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## **BAWAG Capital Finance (Jersey) Limited**

*(Incorporated with limited liability under the laws of Jersey)*

**150,000**

### **Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares**

**having the benefit of a support agreement entered into with**

### **Bank für Arbeit und Wirtschaft Aktiengesellschaft**

*(Incorporated in the Republic of Austria)*

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**Issue Price: €1,000 per Preference Share**

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150,000 Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares with a liquidation preference of €1,000 each (the "Preference Shares") are proposed to be issued by BAWAG Capital Finance (Jersey) Limited (the "Issuer") on 31 October 2000 (the "Closing Date"). The holders of the Preference Shares will have the benefit of a support agreement entered into between the Issuer and Bank für Arbeit und Wirtschaft Aktiengesellschaft ("BAWAG"), as further described in "Support Agreement" herein. The Preference Shares will entitle holders to receive (subject to the limitations described in "Description of the Preference Shares") non-cumulative preferential cash dividends payable annually in arrear on 31 October in each year (each a "Fixed Dividend Date") at a rate of 8.765 per cent. per annum in respect of the period from (and including) 31 October 2000 to (but excluding) the Fixed Dividend Date falling on 31 October 2010 (the "Optional Redemption Date") and thereafter at a floating rate per annum which is the sum of three-month EURIBOR plus 4.7 per cent., payable quarterly in arrear on 31 January, 30 April, 31 July and 31 October in each year (each a "Floating Dividend Date").

The Preference Shares are redeemable at the option of the Issuer, subject to the prior consent of BAWAG, (which shall grant such consent only after having applied for and been granted consent by the Austrian Ministry of Finance (the "*Bundesministerium für Finanzen*")), in whole or in part, at €1,000 per Preference Share plus accrued and unpaid dividends (whether or not declared) for the then current Dividend Period on the Optional Redemption Date or any Floating Dividend Date falling thereafter and, for taxation reasons or capital reasons, in whole but not in part at any time, subject as described in "Description of the Preference Shares". In the event of the winding-up of the Issuer or the liquidation, dissolution or winding-up of BAWAG, holders of Preference Shares will be entitled to receive for each Preference Share a liquidation preference of €1,000 plus accrued and unpaid dividends for the then current Dividend Period (as defined in "Description of the Preference Shares") to the date of payment, subject as described in "Description of the Preference Shares".

Application for the listing of the Preference Shares has been made to the Luxembourg Stock Exchange.

## **Goldman Sachs International**

**Bank für Arbeit und Wirtschaft  
Aktiengesellschaft**

**Credit Suisse First Boston**

**Lehman Brothers**

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The date of this Offering Circular is 25 October 2000.

A copy of this Offering Circular has been delivered to the Jersey Registrar of Companies in accordance with Article 6 of the Companies (General Provisions) (Jersey) Order 1992, and he has given, and has not withdrawn, his consent to its circulation.

The Jersey Financial Services Commission has given, and has not withdrawn, its consent under Article 4 of the Control of Borrowing (Jersey) Order 1958 to the issue by the Issuer of the Preference Shares.

It must be distinctly understood that in giving these consents, neither the Jersey Registrar of Companies nor the Jersey Financial Services Commission takes any responsibility for the financial soundness of the Issuer or for the correctness of any statements made, or opinions expressed, with regard to it.

The Issuer confirms that, to the best of its knowledge and belief, after having made all reasonable inquiries, this Offering Circular contains all information with regard to the Issuer and the Preference Shares which is material to the issue of the Preference Shares, that such information is true and accurate in all material respects and is not misleading, that the opinions and intentions expressed in this Offering Circular on the part of the Issuer are honestly held and that there are no other facts the omission of which makes any such information or the expression of any such opinion or intention misleading in any material respect. The Issuer accepts responsibility accordingly.

BAWAG confirms that, to the best of its knowledge and belief, after having made all reasonable inquiries, this Offering Circular contains all information with regard to the Issuer, BAWAG and its subsidiaries and affiliates (the "Group") and the Preference Shares which is material to the issue of the Preference Shares, that the information contained in this Offering Circular is true and accurate in all material respects and is not misleading, that the opinions and intentions expressed in this Offering Circular are honestly held and that there are no other facts the omission of which makes this Offering Circular as a whole or any such information or the expression of any such opinion or intention misleading in any material respect. BAWAG accepts responsibility accordingly.

No person has been authorised to give information or to make any representation other than those contained in this document and, if given or made, such information or representation must not be relied on as having been authorised by the Issuer, BAWAG or Goldman Sachs International. Neither the delivery of this document nor any subscription, sale or purchase made in connection herewith shall, in any circumstances, create any implication that there has been no change in the affairs of the Issuer or BAWAG or the Group since the date hereof.

Prospective investors should inform themselves as to the legal requirements and tax consequences within the countries of their residence and domicile for the acquisition, holding or disposition of Preference Shares and any foreign exchange restrictions that might be relevant to them. This Offering Circular does not constitute an offer of, or an invitation by or on behalf of, the Issuer, BAWAG or Goldman Sachs International to subscribe for or purchase any of the Preference Shares.

Investors should satisfy themselves that they understand all the risks associated with making investments in the nature of the Preference Shares. If a prospective investor is in any doubt whatsoever as to the risks involved in investing in the Preference Shares, he or she should consult his or her professional advisers.

The distribution of this document and the offering of the Preference Shares in certain jurisdictions may be restricted by law. Persons into whose possession this document comes are required by the Issuer, BAWAG and Goldman Sachs International to inform themselves about, and to observe any such restrictions.

No action has been taken as a matter of the laws of any jurisdiction to permit the public offering of the Preference Shares in any jurisdiction (other than Jersey). Accordingly, the Preference Shares may not be offered or sold, directly or indirectly, and this Offering Circular may not be distributed in any jurisdiction, except in accordance with the legal requirements applicable in that jurisdiction. In particular, the Preference Shares have not been and will not be registered under the Securities Act of 1933 as amended (the "Securities Act"). Subject to certain exceptions, the Preference Shares may not be offered, sold or delivered within the United States or to U.S. persons. A further description of certain restrictions on the offering and sale of the Preference Shares and on the distribution of this document is given under "Subscription and Sale" below.

This document may not be distributed to any individuals or legal entities in The Netherlands other than to individuals or legal entities who or which trade in securities in the conduct of their profession or trade, which include banks, securities intermediaries, insurance companies, pension funds, other institutional investors and commercial enterprises which, as an ancillary activity, regularly invest or trade in securities.

The Preference Shares are only suitable for financially sophisticated investors who are capable of evaluating the risks involved in investing in the Preference Shares.

Unless otherwise specified or the context requires, references to “Austrian Schilling” and “ATS” are to the currency of Austria which is used as a denomination of the euro after the introduction of the euro in Austria on 1 January 1999 and references to “euro”, “EUR” and “€” are to the currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty establishing the European Community, as amended from time to time.

In connection with this issue, Goldman Sachs International may over-allot or effect transactions which stabilise or maintain the market price of the Preference Shares at a level which might not otherwise prevail. Such stabilising, if commenced, may be discontinued at any time.

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### INCORPORATION BY REFERENCE

Detailed financial information relating to BAWAG is contained in the published unconsolidated unaudited interim financial statements of BAWAG as at, and for the six months ended, 30 June 2000, the published consolidated audited financial statements of BAWAG as at, and for the year ended, 31 December 1999 and the published unconsolidated audited financial statements of BAWAG as at and for the year ended 31 December 1999 all of which are incorporated by reference in this Offering Circular and are available (free of charge) at the specified office of the Paying Agent in Luxembourg.

## SUMMARY

*The following summary is qualified in its entirety by the more detailed information and financial statements included elsewhere in this Offering Circular.*

<b>Issuer</b>	BAWAG Capital Finance (Jersey) Limited, an indirect wholly-owned subsidiary of BAWAG incorporated in Jersey and organised under the Companies (Jersey) Law 1991.
<b>Ultimate Parent</b>	Bank für Arbeit und Wirtschaft Aktiengesellschaft
<b>Issue Size</b>	€150,000,000
<b>Issue Details</b>	150,000 Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares each with a liquidation preference of €1,000 (the "Liquidation Preference").
<b>Dividends</b>	<p>Subject to Jersey law and as provided in the Issuer's Articles of Association, dividends will be payable, whether or not declared by the Board of Directors of the Issuer, (i) in respect of the period from (and including) 31 October 2000 to (but excluding) the Fixed Dividend Date falling on 31 October 2010, annually in arrear on 31 October in each year (each a "Fixed Dividend Date"), and (ii) thereafter, quarterly in arrear on 31 January, 30 April, 31 July and 31 October of each year (each a "Floating Dividend Date"), except as provided in sub-Article 6(a)(iii), as more fully described in "Description of the Preference Shares" below. Dividends for each Dividend Period (as defined in "Description of the Preference Shares") ending on (but excluding) the Fixed Dividend Date falling on 31 October 2010 (the "Optional Redemption Date") will accrue at a fixed rate per annum of 8.765 per cent. and for each subsequent Dividend Period commencing on (and including) the Optional Redemption Date will accrue at a floating rate per annum which is the sum of three-month EURIBOR and 4.7 per cent., all as more fully described in "Description of the Preference Shares". The amount of dividend that accrues in respect of any Fixed Dividend Period (as defined in "Description of the Preference Shares") or any period of less than a Fixed Dividend Period will be computed on the basis of the number of days in the relevant period, from and including the date from which the dividend begins to accrue to but excluding the date on which it falls due divided by the number of days in the dividend period in which the relevant period falls (including the first such day but excluding the last). The amount of dividend that accrues in respect of any Floating Dividend Period (as defined in "Description of the Preference Shares") or any period of less than a Floating Dividend Period will be computed on the basis of the actual number of days elapsed in the period divided by 360. No dividend shall fall to be paid in the circumstances in which BAWAG would not be obliged to make a payment under the Support Agreement (see "Restrictions on Payments" below). If no dividend falls to be paid by the Issuer in respect of any Dividend Period, rights to such dividends shall lapse.</p>

## Support Agreement

The Issuer and the holders of the Preference Shares will have the benefit of a support agreement entered into as a deed poll between BAWAG and the Issuer in respect of the obligations of the Issuer under the Preference Shares (the "Support Agreement").

The Support Agreement is intended to provide for dividend, redemption and liquidation rights equivalent to those which would attach to the Preference Shares if issued directly by BAWAG and to oblige BAWAG to make funds available to the Issuer to meet its payment obligations under the Preference Shares.

