ ] Index is [ ]]  
 [The Index Currency for the [ ] Index is [ ]]
- (ii) Formula for calculating Rate of Interest including back up provisions: [ ]
- (iii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iv) Interest Payment Date(s)/ Interest Period(s): [ ]
- (v) Interest Period End Dates: [ ]
- (vi) Business Day Convention: [Floating Rate Convention]  
 [Following Business Day Convention]  
 [Modified Following Business Day Convention]  
 [Preceding Business Day Convention]  
 [Other *(give details)*]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (vii) Additional Business Center(s) [ ]  
(Condition 4(b)):
- (viii) Minimum Rate of Interest: [ ]
- (ix) Maximum Rate of Interest: [ ]
- (x) Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
[Actual/Actual (ICMA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[30E/360 (ISDA)]  
[Other (specify)]  
[Not Applicable]  
(See Condition 4 for alternatives)
- (xi) Averaging: [The Averaging Dates are [ ]].  
  
[In the event that an Averaging Date is a Disrupted Day, [Omission/ Postponement/ Modified Postponement] will apply.]  
  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)  
  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xii) Index Performance: [ ]
- (xiii) Exchange Rate: [Applicable/Not Applicable]  
  
[insert details]
- (xiv) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Index Performance is [ ]]. (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)
- (xv) Exchange(s): [ ]
- (xvi) Related Exchange: [ ]/[All Exchanges]
- (xvii) Valuation Date(s): [ ]  
  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)

Form of Final Terms for Notes Linked to Underlying Asset(s)

- [[Common/Individual] Disrupted Days will apply.]  
(*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (xviii) Valuation Time: [     ]
- (xix) Observation Date(s): [     ]
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Index Linked Notes relating to a Basket*)
- [[Common/Individual] Disrupted Days will apply.]  
(*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (xx) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[     ] ([Including/Excluding]) / Not Applicable]
- (b) Observation Period End Date: [[     ] ([Including/Excluding]) / Not Applicable]
- (xxv) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xxvi) Barrier Level: [[     ]/Not Applicable]
- (xxvii) Disrupted Day: [If a Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant level or price will be calculated [insert calculation method]]  
  
(*N.B. Only applicable where provisions in Index Linked Conditions are not appropriate*)
- (xxviii) Trade Date: [     ]
- (xxix) Additional Disruption Events: The following Additional Disruption Events apply to the Notes:  
  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]
- (xxx) Other terms or special conditions: [     ]
22. Share Linked Interest Note Provisions: [Applicable/ Not Applicable] (*If not applicable, delete the remaining sub-paragraphs of this paragraph*)  
  
[The provisions of Annex 2 to the Terms and Conditions – *Additional Terms and Conditions for Share Linked Notes* shall apply.]

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- (i) Share(s)/Basket of Shares: [ ]
- (ii) Formula for calculating Rate of Interest including back up provisions: [ ]
- (iii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iv) Interest Payment Date(s)/ Interest Period(s): [ ]
- (v) Interest Period End Dates: [ ]
- (vi) Business Day Convention: [Floating Rate Convention]  
[Following Business Day Convention]  
[Modified Following Business Day Convention]  
[Preceding Business Day Convention]  
[Other (*give details*)]
- (vii) Additional Business Center(s) (Condition 4(b)): [ ]
- (viii) Minimum Rate of Interest: [ ]
- (ix) Maximum Rate of Interest: [ ]
- (x) Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
[Actual/Actual (ICMA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[30E/360 (ISDA)]  
[Other (*specify*)]  
(*See Condition 4 for alternatives*)
- (xi) Averaging: [The Averaging Dates are [ ]].]  
  
[In the event that an Averaging Date is a Disrupted Day, [Omission/Postponement/Modified Postponement] will apply.]  
  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Share Linked Notes relating to a Basket*)  
  
[[Common/Individual] Disrupted Days will apply.] (*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (xii) Share Performance: [ ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (xiii) Exchange Rate: [Applicable/Not Applicable]  
[insert details]
- (xiv) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Share Performance is [ ]]. (N.B. Only applicable in relation to Share Linked Notes relating to a Basket)
- (xv) Exchange(s): [ ]
- (xvi) Related Exchange: [ ]/[All Exchanges]
- (xvii) Valuation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xviii) Valuation Time: [ ]
- (xix) Observation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xx) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[ ] ([Including/Excluding]) / Not Applicable]
- (b) Observation Period End Date: [[ ] ([Including/Excluding]) / Not Applicable]
- (xxi) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xxii) Barrier Level: [[ ]/Not Applicable]
- (xxiii) Disrupted Day: [[If a Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant price will be calculated [insert calculation method]]  
  
(N.B. Only applicable where provisions in Share Linked Conditions are not appropriate)

- (xxiv) Tender Offer: [Applicable/Not Applicable]
- (xxv) Share Substitution: [Applicable/Not Applicable]  
 [If Applicable: Share Substitution Criteria as specified in Share Linked Provision 1/[ ]]
- (xxvi) Local Tax Adjustment: [Applicable/Not Applicable]  
 [Local Jurisdiction: [ ]]
- (xxvii) Trade Date: [ ]
- (xxviii) Additional Disruption Events: The following Additional Disruption Events apply to the Notes:  
 [Change in Law]  
 [Hedging Disruption]  
 [Increased Cost of Hedging]  
 [Increased Cost of Stock Borrow]  
 [Initial Stock Loan Rate: [ ]]  
 [Insolvency Filing]  
 [Loss of Stock Borrow]  
 [Maximum Stock Loan Rate: [ ]]
- (xxix) Other terms or special conditions: [ ]
23. GDR/ADR Linked Interest Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*  
 [The provisions of Annex 3 to the Terms and Conditions - *Additional Terms and Conditions for GDR/ADR Linked Notes* apply.]  
*(For GDR/ADR Linked Interest Notes complete sections for Share Linked Interest Notes (paragraph 22 above) (completed and amended as appropriate) and this section)*
- (i) Partial Lookthrough: [Applicable/Not Applicable]
- (ii) Full Lookthrough: [Applicable/Not Applicable]
24. FX Linked Interest Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*  
 [The provisions of Annex 4 to the Terms and Conditions – *Additional Terms and Conditions for FX Linked Notes* shall apply.]
- (i) Base Currency/Subject Currency: [ ]
- (ii) Currency Price: [ ]

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*(N.B. Complete only if different from definition contained in Annex 4 of the Terms and Conditions Additional Terms and Conditions for FX Linked Notes)*

- (iii) FX Market Disruption Event(s): Inconvertibility Event: [Applicable/Not Applicable]  
 Price Materiality Event: [Applicable/Not Applicable]  
 [Price Materiality Percentage:[ ]]  
 Non-Transferability Event: [Applicable/Not Applicable]  
 [other]
- (N.B. Only complete if Inconvertibility Event/Price Materiality Event/Non-Transferability Event and/or other disruption events should be included as FX Market Disruption Events)*
- (iv) Disruption Fallbacks: *(Specify the applicable Disruption Fallbacks in the order that they will apply)*  
 [Calculation Agent Determination]  
 [Currency-Reference Dealers  
 Reference Dealers: [four/other]  
 [EM Fallback Valuation Postponement]  
 [EM Valuation Postponement]  
 [Fallback Reference Price  
 Fallback Reference Price: [ ]]  
 [Other Published Sources]  
 [Postponement  
 Maximum Days of Postponement: [ ]]  
 [Other]
- (v) FX Price Source(s): [ ]
- (vi) Specified Financial Center(s): [ ]
- (vii) Formula for calculating Rate of Interest including back up provisions: [ ]
- (viii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (ix) Interest Payment Date(s)/ Interest Period(s): [ ]
- (x) Interest Period End Dates: [ ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (xi) Business Day Convention: [Floating Rate Convention]  
 [Following Business Day Convention]  
 [Modified Following Business Day Convention]  
 [Preceding Business Day Convention]  
 [Other (*specify*)]
- (xii) Additional Business Center(s)  
 (Condition 4(b)): [ ]
- (xiii) Minimum Rate of Interest: [ ]
- (xiv) Maximum Rate of Interest: [ ]
- (xv) Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
 [Actual/Actual (ICMA)]  
 [Actual/365 (Fixed)]  
 [Actual/365 (Sterling)]  
 [Actual/360]  
 [30/360 or 360/360 or Bond Basis]  
 [30E/360 or Eurobond Basis]  
 [30E/360 (ISDA)]  
 [Other (*specify*)]  
 (*See Condition 4 for alternatives*)
- (xvi) Averaging: Averaging [applies/does not apply] to the Notes.  
 [The Averaging Dates are [ ]].
- (xvii) Valuation Date(s): [ ]
- (xviii) Valuation Time: [ ]
- (xix) Weighting: [Not Applicable/The weighting to be applied to each  
 item comprising the Basket to ascertain the Currency  
 Price is [[ ]].  
  
*(N.B. Only applicable in relation to FX Linked Notes  
 relating to a Basket)*
- (xx) EM Currency Provisions: [Applicable/Not Applicable]  
  
 Unscheduled Holiday: [Applicable/Not Applicable]  
 Maximum Days of Deferral: [[ ]]  
 EM Valuation Postponement: [Applicable/Not  
 Applicable]  
 Maximum Days of EM Valuation Postponement:  
 [ ]  
 EM Fallback Valuation Postponement:  
 [Applicable/Not Applicable]  
 Fallback Maximum Period of Postponement: [As  
 specified in the FX Linked Conditions/ Specify]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- Cumulative Events: [Applicable/Not Applicable]
- Maximum Days of Cumulative Postponement: [ ]
- (xxi) Successor Currency: [Applicable/Not Applicable]  
[Issue Date/other]
- (xxii) Rebasing: [Applicable/Not Applicable]
- (xxiii) Additional Disruption Events: The following Additional Disruption Events apply to the Notes:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]
- (xxiv) Other terms or special conditions: [ ]
25. Commodity Linked Interest Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining subparagraphs of this paragraph)*  
[The provisions of Annex 5 to the Terms and Conditions – *Additional Terms and Conditions for Commodity Linked Notes* shall apply]
- (i) Commodity/Commodities/Commodity Index/Basket of Commodity Indices: [ ]
- (ii) Formula for calculating Rate of Interest including back up provisions: [ ]
- (iii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iv) Interest Payment Date(s)/Interest Period(s): [ ]
- (v) Interest Period End Dates: [ ]
- (vi) Business Day Convention: [Floating Rate Convention]  
[Following Business Day Convention]  
[Modified Following Business Day Convention]  
[Preceding Business Day Convention]  
[Other (give details)]
- (vii) Additional Business Center(s) (Condition 4(b)): [ ]
- (viii) Minimum Rate of Interest: [ ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (ix) Maximum Rate of Interest: [ ]
- (x) Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
 [Actual/Actual (ICMA)]  
 [Actual/365 (Fixed)]  
 [Actual/365 (Sterling)]  
 [Actual/360]  
 [30/360 or 360/360 or Bond Basis]  
 [30E/360 or Eurobond Basis]  
 [30E/360 (ISDA)]  
 [Other (specify)]  
 (*See Condition 4 for alternatives*)
- (xi) Commodity Reference Price: [ ]
- (xii) Price Source: [ ]
- (xiii) Exchange: [ ]
- (xiv) Delivery Date: [ ]
- (xv) Pricing Date: [ ]
- (xvi) Common Pricing: [Commodity Linked Condition 3(a) (*Common Pricing*) will apply.  
 Common Pricing: [Applicable/Not Applicable]] (*N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket*)  
 [Commodity Linked Condition 3(a) (*Common Pricing*) will not apply]
- (xvii) Additional Commodity Market Disruption Events: [*specify any applicable additional Market Disruption Events*]
- (xviii) Additional provisions for Commodity Trading Disruption: [Not Applicable]  
 [If Trading Disruption applies, specify any additional futures contracts, options contracts or commodities and the related exchange to which Trading Disruption relates]
- (xix) Disruption Fallback(s): [As set out in the Commodity Linked Conditions]/  
 [ ]  
 [Fallback Reference Price: alternate Commodity Reference Price – [ ]]  
 [Commodity Cut-off Date: [ ]]  
 Commodity Index Cut-Off Date: [ ]
- (xx) Additional Disruption Events in respect of a Commodity Index: [Not Applicable]