## Restrictions on Payments

BAWAG will not be obliged to make any payment in respect of dividends under the Support Agreement in any calendar year:

- (a) to the extent that such payment, together with the amount of:
  - (i) any dividends (including any Additional Amounts, as defined in "Description of the Preference Shares", in respect thereof) previously paid by the Issuer in respect of the Preference Shares in the then current fiscal year;
  - (ii) any dividends previously paid on, or payments made to holders in respect of, Dividend Parity Securities (as defined in "Description of the Preference Shares") in the then current fiscal year; and
  - (iii) any dividends proposed to be paid on, or payments proposed to be made to holders in respect of, Dividend Parity Securities in the then current calendar year, for the period up to but excluding the Optional Redemption Date, or in the then current calendar quarter for any period thereafter,would exceed "Distributable Funds" (as defined in "Description of the Preference Shares") in relation to BAWAG for the prior fiscal year; or
- (b) even if Distributable Funds are sufficient, to the extent that, in accordance with applicable Austrian banking regulations affecting banks which fail to meet their capital ratios on a consolidated basis, BAWAG would be limited in making payments on preferred or preference shares issued by it ranking *pari passu* as to participation in profits with BAWAG's obligations under the Support Agreement.

In the event that the payments described above cannot be made in full by reason of any such limitation, such payments will be made *pro rata* in the proportion that the amount available for payment bears to the full amount that would have been payable but for such limitation.

For the text of the Support Agreement, see "Support Agreement".

The above restrictions are imposed *mutatis mutandis* on payments by the Issuer of dividends in respect of the Preference Shares: see "Description of the Preference Shares".

If no payment is made in respect of a dividend by BAWAG under the Support Agreement pursuant to the foregoing provisions, the entitlement of the holders of Preference Shares to enforce payment by BAWAG to the Issuer shall lapse, and no payment in respect of any missed or reduced dividend need be made at any time by the Issuer or by BAWAG in such circumstances.

If a dividend is not paid (in whole or in part) on the Preference Shares by the Issuer, no dividend or other distribution (including repurchases or other redemptions of common shares) may be made by BAWAG in respect of its common shares or other securities issued by BAWAG or any subsidiary of BAWAG and entitled to the benefit of a support agreement or guarantee and ranking junior to or *pari passu* with the Preference Shares until such time as payment of dividends in respect of the Preference Shares is resumed.

The Preference Shares ordinarily will rank senior to the Issuer's ordinary shares as to payment of dividends. However, in the event that dividends do not fall to be paid in relation to a Dividend Period on the Preference Shares, all amounts received by the Issuer in relation to such Dividend Period may be distributed as dividends to the holder of the Issuer's ordinary shares instead of being paid to the holders of the Preference Shares.

**Withholding Tax and Additional Amounts**

The Issuer will pay such additional amounts to each holder of the Preference Shares as may be necessary in order that every net payment in respect of the Preference Shares, after withholding for any taxes imposed by Jersey, upon or as a result of such payment, will not be less than the amount otherwise required to be paid, subject to the exceptions described in "Description of the Preference Shares". The obligations of the Issuer to pay any such additional amounts are described more fully in "Description of the Preference Shares".

**Optional Redemption**

The Preference Shares are redeemable at the option of the Issuer, subject to the prior consent of BAWAG (which shall grant such consent only after having applied to and been granted consent by the *Bundesministerium für Finanzen*), in whole or in part, at the Liquidation Preference plus accrued and unpaid dividends (whether or not declared) for the then current Dividend Period (subject to Jersey Law and the Issuer's Articles of Association) on the Optional Redemption Date or any Dividend Date falling thereafter.

**Redemption for Tax Reasons and Capital Reasons**

In addition, the Preference Shares are redeemable at the option of the Issuer at any time, subject to the prior consent of BAWAG, (which shall grant such consent only after having applied to and been granted consent by the *Bundesministerium für Finanzen*), in whole but not in part, (i) at the Liquidation Preference plus accrued and unpaid dividends (whether or not declared) for the then current Dividend Period up to the Specified Redemption Date (as defined in "Description of the Preference Shares"), if the Issuer is or would be required to pay Additional Amounts (as described in "Description of the Preference Shares") in respect of payments due on the Preference Shares; or (ii) if the *Bundesministerium für Finanzen* determines and announces that as a result of a change in law or regulation or the

interpretation thereof the Preference Shares no longer qualify as Core Capital (as defined in “Description of the Preference Shares”) of BAWAG for Austrian banking capital adequacy purposes on a consolidated basis at the Make Whole Amount (as defined in “Description of the Preference Shares”) for any such redemption on or prior to the Optional Redemption Date and at the Liquidation Preference plus accrued and unpaid dividends (whether or not declared) for any such redemption thereafter.

## **Rights upon Liquidation**

In the event of the winding-up of the Issuer, holders of Preference Shares will be entitled to receive for each such Preference Share the Liquidation Distribution (as defined in “Description of the Preference Shares”) subject to Jersey law and as provided in the Issuer’s Articles of Association.

Notwithstanding the availability of sufficient assets of the Issuer to pay any Liquidation Distribution to the holders of the Preference Shares as aforesaid, if, at the time such Liquidation Distribution is to be paid, proceedings are pending or have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of BAWAG, the Liquidation Distribution paid to holders of Preference Shares shall not exceed the amount per share that would have been paid as the Liquidation Distribution from the assets of BAWAG (after payment in full in accordance with Austrian law of all creditors of BAWAG, including holders of its subordinated debt but excluding holders of any liability expressed to rank *pari passu* with or junior to the obligations of BAWAG under the Support Agreement) had the Preference Shares been issued by BAWAG and ranked (i) junior to all liabilities of BAWAG (other than any liability expressed to rank *pari passu* with or junior to the obligations of BAWAG under the Support Agreement), (ii) *pari passu* with all securities of BAWAG expressed to rank *pari passu* with the Preference Shares and (iii) senior to BAWAG’s common shares.

In the event of liquidation, dissolution or winding-up of BAWAG, the Board of Directors of the Issuer shall convene an Extraordinary General Meeting of the Issuer for the purpose of proposing a Special Resolution to place the Issuer in voluntary liquidation and in these circumstances the amount per share payable by the Issuer as liquidation distribution to holders of Preference Shares in the event of a winding-up of the Issuer will be as described above.

BAWAG has undertaken in the Support Agreement that, so long as any of the Preference Shares is outstanding, unless BAWAG itself is in liquidation, BAWAG will not permit, or take any action to cause, the winding-up of the Issuer.

## **Voting Rights**

Holders of the Preference Shares will not be entitled to vote at any general meeting of shareholders of the Issuer except in certain limited circumstances. Holders of the Preference Shares, together with the holders of any other preferred or preference shares of the Issuer having the right to vote for the election of Directors in such circumstances, are entitled to elect two additional Directors to the Issuer’s Board of Directors if dividends have not been paid (in whole or in part) for one Fixed Dividend Period or for four consecutive Floating Dividend

Periods (as the case may be). Such additional Directors must vacate their office if dividend payments are resumed by the Issuer in full. For a more detailed description see “Description of the Preference Shares”.

### **Form of the Shares**

The Preference Shares will be issued in registered form. On the Closing Date, a single share certificate representing the Preference Shares will be deposited with HSBC Bank plc (the “Common Depositary”) as common depositary for Morgan Guaranty Trust Company of New York, Brussels office, as operator of the Euroclear system (“Euroclear”) and Clearstream Banking, société anonyme (“Clearstream, Luxembourg”). The initial share certificate will be issued, and the Preference Shares will be registered, in the name of HSBC Issuer Services Common Depositary Nominee (UK) Limited as nominee for the Common Depositary. For so long as the Preference Shares are deposited and registered as described above, book-entry interests in the Preference Shares will be shown on, and transfers thereof will be effected only through, records maintained by Euroclear and Clearstream, Luxembourg.

If either or both of Euroclear and Clearstream, Luxembourg announces an intention permanently to cease business and the Issuer is unable to locate a qualified successor within 60 days of receiving notice of, or becoming aware of, such intention, the number of Preference Shares corresponding to each holder’s book-entry interest in the Preference Shares represented by the initial share certificate will be transferred to each holder of Preference Shares, and each such holder will be registered as a holder of the Preference Shares in the register of members maintained by the Issuer, and receive a share certificate made out in its name. Other than in the circumstances referred to in this paragraph, definitive share certificates will not be available to holders of the Preference Shares

### **Governing law**

The Preference Shares will be governed by and construed in accordance with the law of Jersey. The Support Agreement will be governed by and construed in accordance with English law save that the provisions concerning the ranking of the Support Agreement and those provisions described under “Restrictions on Payments” above will be governed by, and construed in accordance with, Austrian law.

### **Listing**

Application has been made for the Preference Shares to be listed on the Luxembourg Stock Exchange.

## SUMMARY FINANCIAL INFORMATION

Subject as provided below, the following summary financial information has been extracted from the published unconsolidated unaudited interim financial statements of BAWAG for the six months ended 30 June 2000 and the published consolidated audited financial statements of BAWAG for the years ended 31 December 1999 and 1998.

### Balance Sheet

	<b>30 June 2000</b> <b>(unconsolidated)</b> <b>(unaudited)</b>	<b>31 December</b> <b>1999</b> <b>(consolidated)</b> <b>(audited)</b>	<b>31 December</b> <b>1998</b> <b>(consolidated)</b> <b>(audited)</b>
	<b>(millions of euro)</b>		
Cash in hand, balances with central banks .....	254.1	177.7	175.4
Securities eligible as collateral for borrowings from and bills eligible for rediscount at the Austrian Central Bank.....	1,973.4	2,068.6	2,115.3
Loans and advances to credit institutions.....	2,105.4	1,891.5	2,015.1
Loans and advances to customers .....	15,353.0	14,911.6	13,241.8
Debt securities and other fixed-income securities ....	1,411.7	982.9	609.0
Shares and other variable-yield securities .....	850.4	834.2	729.8
Participating interests .....	110.1	94.1	118.4
Participating interests in associated companies .....	—	16.3	10.6
Shares in affiliated companies.....	271.9	172.7	149.4
Intangible assets .....	—	1.5	0.7
Tangible fixed assets .....	156.6	355.6	338.3
Other assets .....	16.2	91.8	25.8
Prepayments and accrued income.....	2.1	5.3	5.8
<b>Total Assets</b> .....	<b>22,504.9</b>	<b>21,603.7</b>	<b>19,535.4</b>
Amounts owed to credit institutions .....	4,986.2	3,768.4	3,435.7
Amounts owed to customers .....	12,973.0	13,076.9	11,861.1
(a) savings deposits .....	8,368.2	8,540.4	7,986.4
(b) other customer deposits.....	4,604.8	4,536.5	3,874.7
Debts evidenced by certificates .....	2,612.3	2,720.1	2,494.4
Other liabilities .....	150.7	197.9	79.1
Accruals and deferred income .....	23.0	22.5	23.9
Provisions for liabilities and charges .....	279.4	335.5	257.3
Subordinated liabilities .....	58.4	98.8	85.0
Supplementary capital .....	496.9	489.6	478.4
Subscribed capital.....	114.5	114.5	114.5
Capital reserves .....	40.3	40.3	40.3
Revenue reserves .....	434.4	348.4	355.0
Liability reserve pursuant to § 23 para 6 Banking Act (BWG) .....	287.6	288.3	244.8
Disposable profit .....	7.5	91.9	60.0
Minority interests .....	40.8	10.6	5.9
<b>Total Liabilities and Equity</b> .....	<b>22,504.9</b>	<b>21,603.7</b>	<b>19,535.4</b>