Form of Final Terms for Notes Linked to Underlying Asset(s)

[The following Additional Disruption Events apply to the Notes in respect of a Commodity Index:

[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]

(xxi) Commodity Business Day: [ ]

(xxii) Trade Date: [ ]

(xxiii) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket is [ ]]

*(N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket)*

(xxiv) Specified Price:  
[high price]  
[low price]  
[average of the high price and the low price]  
[closing price]  
[opening price]  
[bid price]  
[asked price]  
[average of the bid price and the asked price]  
[settlement price]  
[official settlement price]  
[official price]  
[morning fixing]  
[afternoon fixing]  
[spot price]  
[other]

(xxv) Other terms or special conditions: [ ]

26. Fund Linked Interest Note Provisions: [Applicable/Not Applicable]

*(If not applicable, delete the remaining subparagraphs of this paragraph)*

[The provisions of Annex 6 to the Terms and Conditions – *Additional Terms and Conditions for Fund Linked Notes* shall apply.]

(i) Fund/Basket of Funds: [ ] [The [ ] Fund is an ETF.]

[[Exchange for each Fund Share: [ ]]

[Related Exchange for each Fund Share: [ ] /All Exchanges]]

[Underlying Index for each ETF: [ ]]

*(N.B. Include for ETFs)*

(ii) Fund Interests: [ ]

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- (iii) Formula for calculating Rate of Interest including back up provisions: [ ]
- (iv) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (v) Interest Payment Date(s)/Interest Period(s): [ ]
- (vi) Interest Period End Dates: [ ]
- (vii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/specify other]
- (viii) Additional Business Center(s): [ ]
- (ix) Minimum Rate of Interest: [ ]
- (x) Maximum Rate of Interest: [ ]
- (xi) Day Count Fraction: [ ]
- (xii) Trade Date: [ ]
- (xiii) Averaging: [The Averaging Dates are [ ]].  
 [In the event that an Averaging Date is a Disrupted Day, [Omission/Postponement/Modified Postponement] will apply.]  
 [Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket)  
 [[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xiv) Fund Performance: [ ]
- (xv) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Fund Performance is [ ]]. (N.B. Only applicable in relation to Fund Linked Notes relating to a Basket)
- (xvi) Valuation Date(s): [ ]  
 [Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket)

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- [[Common/Individual] Disrupted Days will apply.]  
(*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (xvii) Valuation Time: [    ]
- (xviii) Observation Date(s): [    ]
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket*)
- [[Common/Individual] Disrupted Days will apply.]  
(*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (xix) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[    ] ([Including/Excluding]) / Not Applicable]
- (b) Observation Period End Date: [[    ] ([Including/Excluding]) / Not Applicable]
- (xx) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xxi) Barrier Level: [[    ]/Not Applicable]
- (xxii) Additional Disruption Events: [Not Applicable][The following Additional Disruption Events apply to the Notes:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]]
- Other terms or special conditions: [Merger Event: Merger Date on or before [the Valuation Date/other]]
27. Inflation Linked Interest Note Provisions: [Applicable/Not Applicable] (*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- [The provisions of Annex 7 to the Terms and Conditions – *Additional Terms and Conditions for Inflation Linked Notes* shall apply.]
- (i) Inflation Index/Basket of Inflation Indices/Inflation Index Sponsor(s): [    ]  
Inflation Index Sponsor: [    ]
- (ii) Formula for calculating Rate of Interest including back up provisions: [    ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (iii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iv) Interest Payment Date(s)/Interest Period(s): [ ]
- (v) Interest Period End Dates: [ ]
- (vi) Business Day Convention: [Floating Rate Convention]  
[Following Business Day Convention]  
[Modified Following Business Day Convention]  
[Preceding Business Day Convention]  
[Other (*give details*)]
- (vii) Additional Business Center(s) (Condition 4(b)): [ ]
- (viii) Minimum Rate of Interest: [ ]
- (ix) Maximum Rate of Interest: [ ]
- (x) Day Count Fraction: [Actual/Actual or Actual/Actual (ISDA)]  
[Actual/Actual (ICMA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[30E/360 (ISDA)]  
[Other (specify)]  
  