## Income Statement

	30 June 2000 (unconsolidated) (unaudited)	31 December 1999 (consolidated) (audited)	31 December 1998 (consolidated) (audited)
	(millions of euro)		
Interest receivable and similar income .....	497.6	1,013.8	975.4
Interest payable and similar expense .....	363.0	739.3	725.5
<b>Net interest income</b> .....	<b>134.6</b>	<b>274.5</b>	<b>249.9</b>
Income from securities and participating interests ....	27.6	49.7	46.2
Commission income.....	36.1	70.8	58.1
Commission expense .....	5.3	9.7	7.0
Net profit in financial operations .....	10.5	34.9	37.9
Other operating income .....	2.8	17.8	17.7
<b>Operating income</b> .....	<b>206.3</b>	<b>438.2</b>	<b>403.0</b>
General administrative expense			
(a) staff costs .....	77.8	161.0	146.8
(b) other administrative expense			
(cost of materials) .....	32.1	66.4	59.9
Depreciation of tangible fixed assets.....	13.2	32.2	27.6
Other operating expense .....	0.1	11.1	8.4
<b>Operating expense</b> .....	<b>123.1</b>	<b>270.7</b>	<b>242.7</b>
<b>Operating profit</b> .....	<b>83.2</b>	<b>167.5</b>	<b>160.3</b>
Risk provision .....	(33.1)	(81.7)	(58.4)
Proceeds on disposal of financial assets .....	9.4	51.9	(8.1)
<b>Results from ordinary business activities</b> .....	<b>59.5</b>	<b>137.7</b>	<b>93.8</b>
Extraordinary profit/loss .....	(6.6)	(16.5)	(10.1)
Taxes on income .....	(12.9)	(28.6)	(23.8)
Other taxes .....	0.2	(0.3)	0.3
<b>Profit for the year</b> .....	<b>40.2</b>	<b>92.3</b>	<b>60.2</b>
Dormant partners' profit share.....	(32.7)	0.4	0.2
<b>Group profit for the year</b> .....	<b>7.5</b>	<b>91.9</b>	<b>60.0</b>

## **USE OF PROCEEDS**

The net proceeds of the issue, which are expected to amount to approximately €148,500,000 (after deduction of fees and commissions), will be used for general corporate purposes of the Group.

## THE ISSUER

### History

The Issuer was incorporated in Jersey on 3 October 2000 for an unlimited duration and with limited liability under the laws of Jersey.

The registered office of the Issuer is 22 Grenville Street, St Helier, Jersey JE4 8PX. The Issuer has no place of business in Austria.

### Business

The Issuer is an indirect wholly-owned subsidiary of BAWAG and its sole purpose is the issue of the Preference Shares.

### Share Capital

- (a) The existing issued ordinary shares are not listed on the Luxembourg Stock Exchange or on any other stock exchange and are not dealt on any other recognised market.
- (b) The Issuer was established with an authorised share capital of €16,500 consisting of 16,500 shares of par value €1 each, which were subsequently designated as ordinary shares. Its authorised share capital was increased by special resolution to €180,000,000 consisting of 29,983,500 ordinary shares of par value €1 each and 150,000 Preference Shares of a par value of €1,000 each. 100 shares were issued and fully paid following incorporation of the Issuer and designated ordinary shares on 25 October 2000. Save as described, there has been no subsequent change in the share capital of the Issuer.
- (c) The holders of the ordinary shares in the Issuer have no rights of pre-emption or preferential subscription rights in respect of the Preference Shares.
- (d) No capital of the Issuer is under option or is agreed conditionally or unconditionally to be put under option.

### Indebtedness

Since the date of its incorporation, the Issuer has not had outstanding any loan capital and has not incurred any other borrowings or indebtedness in the nature of borrowings and has had no contingent liabilities or granted any guarantees.

### Directors

- (a) The Directors of the Issuer and their principal activities outside the Issuer are as follows:

<u>Name</u>	<u>Function in the Issuer</u>	<u>Principal Activity Outside the Issuer</u>
Ian James .....	Executive Director	Solicitor, partner of Mourant du Feu & Jeune, director of Mourant & Co. Limited
Nicola Davies .....	Executive Director	Advocate, partner of Mourant du Feu & Jeune, director of Mourant & Co. Limited
Declan Hallissey .....	Executive Director	Company Secretary of BAWAG International Finance Limited

Ian James and Nicola Davies are partners of the Mourant Group and of Mourant du Feu & Jeune, the Issuer's legal advisers. The partners of the Mourant Group own the issued shared capital of Mourant & Co. Limited which supplies administrative services and the Company Secretary to the Issuer.

- (b) The Directors do not, and it is not proposed that they will, have service contracts with the Issuer. No Director has entered into any transaction on behalf of the Issuer which is or was unusual in its nature or conditions or is or was significant to the business of the Issuer since its incorporation.

No Director or any connected person has any interest, whether or not held by a third party, in the share capital of the Issuer.

At the date of this document there were no loans granted or guarantees provided by the Issuer to any Director of the Issuer.

- (c) As at the date of this document, the Directors have not received any remuneration for the provision of their services to the Issuer.
- (d) The Articles of Association of the Issuer provide that:

Subject to the provisions of the Law, any Director of the Issuer may be counted in the quorum present at any meeting at which any proposed arrangement or contract in which he or she is interested is considered and, subject to the Articles of Association, may vote on any proposal, arrangement or contract in which he is materially interested provided he has disclosed the nature of his interest in it prior to its consideration and any vote thereon, provided however that notwithstanding the above, no Director of the Issuer may vote or be counted in the quorum in relation to any proposal, arrangement or contract in which he is materially interested, save where the Director's interest is by virtue of either (i) an interest in shares or other securities of the Issuer or (ii) the giving of a security, guarantee or indemnity in relation to either any money lent by the Director at the request of or for the benefit of the Issuer, any indebtedness of the Issuer for which the Director has assumed responsibility, any issue of shares in which the Director may be entitled to participate, any contract with another company in which the Director is interested (unless the Director has a holding of more than 1 per cent.), the adoption by the Issuer of any employee scheme in which the Director may benefit, or the purchase of insurance for the Director against any liability.

The remuneration of the Directors shall from time to time be determined by the Issuer in general meeting.

Subject to the provisions of the Articles of Association, a Director shall hold office until such time as he is removed from office by an ordinary resolution of the Issuer in general meeting.

For purposes of the Issuer's Articles of Association, "Law" means the Companies (Jersey) Law, 1991.

### **Secretary**

The Secretary of the Issuer is Mourant & Co. Secretaries Limited of 22 Grenville Street, St. Helier, Jersey JE4 8PX.

### **General**

- (a) Since 3 October 2000, the date upon which the Issuer was incorporated, there has been no significant change in the trading or financial position of the Issuer.
- (b) KPMG of 45 The Esplanade, St Helier, Jersey JE1 1BL have been appointed as auditors to the Issuer.
- (c) No accounts have been prepared for the Issuer nor have any dividends been declared or paid since the date of the Issuer's incorporation.
- (d) No transactions have occurred since incorporation of the Issuer other than (i) the allotment of the shares described under "Share Capital" and (ii) the execution of the Subscription Agreement and the Agency Agreement described in this Offering Circular and of a Corporate Administration Agreement dated 25 October 2000 and made between the Issuer, BAWAG and Mourant & Co. Limited.
- (e) There are no legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) which may have or have had since the incorporation of the Issuer a significant effect on the financial position of the Issuer.

## CAPITALISATION OF THE GROUP

The following table sets out the unaudited consolidated capitalisation of the Group as at 30 June 2000:

	<b>As at 30 June 2000</b>
	<b>(millions of euro)</b>
<b>Capitalisation</b>	
Share capital .....	114.5
Capital reserves .....	40.3
Profit reserves .....	762.8
	762.8
Capital and reserves .....	917.6
Minority interests .....	2.1
Total supplementary capital .....	179.7
Total subordinated liabilities .....	400.6
Others .....	75.0
	75.0
Total Capitalisation <sup>(1)</sup> .....	1,575.1
<b>Capital Adequacy</b>	
Core Capital .....	921.2
Tier 2 Capital .....	443.2
Liability Reserves (according to §23 Austrian Banking Act) .....	(27.2)
Eligible Equity .....	1,391.6
Tier 3 Capital .....	194.3
Total Equity (eligible equity and Tier 3 Capital) .....	1,585.9
	1,585.9
Total risk weighted assets and off balance sheet items .....	12,437.4
	12,437.4
Core Capital ratio (%) .....	7.41
Total Capital ratio (%) .....	10.61
Total equity (eligible equity and Tier 3 Capital) .....	1,585.9
Distributable Funds .....	465.3

Note:

(1) There has been no material change in the capitalisation of the BAWAG Group since 30 June 2000.

# BANK FÜR ARBEIT UND WIRTSCHAFT AKTIENGESELLSCHAFT

## Overview

BAWAG (or the “Bank”) is one of the leading full-service banks in Austria and is Austria’s fifth largest bank in terms of total assets. The Bank offers a full range of banking services with an emphasis on retail business. It maintains current accounts, holds savings deposits, grants loans to individuals, corporations and federal and local authorities, operates an e-banking system for private and corporate customers and issues letters of credit and guarantees. It also provides money transfer and foreign exchange services, forward currency facilities and is a buyer and supplier of credits for Austrian exports. The Bank is also active in the domestic money and capital markets. It offers investment management and advisory services and acts as a broker for various exchanges and OTC-markets.

The main focus of BAWAG’s business is on the domestic Austrian market using a branch network covering the whole of Austria. BAWAG’s international business is focused on the emerging markets of Central and Eastern Europe, particularly in the Czech Republic, Slovenia, Slovakia, Hungary, Croatia and Poland, each of which neighbours Austria. The Bank has opened a joint representative office in Ljubljana, Slovenia and has a representative office in Hong Kong and a subsidiary in Dublin.

As of 31 December 1999, BAWAG had total assets of €21.60 billion, an increase of 10.6 per cent. from €19.5 billion as of 31 December 1998 and, as of 30 June 2000, BAWAG’s total assets were €22.5 billion. BAWAG’s operating profit for the year ended 31 December 1999 was €0.17 billion (€0.16 billion for the year ended 31 December 1998 and €0.08 billion for the six months ended 30 June 2000). During 1999, it employed an average of 2,591 people, an increase of 63 from the previous year’s average.

BAWAG is incorporated as a joint-stock company in the Republic of Austria. The Bank’s headquarters is in the political municipality of Vienna, where it is registered in the commercial register under number FN107053g. The Bank’s registered office is at Seitzergasse 2-4, A-1010 Vienna, Austria.