(*See Condition 4 for alternatives*)
- (xi) Inflation Index/Basket of Inflation Indices/Inflation Index Sponsor(s): [ ]  
Inflation Index Sponsor: [ ]
- (xii) Formula for calculating interest rate including back up provisions: [ ]
- (xiii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (xiv) Related Bond: [Applicable/Not Applicable]  
The Related Bond is: [ ] [Fallback Bond]  
[Fallback Bond: Applicable/Not Applicable]  
The End Date is: [ ]
- (xv) Determination Date(s): [ ]
- (xvi) Cut-Off Date: [ ]
- (xvii) Other terms or special conditions: [ ]

**PROVISIONS RELATING TO REDEMPTION**

28. Issuer Call Option: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] Specified Denomination
- (iii) If redeemable in part:
- (a) Minimum Redemption Amount:
- (b) Higher Redemption Amount: [ ]
- (iv) Notice period (if other than as set out in the Terms and Conditions): [ ]
29. Investor Put Option: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ]
- (iii) Notice period (if other than as set out in the Terms and Conditions): [ ]
30. Final Redemption Amount of each Note: [[ ] per Note of [ ] Specified Denomination /See item [ ] below]/[Specify other]
31. Index Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- [The provisions of Annex 1 to the Terms and Conditions of the Notes –*Additional Terms and Conditions for Index Linked Notes* shall apply.]
- (i) Index/Basket of Indices/Index Sponsor(s): [ ]
- [The [ ] Index is a Unitary Index / Multi-Exchange Index] / Proprietary Index]
- [The Index Sponsor for the [ ] Index is [ ]]
- [The Index Currency for the [ ] Index is [ ]]
- (ii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (iii) Final Redemption Amount: [ ] per Specified Denomination
- (iv) Averaging: [The Averaging Dates are [ ]].  
[In the event that an Averaging Date is a Disrupted Day, [Omission/ Postponement/ Modified Postponement] will apply.]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (v) Index Performance: [ ]
- (vi) Exchange Rate: [Applicable/Not Applicable]  
[insert details]
- (vii) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Index Performance is [ ]]. (N.B. Only applicable in relation to Index Linked Notes relating to a Basket)
- (viii) Exchange(s): [ ]
- (ix) Related Exchange: [ ]/[All Exchanges]
- (x) Valuation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xi) Valuation Time: [ ]
- (xii) Observation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Index Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (xiii) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[ ] ([Including/Excluding]) / Not Applicable]
- (b) Observation Period End Date: [[ ] ([Including/Excluding]) / Not Applicable]
- (xiv) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xv) Barrier Level [[ ]/Not Applicable]
- (xvi) Disrupted Day: [If a Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted Day, the relevant level or price will be calculated *[insert calculation method]*]
- (N.B. Only applicable where provisions in Index Linked Conditions are not appropriate)*
- (xvii) Trade Date [ ]
- (xviii) Additional Disruption Events: The following Additional Disruption Events apply to the Notes:
- [Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]
- (xix) Other terms or special conditions: [ ]
32. Share Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Share(s)/Basket of Share(s): [The provisions of Annex 2 to the Terms and Conditions – *Additional Terms and Conditions for Share Linked Notes* shall apply.]
- (ii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iii) Final Redemption Amount: [ ] per Specified Denomination
- (iv) Averaging: [The Averaging Dates are [ ]].
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] *(N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)*
- [[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)*

Form of Final Terms for Notes Linked to Underlying Asset(s)

- [In the event that an Averaging Date is a Disrupted Day, [Omission/Postponement/Modified Postponement] will apply.]
- (v) Share Performance: [ ]
- (vi) Exchange Rate: [Applicable/Not Applicable]  
[insert details]
- (vii) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Share Performance is [ ]]. (N.B. Only applicable in relation to Share Linked Notes relating to a Basket)
- (viii) Exchange(s): [ ]
- (ix) Related Exchange: [ ]/[All Exchanges]
- (x) Valuation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xi) Valuation Time: [ ]
- (xii) Observation Date(s): [ ]  
[Common Scheduled Trading Days: [Applicable/Not Applicable]] (N.B. May only be applicable in relation to Share Linked Notes relating to a Basket)  
[[Common/Individual] Disrupted Days will apply.] (N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xiii) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[ ]]([Including/Excluding]) / Not Applicable
- (b) Observation Period End Date: [[ ]]([Including/Excluding]) / Not Applicable
- (xiv) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xv) Barrier Level: [[ ]]/Not Applicable
- (xvi) Disrupted Day: [If a Valuation Date, an Averaging Date or an Observation Date, as the case may be, is a Disrupted

Form of Final Terms for Notes Linked to Underlying Asset(s)

Day, the relevant price will be calculated [*insert calculation method*].