The objects of the Bank cover all types of banking business. The Bank may establish other corporations, acquire existing corporations and hold participations or interests in corporations. The Bank is authorised to provide all kinds of business and services to achieve its business objectives.

At the date of this Offering Circular, BAWAG’s authorised and issued share capital is €125,000,000 divided into 1,575,000 bearer shares, all of which are subscribed and fully paid. 53.57 per cent. of the Bank’s shares are held by the *Österreichischer Gewerkschaftsbund* (“Austrian Federation of Unions”) and 46.43 per cent. are held by Bayerische Landesbank Girozentrale.

BAWAG’s principal subsidiaries are discussed in greater detail below.

## History

BAWAG was founded as the “*Arbeiterbank*” on 22 June 1922 by Dr. Karl Renner, State Chancellor of the First Republic and Federal President of the Second Republic of Austria. It was founded as the trade unions’ bank with the aim of providing banking facilities to working people. The Bank’s long relationship with the trade unions has provided BAWAG with a stable shareholder base.

In 1934, BAWAG was forced to liquidate for political reasons. It re-opened in March 1947 and in 1963 was re-named the “Bank für Arbeit und Wirtschaft”. In 1979, an amendment to the Austrian Banking Act allowed the establishment of branches triggering extensive expansion in the following years. In 1995, Bayerische Landesbank Girozentrale acquired a 46 per cent. stake in BAWAG and became a strategic partner.

## Strategy

The Bank’s main strategy is to concentrate on its core banking business by offering a wide range of banking products for its retail and commercial clients which are complemented by an extensive range of financial services through its subsidiaries and strategic co-operations. Within Austria, the Bank intends to concentrate on its retail business with the aim of increasing market share. Outside Austria, the Bank intends to continue to build a primary market in Central and Eastern Europe as well as develop its international loan portfolio in conjunction with Bayerische Landesbank Girozentrale.

BAWAG intends to grow its business organically by using its own funds rather than looking to its shareholders for capital increases. It aims to keep its costs low whilst broadening its customer base and exploiting new technologies.

### Acquisition of PSK

Österreichische Postsparkasse Aktiengesellschaft ("PSK") is a post-office savings institution owned by the Republic of Austria. In 1997, a decision was made to privatise PSK and on 16 August 2000 Österreichische Industrieholding Aktiengesellschaft, the state holding company of PSK, agreed to sell 100 per cent. of PSK's share capital to BAWAG. The total amount paid for all the shares in PSK was €1.281 billion. The acquisition is currently being reviewed by the Commission of the European Union whose consent is expected in November of this year.

PSK operates out of 2,300 post offices and also has 22 bank branches in Austria. PSK will continue to operate out of the post offices following its acquisition by BAWAG. The acquisition will give BAWAG greater coverage throughout rural Austria. BAWAG plans to centralise certain functions of PSK (such as treasury operations and asset and liability management) but the PSK brand name will remain.

### Selected Balance Sheet Data

The following table shows certain balance sheet data of BAWAG on an unconsolidated basis as of 31 December 1999 and 30 June 2000:

	<b>30 June 2000</b> <b>(unaudited)</b>	<b>31 December 1999</b> <b>(audited)</b>
	<b>(millions of euro)</b>	
Balance sheet total .....	22,504.9	21,067.8
Loans and advances to credit institutions .....	2,105.4	2,070.2
Loans and advances to customers .....	15,353.0	14,774.2
Amounts owed to credit institutions.....	4,986.2	3,940.6
Amounts owed to customers .....	12,973.0	12,721.5
Own funds according to the Austrian Banking Act .....	20.9	20.1
Capital and disclosed reserves .....	917.6	884.9

### Branch Network

BAWAG operates its business through an extensive branch network which is the primary source of BAWAG's retail funding and lending. As of 30 June 2000, the Bank had 154 branches in Austria. The Bank's head office is in Vienna and the Bank has a substantial number of other branches in Vienna. The Bank's coverage of the remainder of Austria is divided according to regions: Lower Austria, Upper Austria, Salzburg, Tyrol, Vorarlberg, Burgenland, Styria and Carinthia. These regions are divided into four groups and specific board members of BAWAG are assigned responsibility for a particular group and thus for the various regions within that group.

The majority of BAWAG's branches operate as full service branches providing a complete range of BAWAG's retail products and services, as well as commercial services. Those branches which are not full service branches offer, as a minimum, payment services. Stemming from its history as a bank closely associated with the unions in Austria, BAWAG also appoints employee representatives who sell products and attract new customers within the workplace. All employee representatives have the full support of BAWAG's branches.

BAWAG's customers can also make use of ATMs (automated teller machines). At 31 December 1999, BAWAG operated 150 such machines. BAWAG has also expanded into direct banking (such as e-banking and telephone banking) as a way of complementing its branch network.

## **BAWAG's core banking business**

### *Retail*

From its foundation, BAWAG has concentrated on providing banking services to the domestic Austrian market and introduced the concept of banking to a large proportion of Austrian workers through its association with its key trade union shareholders. As at 30 June 2000, BAWAG had approximately 585,000 retail customers.

BAWAG offers a full range of retail banking services and products through its extensive branch network, its subsidiaries and those companies with which it has entered into distribution agreements. These include salary accounts, savings accounts, private loans and credit cards.

### Salary Accounts

This is the most important feature of BAWAG's retail business and, combined with other forms of current account such as the pensioner's account, is a key product for retail customers. It is a pre-requisite for customers who wish to use many other BAWAG services and products that they maintain a salary account with BAWAG. Interest rates on salary accounts are floating rate and withdrawals may be made on demand. In 1999, 35,000 new customers opened current accounts with BAWAG.

### Savings Accounts

Savings accounts have been a very important product for BAWAG since its incorporation and the Austrian-style savings book (*Sparbuch*) remains popular in Austria. Interest rates on savings accounts are fixed rate, the rate being dependent upon the term of the deposit. In addition, BAWAG have developed the *Kapitalsparbuch*, a savings book product where the rate of interest increases in each year that the account is held. In 1999, savings deposits with BAWAG grew by 5.6 per cent. to €8.34 billion (ATS 114.8 billion) giving BAWAG a 6.5 per cent. share of this market in Austria as of 31 December 1999.

### Private Loans

BAWAG offers a wide variety of loans from standardised private loans to overdraft facilities. In 1999, total loan volume increased by about 16.7 per cent. to €2.1 billion from €1.8 billion in 1998. One of BAWAG's more successful and popular products is the BZK - personal cash-delivery loan (*Barzustellungskredit*). Employee representatives arrange these loans which are delivered in cash via the postal network. The maximum amount of each loan is measured against the applicant's monthly income.

### Credit Cards

BAWAG operates two kinds of credit card: the BAWAG branded MasterCard and non-branded MasterCards and Visacards. With around 110,000 MasterCards and 13,000 Visacards, BAWAG holds approximately 7.5 per cent. of all MasterCards and Visacards issued in Austria as of August 2000. The BAWAG branded cards can also be used as an electronic purse for cashless payment and customers are also given Maestro Cards to withdraw cash from their BAWAG accounts at ATMs.

As at 31 December 1999, BAWAG maintained private customer deposits of €9.08 billion and had loans and advances outstanding to private individuals amounting to €2.08 billion.

### *Direct Banking*

BAWAG offers direct banking services under both the BAWAG brand and the easybank brand (easybank AG being BAWAG's direct banking subsidiary). Each of the brands offers identical products and services (with the exception of a call centre which is provided to easybank customers) but are targeted at different market segments. The BAWAG brand is aimed at the Bank's traditional retail market segment whereas the easybank brand has been targeted at the higher end of the retail market in terms of both income and/or education. The easybank brand is also targeted at a group known as "early innovators" who are customers with enhanced financial service requirements.

easybank AG was founded as a 100 per cent. subsidiary of BAWAG in August 1996 and began trading on 1 January 1997. easybank was the first Austrian direct bank offering the services of a large bank. easybank operations are managed like a branch of BAWAG thereby minimising costs.

easybank's earnings (before tax) were positive in 1999, its third year of operation. The dual brand strategy has been successful. As of 30 June 2000, easybank had more than 45,000 customers with approximately 50,000 accounts. Only 4 per cent. of easybank's customers have transferred from BAWAG or are customers of both institutions. easybank offers an internet banking service. All customers of easybank are entitled to use the BAWAG branch network in addition to the call centre.

BAWAG has also launched other banking services exploiting new mobile telephone technologies such as SMS banking and WAP banking.

### *Corporate*

BAWAG offers a wide range of products and services to the corporate banking sector with its customers being primarily small and medium sized enterprises ("SMEs"). In addition, BAWAG's relationship with Bayerische Landesbank Girozentrale enables it to service larger corporate customers, particularly through loan syndication.

BAWAG offers both account and payment services to its corporate customers. These services are primarily provided through the Bank's branch network. A large proportion of this work is carried out in Vienna, but some of the larger branch offices, for example Graz (which currently employs about 150 people), can service many of the requirements of its corporate clients.

BAWAG has an expanding commercial loan business and has developed specific loan products such as the e-com loan and the EU partner loan. The e-com loan is intended to finance investments in connection with e-commerce by SMEs. The EU partner loan is offered by BAWAG in connection with the European Investment Bank and takes advantage of development subsidies available from the European Union ("EU"). Where appropriate, BAWAG branches will refer corporate customers to more specialised advisers within BAWAG in order to provide them with these specialised products.

BAWAG also manages investment funds, administering 40 securities funds with a total volume of €182 million as of 30 June 2000. BAWAG offers corporate finance services, merger and acquisition consultancy services and operates a venture capital fund strategically aimed at small businesses.

### *Public Sector*

BAWAG participates in public sector financing, particularly in conjunction with EU development loans. In the past it has also granted loans to the Federal Government through special companies and to public sector companies such as the Austrian railways.

### *International*

In addition to using its existing contacts with correspondent banks worldwide, BAWAG has developed and increased its international business through its co-operation with Bayerische Landesbank Girozentrale. The Bank has placed special emphasis on promoting business in its neighbouring Central European countries, in particular with Slovenia, Hungary, Slovakia, Croatia, the Czech Republic and Poland. BAWAG holds a 10 per cent. share in Magyar Külkereskedelmi Bank (Hungarian Foreign Trade Bank) ("MKB") in Budapest and an 8 per cent. share in Interbanka in Prague. Bayerische Landesbank Girozentrale holds a majority share in both these institutions.

An "Austrian Desk" has been set up at both MKB in Hungary and Interbanka in the Czech Republic. In Slovenia, a joint representative office has been established in Ljubljana for BAWAG and Bayerische Landesbank Girozentrale.

With its representative office in Hong Kong, BAWAG has connections within East Asia and participates in syndications for financial institutions. BAWAG also has a subsidiary at the International Financial Services Centre in Dublin.