*(N.B. Only applicable where provisions in Share Linked Conditions are not appropriate)*

- (xvii) Tender Offer: [Applicable/Not Applicable]
- (xviii) Share Substitution: [Applicable/Not Applicable]  
[If Applicable: Share Substitution Criteria as specified in Share Linked Provision 1/[ ]]
- (xix) Local Tax Adjustment: [Applicable/Not Applicable]  
Local Jurisdiction [[ ]]
- (xx) Trade Date: [ ]
- (xxi) Additional Disruption Events: The following Additional Disruption Events apply to the Notes:  
[Change in Law]  
[Hedging Disruption]  
[Increased Cost of Hedging]  
[Increased Cost of Stock Borrow]  
[Initial Stock Loan Rate: [ ]]  
[Insolvency Filing]  
[Loss of Stock Borrow]  
[Maximum Stock Loan Rate: [ ]]
- (xxii) Other terms or special conditions: [ ]
33. GDR/ADR Linked Redemption Notes: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining subparagraphs of this paragraph)*  
[The provisions of Annex 3 of the Terms and Conditions – *Additional Terms and Conditions for GDR/ADR Linked Notes* shall apply.]  
*(For GDR/ADR Linked Redemption Notes complete sections for Share Linked Redemption Notes (paragraph 32 above) (completed and amended as appropriate) and this section)*
- (i) Partial Lookthrough: [Applicable/Not Applicable]
- (ii) Full Lookthrough: [Applicable/Not Applicable]

34. FX Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- [The provisions of Annex 4 to the Terms and Conditions – *Additional Terms and Conditions for FX Linked Notes* shall apply.]
- (i) Base Currency/Subject Currency: [ ]
- (ii) Currency Price: [ ]
- (N.B. Complete only if different from definition contained in Annex 4 to the Terms and Conditions Additional Terms and Conditions for FX Linked Notes)*
- (iii) FX Market Disruption Event(s): Inconvertibility Event: [Applicable/Not Applicable]
- Price Materiality Event: [Applicable/Not Applicable]
- [Price Materiality Percentage:[ ]]
- Non-Transferability Event: [Applicable/Not Applicable]
- [other]
- (N.B. Only complete if Inconvertibility Event/Price Materiality Event/Non-Transferability Event and/or other disruption events should be included as FX Market Disruption Events)*
- (iv) Disruption Fallbacks: *(Specify the applicable Disruption Fallbacks in the order that they will apply)*
- [Calculation Agent Determination]
- [Currency-Reference Dealers  
Reference Dealers: [four/other]
- [EM Fallback Valuation Postponement]
- [EM Valuation Postponement]
- [Fallback Reference Price  
Fallback Reference Price: [ ]]
- [Other Published Sources]
- [Postponement  
Maximum Days of Postponement:  
[Other]
- (v) FX Price Source(s): [ ]
- (vi) Specified Financial Center(s): [ ]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- (vii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (viii) Final Redemption Amount: [ ]per Specified Denomination
- (ix) Averaging: Averaging [applies/does not apply] to the Notes.  
[The Averaging Dates are [ ]].
- (x) Valuation Date(s): [ ]
- (xi) Valuation Time: [ ]
- (xii) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Currency Price is [ ]].  
*(N.B. Only applicable in relation to FX Linked Notes relating to a Basket)*
- (xiii) EM Currency Provisions: [Applicable/Not Applicable]  
 Unscheduled Holiday: [Applicable/Not Applicable]  
 Maximum Days of Deferral: [ ]  
 EM Valuation Postponement: [Applicable/Not Applicable]  
 Maximum Days of EM Valuation Postponement: [ ]  
 EM Fallback Valuation Postponement: [Applicable/Not Applicable]  
 Fallback Maximum Period of Postponement: [As specified in the FX Linked Conditions/ Specify]  
 Cumulative Events: [Applicable/Not Applicable]  
 Maximum Days of Cumulative Postponement: [ ]
- (xiv) Successor Currency: [Applicable/Not Applicable]  
 [Issue Date/other]
- (xv) Rebasing: [Applicable/Not Applicable]
- (xvi) Additional Disruption Events: [Not Applicable]  
 [The following Additional Disruption Events apply to the Notes:  
 [Change in Law]  
 [Hedging Disruption]

- [Increased Cost of Hedging]]
- (xvii) Other terms or special conditions: [ ]
35. Commodity Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- [The provisions of Annex 5 to the Terms and Conditions – *Additional Terms and Conditions for Commodity Linked Notes* shall apply.]
- (i) Commodity/ies /Commodity Index/ices:[ ]
- (ii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iii) Final Redemption Amount: [ ] per Specified Denomination
- (iv) Commodity Reference Price: [ ]
- (v) Price Source: [ ]
- (vi) Exchange: [ ]
- (vii) Delivery Date: [ ]
- (viii) Pricing Date: [ ]
- (ix) Common Pricing: [Commodity Linked Condition 2(a) (*Common Pricing*) will apply.
- Common Pricing: [Applicable/Not Applicable]] (*N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket*)
- [Commodity Linked Condition 2(a) (*Common Pricing*) will not apply.]
- (x) Additional Market Disruption Events: [*specify any additional Market Disruption Events*]
36. Additional provisions for Commodity Trading Disruption: [Not Applicable]
- [If Trading Disruption applies, specify any additional futures contracts, options contracts or commodities and the related exchange to which Trading Disruption relates]*
- (i) Disruption Fallback(s): [As set out in the Commodity Linked Conditions]/ [ ]
- [Fallback Reference Price: alternate Commodity Reference Price – [ ]]
- [Commodity Cut-Off Date: [ ]]