### **Principal Subsidiaries**

Through its principal subsidiaries, BAWAG complements its core retail and corporate banking services.

### *Österreichische Verkehrskreditbank AG (“ÖVKB”)*

ÖVKB was founded in 1969 and in 1999 BAWAG acquired the 51 per cent. majority stake belonging to the Austrian Federal Railways. BAWAG now holds 100 per cent. of ÖVKB's shares. ÖVKB provides financing services to freight and transport companies in Austria consisting primarily of deferred freight payment and factoring. ÖVKB also has a small retail business and BAWAG, through ÖVKB, provides payment and cash withdrawal facilities, including ATMs, at certain railway stations in Austria.

### *BAWAG Wohnbaubank AG*

BAWAG owns 70 per cent. of BAWAG Wohnbaubank AG. Since its establishment in 1995, this company has issued over €215 million in tax-privileged convertible bonds which are made available primarily to non-profit making property developers for the construction of affordable housing for dependent employees.

### *LandesBausparkassen AG*

BAWAG owns a 32.4 per cent. stake in the building society LandesBausparkassen AG and, together with Bayerische Landesbank Girozentrale, has the majority stake (65 per cent.) in the business. At 31 December 1999, LandesBausparkassen AG had a balance sheet total of over €290 million, approximately 130,000 customers and a market share within Austria of about 5 per cent. The building society's business complements the Bank's core retail business.

### *BAWAG-Versicherung AG*

BAWAG-Versicherung AG sells insurance at a retail level focusing primarily on life insurance. As at 31 December 1999, the company administrated 169,000 policies with a total insurance volume of over €1.8 billion. As part of its insurance business, BAWAG has formed an affiliation with Allianz Elementar Versicherungs AG (“Allianz”), which owns 25 per cent. of BAWAG-Versicherung AG. Allianz's sales force sell BAWAG's insurance products as well as some of BAWAG's other products, particularly loans. In return, BAWAG sells Allianz products which do not compete with its own products through its branch network. Most of the Allianz sales force operate on a commission basis and so this broader distribution is achieved at a lower cost.

### *BAWAG Invest GmbH*

BAWAG Invest Gesellschaft m.b.H is a 100 per cent.-owned fund management service founded in August 1988. It currently manages 40 different investment fund products with a total volume of €2.5 billion.

### *BAWAG Leasing GmbH*

BAWAG Leasing Gesellschaft m.b.H is a 100 per cent.-owned subsidiary offering retail-level leasing services, such as for cars and office equipment. It also offers more specialised leasing services for corporate customers and BAWAG has established a number of property management companies in connection with its leasing business.

### *Sparda Bank AG*

Sparda Bank Aktiengesellschaft is a highly specialised banking subsidiary offering account, savings and loan facilities to Austria's railway employees. It has no separate branches and operates through the main BAWAG branches.

### *REFCO*

In 1999, BAWAG acquired a 10 per cent. stake in the REFCO group, an American brokerage firm. This co-operation with REFCO was initiated in 1998 and has introduced BAWAG to new corporate customers in the United States.

## Funding Sources

As at 30 June 2000, BAWAG had €8.4 billion of retail deposits, €4.4 billion of corporate deposits and had raised €3.2 billion from issuing BAWAG bonds. As these figures illustrate, BAWAG's deposits are drawn primarily from the retail sector, in particular from the popular *Kapitalsparbuch*. Overall levels of deposits are increasing at a greater rate than that being experienced by other Austrian banks. In 1999, BAWAG's savings deposits increased by 5.6 per cent. compared with 2 per cent. growth in the sector overall.

BAWAG issues bonds to both corporate and retail customers. Bonds are sold through the branch network and through the BAWAG internet site. In June 2000, BAWAG established a Euro 3 billion Debt Issuance Programme to assist it with securities offerings. Feedback received from BAWAG employees at branch level is vital when BAWAG is issuing bonds into the retail market. BAWAG also structures particular bond issues for its corporate clients. All issues are managed from BAWAG's head office in Vienna and its Treasury Department is able to monitor and evaluate BAWAG's hedging position at any time.

The following table illustrates BAWAG's levels of deposits by source:

	<u>30 June 2000</u>	<u>31 December 1999</u>	<u>31 December 1998</u>	<u>31 December 1997</u>
	(millions of euro)			
Savings deposits.....	8,368.3	8,339.5	7,895.9	7,616.3
Own issues.....	3,167.7	3,101.7	2,903.5	2,818.8
Liabilities Non-Banks .....	4,604.8	4,382.1	3,914.1	3,545.6
<b>Primary Deposits .....</b>	<b>16,140.7</b>	<b>15,823.1</b>	<b>14,713.4</b>	<b>13,980.7</b>
Percentage of total assets.....	71.70	75.10	75.71	76.80

## Asset Concentration, Credit Approval and Monitoring

The following table sets out BAWAG's concentration of assets on a gross basis by business sector as of 30 June 2000 and as of 31 December for the previous two fiscal years:

	<u>30 June 2000</u>	<u>31 December 1999</u>	<u>31 December 1998</u>
	(millions of euro)		
Banking and other financial institutions.....	2,426.6	2,342.0	2,407.5
Public administration.....	5,194.3	4,943.4	5,105.4
Manufacturing.....	1,157.2	1,099.2	1,053.2
Retail .....	4,254.6	4,145.5	3,454.6
Transport .....	261.2	216.5	169.0
Hotels and restaurants .....	112.4	122.6	121.2
Real estate and construction.....	592.8	573.6	497.8
Private customers .....	2,173.8	2,076.0	1,809.1
Other .....	1,635.9	1,647.4	1,165.6
<b>Total .....</b>	<b>17,808.8</b>	<b>17,166.2</b>	<b>15,783.4</b>

BAWAG's policy is to take collateral for the majority of its loans and advances. BAWAG reviews this security once a year as part of its credit monitoring procedure (as described below). Generally, all loans to individuals are secured, apart from the BZK cash delivery loans which are kept within very tight earnings parameters.

BAWAG has created a standardised procedure relating to loan approval. Credit risk is monitored on an individual loan basis. In the retail sector, the Bank has standard loan application forms which can be used in every BAWAG branch and via the internet. The Bank will undertake various credit checks using information supplied by the customer and databases available to Austrian banks. Depending on the size of the loan and the collateral being offered, loan approval may be granted by the individual branch manager. Larger loans of above €727,000 are dealt with at head office in Vienna. For larger loans, the approval of the Management Board or the Supervisory Board may be required.

Corporate customers may apply to their particular branch or directly to the head office in Vienna for loans. They must present specific financial data which is analysed by the Bank's credit department. Each applicant is given a rating on a scale of 1 to 8 where 1 represents the lowest risk of default (sovereign entities) and 8 the highest risk of default where the Bank must make suitable provisions in its accounts. This system was introduced in 1999 and is currently being refined. Each loan is analysed once a year and the overall position is reported on a monthly basis. Doubtful loans are reviewed quarterly to determine any possible need for provisioning. The system covers every loan and guarantee exposure of the Bank to one customer over €218,000.

The following table sets out BAWAG'S 10 largest credit exposures by borrower's industry sector as at 30 June 2000:

	<b>30 June 2000</b>
	<b>(millions of euro)</b>
Public Sector .....	2,486.1
Telecommunications.....	473.9
Industry .....	436.1
Telecommunications.....	354.1
Transportation .....	316.9
Leasing/Real Estate .....	265.1
Leasing/Real Estate .....	221.5
Transportation .....	209.2
Transportation .....	169.8
Service Sector .....	157.3

#### **Approach to provisioning and loan loss experience**

BAWAG's guidelines for provisioning are conservative in that loans are considered non-performing when BAWAG considers that it is unlikely that it will be able to recover a loan. Non-payment is followed up by letters giving customers an opportunity to discuss the situation with the Bank or reschedule debt where appropriate. Collection of smaller debts is dealt with internally and larger debts are referred to external lawyers.

When provisioning for loan losses, BAWAG must follow statutory guidelines. The following table describes the risk categories and sets out BAWAG's loans by risk category as of 31 December 1999 and 1998:

	<b>31 December 1999</b>	<b>31 December 1998</b>
	<b>(millions of euro)</b>	
a) Without apparent risk of loss.....	23,853.7	22,722.4
Percentage audited.....	46	44
b) Watch list.....	290.4	181.5
Percentage audited.....	72	98
c) Doubtful (losses are expected) .....	402.6	389.7
Percentage audited.....	46	52
d) Bad debt .....	118.3	99.2
Percentage audited.....	56	28
<b>Total a - d .....</b>	<b>24,665.1</b>	<b>23,392.8</b>

(Loans and advances to credit institutions and to customers, debt securities and other fixed-income securities pursuant to § 22(4) in conjunction with appendix 1 to § 22 BWG weighted off balance sheet transactions)

**Description of categories:**

a) Without apparent risk of loss:

All parts of loans to customers for which the above categories b, c and d risk do not apply. Although credit risk is generally present in these loans, they are individually not particularly risky.

b) Watch list:

These loans are not in immediate danger of default but require intensive monitoring due to one or more of the following circumstances:

- \* lack of disclosure of the economic situation for loans without sufficient collateral
- \* obvious worsened economic development
- \* insufficient equity of the borrower
- \* mismatch between risk and collateral
- \* material worsening of the earnings situation of the borrower
- \* material drop in sales
- \* late payments by the borrower
- \* worsening of the general situation within an economic sector

Specific information is available which suggests that it is necessary to monitor the loan relationship over the long term. The loan should not necessarily be regarded as doubtful.

c) Doubtful (losses are expected):

A loan is regarded as doubtful when the interest and principal are either completely or partially at risk. This is based upon at least reasonable doubt as to the collectibility of the loan. For this reason, a reserve has been established to cover at least part of the balance.

d) Bad debt:

In this category loan loss is certain, therefore these loans have been either entirely or partially written off.

The following table illustrates the status and development of loan loss provisions for BAWAG as of 30 June 2000, 1999 and 1998:

	<b>Loan Balance</b>			<b>Allowance</b>			<b>Net earnings charge</b>		
	<b>30 June 2000</b>	<b>30 June 1999</b>	<b>30 June 1998</b>	<b>30 June 2000</b>	<b>30 June 1999</b>	<b>30 June 1998</b>	<b>30 June 2000</b>	<b>30 June 1999</b>	<b>30 June 1998</b>
	<b>(millions of euro)</b>								
Commercial .....	548.6	479.1	379.6	272.6	258.2	229.4	-17.1	-39.6	-20.7
Retail.....	121.4	117.3	114.9	97.1	93.9	91.9	-3.8	-6.6	-6.1
Country risk .....	22.7	21.5	18.9	15.7	14.9	10.3	-0.8	-5.9	-9.0
<b>Total .....</b>	<b>692.7</b>	<b>617.9</b>	<b>513.3</b>	<b>385.3</b>	<b>366.9</b>	<b>331.6</b>	<b>-21.8</b>	<b>-52.1</b>	<b>-35.9</b>



## Information Technology

All of BAWAG's branches are connected by an I.T. network, although not all of the Bank's operations use the same systems. The main system handles time critical applications whereas there is a different host system for non-time critical applications. The I.T. network will be reviewed on the acquisition of PSK and provisions have been made for this expenditure.