- [Commodity Index Cut-Off Date: [    ]]
- (ii) Additional Disruption Events in respect of a Commodity Index: [Not Applicable]
- [The following Additional Disruption Events apply to the Notes in respect of a Commodity Index:
- [Change in Law]
- [Hedging Disruption]
- [Increased Cost of Hedging]]
- (iii) Commodity Business Day: [    ]
- (iv) Trade Date: [    ]
- (v) Weighting [Not Applicable/The weighting to be applied to each item comprising the Basket is [    ]]
- (N.B. Only applicable in relation to Commodity Linked Notes relating to a Basket)*
- (vi) Specified Price: [high price]  
[low price]  
[average of the high price and the low price]  
[closing price]  
[opening price]  
[bid price]  
[asked price]  
[average of the bid price and the asked price]  
[settlement price]  
[official settlement price]  
[official price]  
[morning fixing]  
[afternoon fixing]  
[spot price]  
[other]
- (vii) Other terms or special conditions: [    ]
37. Fund Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- [The provisions of Annex 6 to the Terms and Conditions – *Additional Terms and Conditions for Fund Linked Notes* shall apply.]
- (i) Fund/Basket of Funds: [    ]
- [[The [ ] Fund is an ETF]
- [Exchange for each Fund Share: [    ]]

Form of Final Terms for Notes Linked to Underlying Asset(s)

- [Related Exchange for each Fund Share: [    ] /All Exchanges]]
- [Underlying Index: [    ]] (*N.B. Include for ETFs*)
- (ii) Fund Interest(s): [    ]
- (iii) Calculation Agent responsible for making calculation in respect of the Notes: [    ]
- (iv) Final Redemption Amount: [    ] per Specified Denomination
- (v) Trade Date: [    ]
- (vi) Averaging: [The Averaging Dates are [    ].]
- [In the event that an Averaging Date is a Disrupted Day, [Omission/ Postponement/ Modified Postponement] will apply.]
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket*)
- [[Common/Individual] Disrupted Days will apply.] (*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (vii) Fund Performance: [    ]
- (viii) Weighting: [Not Applicable/The weighting to be applied to each item comprising the Basket to ascertain the Fund Performance is [    ]]. (*N.B. Only applicable in relation to Fund Linked Notes relating to a Basket*)
- (ix) Valuation Date(s): [    ]
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket*)
- [[Common/Individual] Disrupted Days will apply.] (*N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified*)
- (x) Valuation Time: [    ]
- (xi) Observation Date(s): [    ]
- [Common Scheduled Trading Days: [Applicable/Not Applicable]] (*N.B. May only be applicable in relation to Fund Linked Notes relating to a Basket*)

- [[Common/Individual] Disrupted Days will apply.]  
(N.B. If Common Scheduled Trading Days are applicable, either Common or Individual Disrupted Days must be specified)
- (xii) Observation Period: [Applicable: [Extension/No Extension]/Not Applicable]
- (a) Observation Period Start Date: [[ ]]([Including/Excluding]) / Not Applicable]
- (b) Observation Period End Date: [[ ]] ([Including/Excluding]) / Not Applicable]
- (xiii) Barrier Event: [Not Applicable/Barrier Event (intraday)/Barrier Event (closing)/Common Scheduled Trading Days]
- (xiv) Barrier Level: [[ ]]/Not Applicable]
- (xv) Additional Disruption Events: [Not Applicable]
- [The following Additional Disruption Events apply to the Notes:
- [Change in Law]
- [Hedging Disruption]
- [Increased Cost of Hedging]]
- (xviii) Other terms or special conditions: [ ]
38. Inflation Linked Redemption Notes: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- The provisions of Annex 7 to the Terms and Conditions – *Additional Terms and Conditions for Inflation Linked Notes* shall apply.
- (i) Inflation Index/Basket of Inflation Indices/Inflation Index Sponsor(s): [ ]
- Inflation Index Sponsor: [ ]
- (ii) Calculation Agent responsible for making calculations in respect of the Notes: [ ]
- (iii) Final Redemption Amount: [ ] per Specified Denomination
- (iv) Related Bond: [Applicable/Not Applicable]
- The Related Bond is: [ ] [Fallback Bond]
- [Fallback Bond: Applicable/Not Applicable]
- The End Date is: [ ]

- (v) Determination Date(s): [ ]
- (vi) Cut-Off Date: [ ]
- (vii) Other terms or special conditions: [ ]
39. Early Redemption Amount:
- Early Redemption Amount of each Note payable on redemption for taxation reasons or on Event of Default or other early redemption and/or the method of calculating the same (if required or if different from that set out in Condition 6(f)): [ ]
40. Physical Delivery Note: [Applicable/Not Applicable]
- (If not applicable, delete the remaining subparagraphs of this paragraph)*
- [Cash Settlement/Physical Delivery/Cash Settlement and/or Physical Delivery *(If Cash Settlement and/or Physical Delivery specified, specify details for determining in what circumstances Cash Settlement or Physical Delivery will apply)*
- The provisions of Annex 8 of the Terms and Conditions – *Additional Terms and Conditions for Physical Delivery shall apply.*
- (i) Relevant Asset(s): [ ]
- (ii) Entitlement: [ ]
- (iii) Cut-Off Date: [ ]
- (iv) Failure to Deliver due to Illiquidity: [Applicable/Not Applicable]
- (v) Delivery provisions for Entitlement if different from Annex 8. [ ]
- (vi) Settlement Business Day: [ ]
- (vii) Issuer’s option to vary Settlement: [Applicable/Not Applicable]
- (viii) Other terms or special Conditions [ ]
41. Principal Protection: [Principal Protected][Non-Principal Protected]