## Management and Employees

BAWAG has a two-tier board comprising a Supervisory Board (*Aufsichtsrat*) and a Management Board (*Vorstand*). The day-to-day management of BAWAG is vested in the Management Board which meets every two weeks. The Supervisory Board meets every quarter and certain actions of the Management Board require the approval of the Supervisory Board.

The members of the Supervisory Board and the members of the Management Board, their positions and, where significant, their principal activities outside BAWAG as of the date of this Offering Circular are as follows:

### Managing Board

<i>Name</i>	<i>Position</i>	<i>Principal Activities outside BAWAG</i>
Helmut Elsner	CEO and Chairman of the Managing Board	President of Verband österreichischer Banken und Bankiers Deputy Chairman of the Supervisory Board of Allianz Pensionskasse AG Member of the Supervisory Boards of Austrian Airlines Öst Luftverkehrs AG, Del-Ka Schuhhandels AG, Investkredit Bank AG, Magyar Külkereskedelmi Bank, Österreichische Bundesbahnen, Österr. Kontrollbank AG, Österreichische National Bank, Tel Mineralwolle AG and Wiener Staatsoper
Christian Büttner	Member of the Managing Board	Chairman of the Supervisory Board of "GO ASIA" Invest Holding AG Deputy Chairman of the Supervisory Board of OPEL Bank GmbH Member of Supervisory Board of Interbanka s.a, Director of Magyar Külkereskedelmi Bank Member of Supervisory Board of Wiener Börse AG

<i>Name</i>	<i>Position</i>	<i>Principal Activities outside BAWAG</i>
Hubert Kreuch	Member of the Managing Board	Deputy Chairman of the Supervisory Boards of Gemeinnützige Wohn- und Siedlungsgen Ennstal reg GmbH, GWB NORD-OST Gemeinnützige Wohnbau- und Baubetreuungsgesellschaft mbH, Kapital-Beteiligungs AG, and NEUE HEIMAT Gemeinnützige Wohnungs- und Siedlungsges mbH Chairman of the Supervisory Board of LBA LandesBausparkasse AG
Josef Schwarzecker	Member of the Managing Board	Deputy Chairman of the Supervisory Board of A.P.E.F. Beteiligungen AG Member of Supervisory Board of ATV Privat-TV Services AG
Johann Zwettler	Member of the Managing Board	Chairman of the Supervisory Board of A.P.E.F. Beteiligungen AG Deputy Chairman of the Supervisory Boards of GEWOG Neues Heim Gemeinnützige Wohnungsges.m.b.H, Ruefa Reisen AG and Steyrmühl Papierfabriks- und Verlags AG Member of the Supervisory Board of WED Wiener Entwicklungsgesellschaft für den Donauraum AG

### **Supervisory Board**

<i>Name</i>	<i>Position</i>	<i>Principal Activities outside BAWAG</i>
Günter Weninger	Chairman	Deputy President of the Austrian Federation of Unions, Vienna
Alfred H. Lehner	Deputy Chairman	Chairman of the Managing Board of Bayerische Landesbank Girozentrale, Munich
Eduard Aschenbrenner	Member	Member of the Managing Board of Bayerische Landesbank Girozentrale, Munich
Gerold Brandt	Member	Member of the Managing Board of Bayerische Landesbank Girozentrale, Munich
Josef Cerny	Member	
Kurt Faltlhauser	Member	Bavarian Minister of Finance, Munich Deputy Chairman of the Supervisory Board of Bayerische Landesbank Girozentrale, Munich

<i>Name</i>	<i>Position</i>	<i>Principal Activities outside BAWAG</i>
Erich Foglar	Member	
Albert Hochleitner	Member	CEO of Siemens Österreich AG, Vienna
Peter Kahn	Member	Member of the Managing Board of Bayerische Landesbank Girozentrale, Munich
Rudolf Kaske	Member	
Rudolf Randus	Member	
Kaus Rauscher	Member	Member of the Managing Board of Bayerische Landesbank Girozentrale, Munich
Heinrich Schmidhuber	Member	Executive President of Bayerische Sparkassen- und Giroverband, Munich Chairman of the Supervisory Board of Bayerische Landesbank Girozentrale, Munich
Peter Sattmann	Member	
Josef Tumberger	Member	
Walter Zwiauer	Member	
Ingrid Streibel-Zarfl	Employee Representative	
Freidrich Gerth	Employee Representative	
Edith Frank	Employee Representative	
Brigitte Jakobovits	Employee Representative	
Heinrich Kuen	Employee Representative	
Rudolf Leeb	Employee Representative	
Beatrix Pröll	Employee Representative	
Christine Zucker	Employee Representative	
Josef Singer	Employee Representative	

The address of each of the members of the Managing Board and the Supervisory Board is Bank für Arbeit und Wirtschaft Aktiengesellschaft, Seitzergasse 2-4, A-1010 Vienna, Austria.

At 31 December 1999, BAWAG employed 2,638 people. The BAWAG team is relatively young with an average age of 36 and the average length of service is over 11 years. BAWAG operates an in-house training programme and financial advisers have been appointed to train staff at major branch offices.

### **Auditors**

The independent auditors of BAWAG are KPMG Austria GmbH Wirtschaftsprüfungsgesellschaft ("KPMG Austria"), Kolingasse 19, A-1090 Vienna. They have audited the non-consolidated financial statements of BAWAG and the consolidated financial statements of the BAWAG Group for the years ended 31 December 1999, 1998, 1997 and have issued an unqualified audit certificate on each of these financial statements.

# THE AUSTRIAN BANKING SYSTEM

## Overview

As at 30 June 2000, the Austrian banking industry consisted of 947 independent banks with a total of 4,559 branches, of which 24 were abroad. The structure of Austria's banking system is characterised by a large number of small institutions, a smaller number of medium to large banks and no major bank of international scale.

The industry can be split into the following "sectors":

	<b>Total assets</b>
	<b>(in euro billion)</b>
Savings banks .....	203.0
Commercial banks.....	133.6
Raiffeisen (rural co-operatives) .....	113.7
Mortgage banks.....	30.3
Volksbanken (trade co-operatives)	23.9
Specialised banks .....	57.5
	<hr/> <hr/> 562.1

Changes in banking practice generally, and in Austrian banking legislation specifically, have contributed to an erosion of the original distinctions between the sectors. Today, commercial banks, savings banks and co-operative banks all engage in substantially similar business; however, each has different business policies.

## Membership of the European Union

Austria joined the European Economic Area ("EEA") in January 1994 and became a member of the EU on 1 January 1995. Membership of the EEA entailed the adoption of and implementation by Austria of most of the EU directives, which has resulted in significant changes to Austrian banking law and accounting rules as Austrian laws have been harmonised with EU directives.

The legal framework of the banking system was reformed in 1993 with the passing of the *Bankwesengesetz 1993* (the "Banking Act") which was part of the *Finanzmarktanpassungsgesetz 1993* ("Financial Markets Harmonisation Act"). The Financial Markets Harmonisation Act was passed to bring Austrian law into compliance with the EEA treaty and EU banking directives. The Banking Act implements 11 EU directives and five EU recommendations. In August 1996, an amendment to the Banking Act was made, bringing Austrian law into compliance with EU directives on large exposures, deposit guarantee, consolidation, supervision and reporting.

A further amendment to the Banking Act, which, among other things, implements the EU Investment Services Directive and the EU Capital Adequacy Directive, was enacted on 30 December 1996. The amendment consisted of the new Securities Supervision Act as well as amendments to the Banking Act, the Stock Exchange Act and the Austrian Insolvency Law, and had various effective dates up to 1 January 1999.

## Regulation and Supervision

The structure of the regulation and supervision of the Austrian banking system is set forth in a number of statutes, including the Banking Act, the National Bank Act 1984 and the Mortgage Bond Act 1927, each as amended.

The Banking Act contains most of the essential regulations for "credit institutions", as banks are designated. In addition to setting out capital adequacy rules, the Banking Act imposes various other requirements, restrictions and regulations on Austrian banks, including reporting and liquidity requirements, restrictions on participations and large exposures, and regulations regarding internal controls and internal audits, deposit guarantees, money laundering and customer protection.

The National Bank Act 1984 regulates the position of the Austrian National Bank in the system of European Central Banks, while the Mortgage Bond Act 1927 governs bonds backed by mortgages.

Under the Banking Act, regulation and supervision of Austrian banks and of the branches of foreign banks in Austria is the responsibility of the Federal Minister of Finance assisted by the Austria National Bank. The Minister of Finance may take a variety of actions under the Banking Act to supervise banks on a comprehensive basis. In order to enable the Minister of Finance to fulfil his obligations, banks must, among other things, prepare monthly preliminary balance sheets and quarterly profit and loss statements, and submit annual audit reports.

### **Federal Ministry of Finance**

The Federal Ministry of Finance (the “Ministry of Finance”) is headed by the Federal Minister of Finance (the “Minister of Finance”), who is a member of the Federal Government. The Ministry of Finance, in the person of the Minister of Finance, monitors compliance with the Banking Act and other relevant legislation and regulations by Austrian banks and financial institutions, both at home and abroad, and by foreign banks operating in Austria. In accordance with the Banking Act, credit and financial institutions organised in and regulated by the authorities of EEA Member States are subject to regulation and supervision by their home state and not by Austria. With respect to activities in Austria, some regulations of the Banking Act must be observed.

### **The European Central Bank and the Austrian National Bank**

Since 1 January 1999, responsibility for the monetary and currency policy of all the states participating in the third stage of European economic and monetary union, including Austria, rests with the European Central Bank. The governor of the Austrian National Bank is a member of the council of the European Central Bank.

In addition to its functions within the European System of Central Banks, the Austrian National Bank reviews reports filed by banks and makes recommendations to the Ministry of Finance. Detailed foreign currency statistics concerning the foreign currency position of all Austrian banks are compiled by the Austrian National Bank and provide it with an indication of the business volume of all large Austrian banks. Austria’s detailed information reporting requirements act as a form of regulator mechanism since the figures in these reports and the information provided by the banks must be consistent and compiled in accordance with the rules and regulations of the Austrian National Bank.

The Austrian National Bank continuously evaluates the status of Austrian banks as part of the banking supervision regime provided for in the Banking Act.

### **Capital Adequacy Requirements**

Under Austrian risk-based capital adequacy rules, which are based on EU law, each bank must maintain a ratio (the “Solvency Ratio”) of at least 8 per cent. The Solvency Ratio is the ratio of Qualifying Capital (“Own Funds”, as explained below) to risk-adjusted assets and certain off-balance sheet items (as explained below).