**GENERAL PROVISIONS APPLICABLE TO THE NOTES**

42. Form of Notes: [Bearer Notes/Registered Notes]
- (If Bearer Notes: [Bearer Temporary Global Note exchangeable for a Bearer Permanent Global Note which is exchangeable for Bearer Definitive Notes in the circumstances specified in the Bearer Permanent*

Global Note] (Interests in the Bearer Notes will not be exchangeable for Notes in registered form)]

*[If Registered Notes to be held through Relevant Clearing System:*

[Registered Global Note is exchangeable for Registered Definitive Note in the limited circumstances specified in the Registered Global Note (Interests in the Registered Global Note will not be exchangeable for Notes in bearer form)

*[If Registered Notes not to be held through the Relevant Clearing System:*

[Registered Definitive Notes]]

43. New Global Note: [Yes/No] *[Note this will be “No” in respect of Registered Notes]*
44. Special provisions relating to Payment Business Days for the purposes of Condition 5(e):
- (i) Additional Financial Centers: [Not Applicable/give details] *(Note this item relates to whether a date is a Payment Business Day in the place of payment and not to Interest Payment Dates or Interest Period End Dates. Additional Financial Centers will usually only need to be specified where additional paying agents have been appointed.)*
- (ii) Payment Business Day Convention: [Following/Modified Following]
45. Payment Disruption Event: [Applicable/Not Applicable]
46. Talons for future Coupons or Receipts to be attached to Bearer Definitive Notes (and dates on which such Talons mature): [Yes/No *(If yes, give details)*]
47. 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, if any, of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment): [Not Applicable/give details] *(N.B. a new form of Bearer Temporary Global Note and/or Bearer Permanent Global Note may be required for Partly Paid issues)*
48. Details relating to Installment Notes: [Not Applicable/give details]
- (i) Installment Amounts: [ ]
- (ii) Installment Dates: [ ]

- (iii) Amortization Table for Amortizing Notes: [Specify]
49. Redenomination provisions: [Not Applicable/The provisions [in Condition 7] [annexed to these Final Terms] apply] (*If Floating-Rate Notes specify provisions relating to Interest*)
50. Consolidation provisions: [Not Applicable/The provisions annexed to these Final Terms apply]
51. Other final terms: [Not Applicable/give details]
- (When adding any other final terms consideration should be given as to whether such terms constitute a “significant new factor” and consequently trigger the need for a supplement to the Prospectus under Article 16 of the Prospectus Directive)*

## DISTRIBUTION

52. (i) If syndicated, names [and addresses]<sup>1</sup> of Managers [and underwriting commitments and date of the syndication agreement]<sup>1</sup>: [Not Applicable/give name, [and addresses] of dealers [and underwriting commitments and date of syndication agreement]<sup>1</sup>
- (ii) Stabilizing Manager (if any): [Not Applicable/give name]
53. If non-syndicated, name [and address]<sup>2</sup> of Dealer: [Not Applicable/give name [and address]]
54. [Total commission and concession: [ ] per cent. of the Aggregate Nominal Amount]<sup>3</sup>
55. U.S. Selling Restrictions: Regulation S Compliance Category: 2; [TEFRA D/TEFRA not applicable]
56. Non-exempt Offer: [An offer of the Notes may be made by the Managers [and [specify, if applicable]] other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) — which must be jurisdictions where the Offering Circular and any supplements have been passported] [(“**Public Offer Jurisdictions**”)] during the period from [specify date] until [specify date] [(“**Offer Period**”)]. See further paragraph 10 of Part B below.] [Not Applicable]
57. Additional selling restrictions: [Not Applicable/give details]

1 Addresses only in regard to Notes with a denomination of less than €50,000. Also for Notes with a denomination of less than €50,000, need to specify underwriting commitments and date of subscription agreement.

2 Addresses only in regard to Notes with a denomination of less than €50,000.

3 Relevant only in regard to Notes with a denomination of less than €50,000.



**PART B — OTHER INFORMATION**

**1. LISTING**

- (i) Listing: [London/other (*specify*)/None]
- (ii) Admission to trading: [Application has been made by the Issuer (or on its behalf) for the Notes to be admitted to trading on [ ] with effect from [ ].] [Not Applicable.] (N.B. Admission to trading will be Not Applicable for Notes listed on the Professional Securities Market in London.) (Where documenting a fungible issue need to indicate that original Notes are already admitted to trading.)
- (iii) [Estimate of total expenses related to admission to trading:]<sup>4</sup> [ ]

**2. RATINGS**

[The Notes to be issued have been rated:  
 [S&P: [ ]]  
 [Moody's: [ ]]  
 [[Other]: [ ]]  
*[Need to include a brief explanation of the meaning of the ratings if this has previously been published by the rating provider]<sup>5</sup> (The above disclosure should reflect the rating allocated to Notes of the type being issued under the program generally or, where the issue has been specifically rated, that rating.)*

[The long-term debt of the Issuer has been rated:

	Senior Long-Term Debt:	Subordinated Long-Term Debt:
[S&P:	[A]	[A-]
[Moody's:	[A2]	[A3]
[Fitch:	[A+]	[A]
[Other:	[ ]	[ ]

[The Notes have not been rated.] The ratings given above are the ratings of the long-term debt of the Issuer.