For purposes of calculation of the Solvency Ratio, the Banking Act defines “Qualifying Capital” as consisting principally of (i) paid-in capital, (ii) disclosed reserves, (iii) funds for general bank risks, (iv) supplementary capital, (v) certain hidden reserves, (vi) participation capital, (vii) subordinated capital, (viii) revaluation reserves and (ix) the commitments of members of co-operative banks to make additional contributions quantified in relation to their shareholdings. Certain losses, certain intangible assets and certain investments in banks or financial institutions are required to be deducted from equity in computing Qualifying Capital.

“Core Capital” consists of (i) paid-in capital, (ii) disclosed reserves, and (iii) funds for general bank risks, less losses and intangible assets. The Banking Act requires that the aggregate amount of the elements comprising Qualifying Capital, other than those elements which are part of Core Capital, must not exceed the Core Capital. In addition, the sum of subordinated debt may not exceed 50 per cent. of the Core Capital. Core Capital reflects the same concept as “Tier 1 Capital” and Qualifying Capital (other than Core Capital) reflects a concept similar to “Tier 2 Capital”.

Risk-adjusted assets and certain off-balance sheet items are computed by assigning the assets to four broad categories of relative credit risk: 0 per cent., 20 per cent., 50 per cent. and 100 per cent. The balance sheet value of each asset is multiplied by the percentage weight applicable to its risk category to arrive at the risk-adjusted value. Off-balance sheet items on the bank book such as swaps and other financial derivatives are valued either at cost or market price. As with on-balance sheet assets, each off-balance sheet item is assigned to a credit risk category depending upon the type of counterparty or the debtor and multiplied by the applicable percentage weight. For the trading book the banks are required to meet the capital requirements regarding position risk as well as settlement and counterparty risk according to a "trading book approach". For these risks "Tier 3" Capital can be used.

Consolidated capital adequacy requirements must be met not only by a bank, but also by the bank together with all other financial services companies in the bank's group. For this purpose, the group consists of the parent company bank and all other banks, factoring and leasing companies, investment firms and ancillary banking service undertakings in which it holds more than 50 per cent. of the share capital or which it controls.

### **Minimum Reserves**

As of 1 January 1999, all banks incorporated in a state which is participating in the third stage of European Economic and Monetary Union ("EMU") are obliged to maintain minimum reserves for liabilities in all currencies of EMU participating member states. These minimum reserve requirements are generally set at a rate of 2 per cent. for sight deposits and term deposits up to 2 years and of 2 per cent. of 70 per cent. (i.e. 1.4 per cent.) for debentures and money market paper with maturities up to two years. A general allowance of Euro 100,000 can be deducted. These reserves are interest bearing.

Failure by a bank to meet the minimum reserve requirements exposes the bank concerned to potential penalty interest charges.

### **Deposit Guarantee Scheme**

Austrian law requires that any bank which receives deposits must join the guarantee scheme of its sector within the banking system. Non-membership of the relevant guarantee scheme results in the lapse of the bank's licence to conduct deposit-taking business in Austria. Payments made by a guarantee scheme to restore guaranteed deposits are met by contributions from each member bank in the relevant sector. Each bank's contribution is determined in proportion to the aggregate amount of such bank's deposits, subject to a maximum contribution amount equal to one-third of the Section 23(6) Banking Act liability reserve of such bank. In case one sector cannot meet its obligation all other sectors' schemes have to step in. Payments exceeding all sector scheme funds are financed by debentures guaranteed by the Ministry of Finance.

BAWAG has to be, and is, a member of the Deposit Guarantee Scheme of Banks and Bankers.

### **Accounting and Auditing**

Generally, Austrian auditing regulations are adapted to EU standards. Austrian banks, and banks operating in Austria, are required to submit audited statements, including the audit reports thereon, to the Ministry of Finance and the Austrian National Bank. Such statements must be submitted within six months of the end of the business year. The Austrian National Bank requires that data contained in financial statements also be transmitted electronically to it in standardised formats.

Recent legislation allows banks to use international accounting standards (such as International Accounting Standards or US GAAP) to consolidate financial statements provided that the financial statements comply with EU guidelines, contain all required information and are audited. In addition the auditor has to confirm compliance with EU directive requirements.

Bank auditors are required to certify compliance with certain regulatory requirements, and to include in their longform reports to the relevant supervising authorities an overall opinion on the risks, profitability and financial position of the respective bank. Bank auditors may be auditing firms but also sector related but independent institutions.

## DESCRIPTION OF THE PREFERENCE SHARES

As used in the Articles of Association of the Issuer, “Company” means the Issuer and “Holder” means, in relation to any Preference Share, the member of the Issuer whose name is entered in the register of members as holder of such Preference Share.

The following are the definitions, taken from the Articles of Association of the Issuer, which relate to the Preference Shares:

the “Agent” means HSBC Bank plc or such other entity as is appointed by the Company and notified to the Holders of the Preference Shares in accordance with sub-Article 6(h);

“Adjusted Yield” means (a) the Bund Yield plus (b) 0.50 per cent.

“Asset Parity Security” means any preferred or preference share or other security issued by BAWAG, the Company or any other Subsidiary of BAWAG (i) ranking *pari passu* as to participation in the assets of BAWAG with BAWAG’s obligations under the Support Agreement, or (ii) entitled to the benefit of a guarantee or support agreement from BAWAG ranking *pari passu* as to participation in the assets of BAWAG with BAWAG’s obligations under the Support Agreement;

“Bank Share Capital” means the common shares of BAWAG, together with all other securities of BAWAG (including *Vorzugsaktien*), ranking *pari passu* with the common shares of BAWAG as to participation in a liquidation surplus;

“BAWAG” means Bank für Arbeit und Wirtschaft Aktiengesellschaft;

“Bund” means government bonds issued by the German government or another government debt security that is the relevant benchmark security for pricing the amount payable to holders in euros upon any redemption of the Preference Shares as determined by the Quotation Agent in accordance with customary financial practice;

“Bund Yield” means (a) the yield (mid-market), under the heading which represents the average for the five trading days immediately prior to the Calculation Date appearing on Reuters page JPMDE01 and following or its successor page, for the Bund with the maturity corresponding to the Optional Redemption Date (if no maturity is within three months before or after the Optional Redemption Date, yields for the Bunds with the two published maturity most closely corresponding to the Optional Redemption Date shall be determined and the Bund Yield shall be interpolated or extrapolated from such yields on a straight-line basis, rounding to the nearest month) or (b) if such page (or any successor page) is not published during the five trading days preceding the Calculation Date or does not contain such yields, the annual yield to maturity of the Comparable Bund Issue calculated using a price for the Comparable Bund Issue (expressed as a percentage of its principal amount) equal to the Comparable Bund Price for such Specified Redemption Date, as the case may be. The Bund Yield shall be calculated on the Calculation Date.

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

“Calculation Date” means the third Business Day prior to the date on which the Make Whole Amount is payable;

“Comparable Bund Issue” means, with respect to any Specified Redemption Date, the Bund selected by the Quotation Agent as having a maturity comparable to the Optional Redemption Date that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the Optional Redemption Date. If no Bund has a maturity which is within a period from three months before to three months after the Optional Redemption Date, the two most closely corresponding Bunds shall be used as the Comparable Bund Issue, and the Bund Yield shall be interpolated or extrapolated on a straight-line basis, rounding to the nearest month using such two most closely corresponding Bunds;

“Comparable Bund Price” means (a) the average of five Reference Bund Dealer Quotations, after excluding the highest and lowest such Reference Bund Dealer Quotations, or (b) if the Quotation Agent obtains fewer than five such Reference Bund Dealer Quotations, the average of such Reference Bund Dealer Quotations;

“Core Capital” means capital which qualifies as core regulatory capital of BAWAG for Austrian Banking Capital Adequacy purposes as determined by the *Bundesministerium für Finanzen* or any successor thereto performing for the time being the same or similar functions in relation to banks in Austria;

“Directors” means the directors of the Company for the time being;

“Distributable Funds” means, in respect of each fiscal year of BAWAG, the aggregate amount, as calculated as of the end of the immediately preceding fiscal year, of accumulated retained earnings and any other reserves and surpluses of each member of the Group capable under the companies laws of Austria of being available for distribution as cash dividends to holders of Bank Share Capital, but before deduction of the amount of any dividend or other distribution declared on Bank Share Capital in respect of such prior fiscal year;

“Dividend Date” means any Floating Dividend Date or any Fixed Dividend Date;

“Dividend Determination Date” means the second Business Day prior to the first day of each Floating Dividend Period;

“Dividend Parity Security” means any preferred or preference share or other security (i) issued by BAWAG and ranking *pari passu* as to payment of dividends with BAWAG’s obligations under the Support Agreement or (ii) issued by the Company or any other Subsidiary of BAWAG and entitled to the benefit of a guarantee or support agreement from BAWAG ranking *pari passu* as to payment of dividends with BAWAG’s obligations under the Support Agreement;

“Dividend Period” means any Floating Dividend Period or any Fixed Dividend Period;

“EURIBOR” means the European Inter Bank Offered Rate;

“euro” and “€” mean the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty and whose smallest subdivision shall be one hundredth of a euro or one “cent”;

“Euro-zone” means the region comprised of member states of the European Union that adopt or have adopted the single currency in accordance with the Treaty;

“Fixed Dividend Date” means 31 October in each year from and including 31 October 2001 to and including the Optional Redemption Date;

“Fixed Dividend Period” means the period from and including 31 October 2000 to (but excluding) the first Fixed Dividend Date and each successive period from and including a Fixed Dividend Date to (but excluding) the next succeeding Fixed Dividend Date until (and excluding) the Optional Redemption Date;

“Floating Dividend Date” means 31 January, 30 April, 31 July and 31 October in each year commencing on and including 31 January 2011, (or if in any case such day is not a Business Day, the next following Business Day unless it would thereby fall into the next calendar month, in which case such day will be brought forward to the immediately preceding Business Day);

“Floating Dividend Period” means the period from and including the Optional Redemption Date to (but excluding) the first Floating Dividend Date and each successive period from and including a Floating Dividend Date to (but excluding) the next succeeding Floating Dividend Date;

“Floating Dividend Rate” means, in respect of a Floating Dividend Period, the percentage rate determined pursuant to Article 6(a)(iii);

“Group” means BAWAG together with its consolidated subsidiaries;

“Jersey Tax” means any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the Island of Jersey or by any authority therein or thereof having power to tax;

“the Law” means the Companies (Jersey) Law, 1991;

“Liquidation Distribution” means the Liquidation Preference plus accrued and unpaid dividends (whether or not declared) for the then current Dividend Period to the date of payment;

“Liquidation Preference” means €1,000 per Preference Share;

“London Business Day” means a day in London (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business;