*[(The above disclosure should reflect the rating allocated to the long-term debt of the Issuer and should be included either (a) in the event that the Notes have not been rated or (b) as further disclosure along with the rating allocated to the Notes)]]*

4 Relevant only in regard to Notes with a denomination of at least €50,000.

5 Relevant only in regard to Notes with a denomination of less than €50,000.

A rating is not a recommendation to buy, sell, or hold the Notes and may be subject to suspension, change, or withdrawal at any time by the assigning rating agency.

3. **[INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE/ OFFER]** [Save for any fees payable to the Dealers, so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer. – *Amend if there are other interests*]
4. **[REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES]**
- [(i) Reasons for the offer: [  ]  
*(See “Use of Proceeds” wording in Offering Circular — if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here.)*]
- [(ii) Estimated net proceeds: [  ]  
*(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)*]
- [(iii) Estimated total expenses: [  ]  
*[Include breakdown of expenses into each principal intended “use”, presented in order of priority of such “uses”] (Only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above)]*
5. **[HISTORIC INTEREST RATES] (For Notes with floating rate interest)<sup>6</sup>** [Details of historic [LIBOR/EURIBOR/other] rates can be obtained from [Reuters].]
6. **[PERFORMANCE OF INDEX/FORMULA/OTHER VARIABLE, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE UNDERLYING]** [Need to include details of where past and future performance and volatility of the index/formula/other variable can be obtained and, if the notes have a denomination of less than €50,000 or equivalent, a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.] [Where the underlying is an index, need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained. Where the underlying is not an index need to include equivalent information. Include other information concerning the underlying required by
- (Index Linked Notes, Share Linked Notes, GDR/ADR Linked Notes, FX Linked Notes, Commodity Linked Notes, Fund Linked Notes, Inflation Linked Notes, Hybrid Notes, and Notes Linked to other Underlying Asset(s) only)*

<sup>6</sup> Relevant only in regard to Notes with a denomination of less than €50,000.

*paragraph 4.2 of Annex XII of the Prospectus Directive Regulation]*

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

*[Need to include details of where past and future performance and volatility of the relevant rate[s] can be obtained and, if the Notes have a denomination of less than €50,000 or equivalent, a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*

8. **INDEX DISCLAIMER/  
UNDERLYING DISCLAIMER)**

*[Insert Index Sponsor's form of Index disclaimer]*

*[For additional use in connection with Inflation Indices]*

**[Related Bond Disclaimer**

The Notes are not sponsored, endorsed, sold or promoted by the issuer of the Related Bond and the issuer of the Related Bond has made no representation whatsoever, whether express or implied, as to the performance of the Related Bond and/or any amendments, adjustments or modifications to the terms and conditions of the Related Bond, and/or as to the results to be obtained from the use of any value or index level determined or derived with respect to the Related Bond or otherwise. The issuer of the Related Bond shall not be liable (whether in negligence or otherwise) to any person for any error in the index level or any value determined or derived with respect to the Related Bond and such issuer is under no obligation to advise any person of any error with respect thereto. The issuer of the Related Bond has made no representation whatsoever, whether express or implied, as to the advisability of purchasing or assuming any risk in connection with the Notes. Neither the issuer of the Related Bond nor any calculation agent in respect thereof shall have any liability to any person for any act or failure to act in connection with the Related Bond.]

9. **OPERATIONAL INFORMATION**

(i) ISIN Code: [ ]

(ii) Common Code: [ ]

(iii) Any clearing system(s) other than Euroclear and Clearstream, Luxembourg approved by the Issuer and the Principal Agent and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]

- (iv) Intended to be held in a manner which would allow Eurosystem eligibility: [Yes/No] *[only applicable for Bearer Global Notes issued in NGN form or Registered Global Notes which are to be held under the NSS]*
- [Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositaries as Common Safekeeper [, and registered in the name of a nominee of one of the ICSDs acting as Common Safekeeper, in respect of Registered Global Notes that are held under the New Safekeeping Structure for registered global securities] *(include this text for Registered Notes which are to be held under the NSS)* and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.] *(include this text if “yes” selected in which case Bearer Notes must be issued in NGN form.)*
- (v) Delivery: Delivery [against/free of] payment
- (vi) Names and addresses of additional Paying Agent(s) (if any): [Not Applicable/give name]

10. **[TERMS AND CONDITIONS OF THE OFFER]<sup>7</sup>**

- Offer Period: [[ ] to [ ]]
- Offer Price: [ ]
- Conditions to which the offer is subject: [Not applicable/give details]
- Description of the application process: [Not applicable/give details]
- Description of possibility to reduce subscriptions and manner for refunding excess amount paid by applicants: [Not applicable/give details]
- Details of the minimum and/or maximum amount of application<sup>8</sup>: [Not applicable/give details]
- Details of the method and time limits for paying up and delivering the Notes: [Not applicable/give details]
- Manner and date in which results of the offer are to be made public: [Not applicable/give details]

<sup>7</sup> Delete if minimum denomination is less than €50,000 (or its equivalent in the relevant currency as at the issue date)

<sup>8</sup> Whether in number of Notes or aggregate amount to invest.

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

Categories of potential investors to which the Notes are offered and whether tranche(s) have been reserved for certain countries<sup>9</sup>: [Not applicable/*give details*]

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

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

Name(s) and address(es), to the extent known to the Issuer, of the placers in the various countries where the offer takes place: [Not applicable/*give details*]

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<sup>9</sup> If the offer is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain of these, indicate any such tranche.

**PART C – OTHER APPLICABLE TERMS**

## DEALERS

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