“Make Whole Amount” means, in respect of the Preference Shares, an amount in euro, as determined by the Quotation Agent, equal to the sum of (a) the present value of the Optional Redemption Price at the Optional Redemption Date, (b) the present values of scheduled annual non-cumulative dividend payments from the Specified Redemption Date to the Optional Redemption Date (assuming in each case that dividends are not restricted by application of Article 6(a)(iii) at any relevant time), and (c) any dividends which are due and payable with respect to prior Dividend Periods without interest and without accumulation of unpaid dividends which are not due and payable for any prior Dividend Period. The present values calculated in (a) and (b) above shall be calculated on the Calculation Date at the Adjusted Yield on the basis of the number of days in the relevant period, from and including the date from which dividends begin to accrue to but excluding the date on which it falls due, divided by the number of days in the dividend period in which the relevant period falls (including the first such day but excluding the last);

“Margin” means in respect of the Dividend Periods from (and including) the Optional Redemption Date, 4.7 per cent.;

“Optional Redemption Date” means the Dividend Date falling on 31 October 2010 upon which the Preference Shares may be redeemed pursuant to sub-Article 6(c);

“Optional Redemption Price” means the Liquidation Preference plus accrued and unpaid dividends (whether or not declared) for the then current Dividend Period ending on the date fixed for redemption;

“Paying and Transfer Agent” means Banque Internationale à Luxembourg S.A. or such other entity as is appointed by the Company and notified to the Holders of the Preference Shares in accordance with sub-Article 6(h);

“Primary Bund Dealer” means any leading credit institution or financial services institution that regularly deals in Bunds;

“Quotation Agent” means Goldman Sachs International, and its successors, *provided, however*, that if the foregoing shall cease to be a Primary Bund Dealer, the Company will be entitled to appoint another Quotation Agent that is a Primary Bund Dealer;

“Reference Bund Dealer” means (a) the Quotation Agent, and (b) any other Primary Bund Dealer selected by the Quotation Agent after consultation with the Issuer;

“Reference Bund Dealer Quotations” means, with respect to each Reference Bund Dealer and any Make Whole Amount, as the case may be, the average, as determined by the Quotation Agent, of the bid and offered prices for the Comparable Bund Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Quotation Agent by such Reference Bund Dealer at or about 5.00 p.m. (London time) on the Calculation Date;

“Register” means the register of members to be kept pursuant to Article 26;

“Registrar” means HSBC Bank plc or such other entity as is appointed by the Company and notified to the Holders of the Preference Shares in accordance with sub-Article 6(h);

“Specified Redemption Date” means any date designated for the redemption for tax reasons or for capital reasons of the Preference Shares pursuant to sub-Article 6(d);

“Subsidiary” means a subsidiary of BAWAG (within the meaning of §228 paragraph 3 of the Austrian Commercial Code);

“Support Agreement” means the Support Agreement to be dated 31 October 2000 and made between BAWAG and the Company;

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

“Treaty” means the Treaty establishing the European Community, as amended by the Treaty on European Union.

The following (with the exception of the paragraph in italics) is Article 6 of the Issuer's Articles of Association relating to the Preference Shares:

"Without limiting the generality of the authority granted to the Board of Directors of the Company in these Articles (the "Board of Directors", which expression in this Article 6 shall include any duly authorised committee of the Board of Directors), the Directors may issue at their discretion all or any of the 150,000 Perpetual Non-cumulative Non-voting Floating Rate Preference Shares (the "Preference Shares", which expression shall include any further Preference Shares issued pursuant to sub-Article 6(f)(iv) below) which shall have attached to them the following rights and obligations:

**(a) Dividends**

- (i) Subject to the Law and as provided in sub-Article 6(a)(iii), non-cumulative dividends on the Preference Shares will accrue at:
  - (aa) 8.765 per cent. per annum from and including 31 October 2000 up to (but excluding) the Optional Redemption Date, payable annually in arrear on each Fixed Dividend Date (whether or not declared by the Board of Directors, except as provided in sub-Article 6(a)(iii)). The amount of dividend payable for any Fixed Dividend Period or any period less than a Fixed Dividend Period will be calculated on the basis of the number of days in the relevant period, from and including the date from which the dividend begins to accrue to but excluding the date on which it falls due divided by the number of days in the dividend period in which the relevant period falls (including the first such day but excluding the last); and
  - (bb) the Floating Dividend Rate from and including the Optional Redemption Date, payable quarterly in arrear on each Floating Dividend Date (whether or not declared by the Board of Directors, except as provided in sub-Article 6(a)(iii)). Dividends will be calculated as described below. The amount of dividend payable for any Floating Dividend Period or any period less than a Floating Dividend Period will be calculated on the basis of the actual number of days elapsed in the period divided by 360.
- (ii) The Floating Dividend Rate will be determined by the Agent for each Floating Dividend Period on the basis of the following provisions:
  - (aa) On each Dividend Determination Date the Agent will determine the offered rate (expressed as a rate per annum) for three-month euro deposits as at 11.00 a.m. (Central European time) on such Dividend Determination Date, as displayed on the display designated as page "248" on the Bridge/Telerate Monitor (or such other page or pages as may replace it for the purpose of displaying such information). The Floating Dividend Rate for the Floating Dividend Period immediately following the Dividend Determination Date shall be such offered rate as determined by the Agent plus the Margin.
  - (bb) If such offered rate does not so appear, or if the relevant page is unavailable, the Agent will, on such date, request the principal Euro-zone office of four major banks in the Euro-zone interbank market (the "Reference Banks") to provide the Agent with its offered quotation to leading banks in the Euro-zone interbank market for three-month euro deposits as at 11.00 a.m. (Central European time) on the Dividend Determination Date in question. If at least two of the Reference Banks provide the Agent with such offered quotations, the Floating Dividend Rate for the Floating Dividend Period immediately following the relevant Dividend Determination Date shall be the rate determined by the Agent to be the arithmetic mean (rounded upwards if necessary to the nearest one hundred thousandth of a percentage point (0.000005 per cent. being rounded upwards)) of such offered quotations plus the Margin.
  - (cc) If on any Dividend Determination Date to which the provisions of sub-Article 6(bb) above apply, one only or none of the Reference Banks provides the Agent with such quotation, the Floating Dividend Rate for the Floating Dividend Period immediately following such Dividend Determination Date shall be the rate which the Agent determines to be the aggregate of the Margin and the arithmetic mean (rounded, if

necessary, up to the nearest one hundred thousandth of a percentage point (0.000005 per cent. being rounded upwards)) of the euro lending rates which lending banks in the Euro-zone selected by the Agent are quoting, on the relevant Dividend Determination Date, to leading European banks for a period of three months, except that, if the banks so selected by the Agent are not quoting as mentioned above, the Floating Dividend Rate for such Floating Dividend Period shall be the Floating Dividend Rate in effect for the last preceding Floating Dividend Period to which one of the preceding sub-Articles of this sub-Article 6(a)(ii) shall have applied.

(dd) The Agent will, as soon as practicable after 11.00 a.m. (Central European Time) on each Dividend Determination Date, determine the Floating Dividend Rate in respect of the relevant Floating Dividend Period and calculate the amount of the dividend payable on the Floating Dividend Date for the relevant Floating Dividend Period (the "Dividend Amount") by applying the Floating Dividend Rate for such Floating Dividend Period to the liquidation preference amount of €1,000 per Preference Share, multiplying such sum by the actual number of days in the Floating Dividend Period concerned divided by 360 and, if necessary, rounding the resultant figure to the nearest €0.01 (€0.005 being rounded upwards).

(ee) The Company shall cause notice of the Floating Dividend Rate determined in accordance with this sub-Article 6(a) (ii) in respect of each Floating Dividend Period and of the Dividend Amount and the relevant Floating Dividend Date to be given to the Holders in accordance with sub-Article 6(h) as soon as practicable after its determination but in any event not later than the fourth Business Day thereafter.

The Dividend Amounts and the Floating Dividend Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of any extension or shortening of the relevant Floating Dividend Period or in the event of proven or manifest error.

(ff) The Company shall cause notice of the Floating Dividend Rate determined in accordance with this sub-Article 6(a) (ii) in respect of each Floating Dividend Period and of the Dividend Amount and the relevant Floating Dividend Date to be given to the Luxembourg Stock Exchange by no later than the first day of each new Floating Dividend Period and shall cause such information to be available at the offices of the Paying and Transfer Agent in Luxembourg.

(gg) So long as any Preference Share remains outstanding the Company will maintain an Agent.

The Company may from time to time replace the Agent by another leading investment, merchant or commercial bank in London. If the Agent is unable or unwilling to continue to act as the Agent or fails duly to determine the Floating Dividend Rate in respect of any Floating Dividend Period as provided above, the Company shall forthwith appoint another leading investment, merchant or commercial bank in London to act as such in its place. The Agent may not resign its duties or be removed without a successor having been appointed as aforesaid.

(hh) All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this sub-Article 6(a) (ii) shall (in the absence of wilful default, fraud, bad faith or manifest error) be binding on the Company, BAWAG and the Holders of all Preference Shares, and (in the absence of wilful default, fraud, bad faith or manifest error as aforesaid) no liability to the Holders of the Preference Shares shall attach to the Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions.

(iii) Dividends on the Preference Shares will be non-cumulative and will be deemed to accrue on a day by day basis whether or not declared. Dividends on the Preference Shares will be paid by the Company out of funds legally available therefor; provided, however, that the Company will not be obliged to pay dividends on the Preference Shares on any Dividend Date during any calendar year:

- (aa) to the extent that the aggregate of such dividends, together with:
- (I) any dividends (including any Additional Amounts (as defined in sub-Article 6(g)) in respect thereof) previously paid by the Company in respect of the Preference Shares in the then current fiscal year;
  - (II) any dividends previously paid on, or payments made to holders in respect of, Dividend Parity Securities in the then current fiscal year; and
  - (III) any dividends proposed to be paid, or payments proposed to be made to holders in respect of, Dividend Parity Securities in the then current calendar year, for the period up to but excluding the Optional Redemption Date, or in the current calendar quarter for any period thereafter,
- would exceed Distributable Funds for the prior fiscal year; or
- (bb) even if Distributable Funds are sufficient, if the Board of Directors has received a certified copy of the minutes of a meeting of the Board of Directors of BAWAG in which the Board of Directors of BAWAG has resolved that, in accordance with applicable Austrian banking regulations affecting banks which fail to meet their capital ratios on a consolidated basis, BAWAG would be limited in making payments on preferred or preference shares issued by it ranking *pari passu* as to participation in profits with BAWAG's obligations under the Support Agreement.

Notwithstanding any circumstances where the Company is not obliged to pay dividends on the Preference Shares pursuant to this sub-Article 6(a)(iii), the Board of Directors may, at its sole discretion, resolve that the Company will pay any such dividends and will give notice of such resolution to Holders of the Preference Shares in accordance with sub-Article 6(h).

If no dividend (or proportion thereof) falls to be paid in respect of the Preference Shares with respect to any Dividend Period then the right of Holders of the Preference Shares to receive a dividend or proportion thereof in respect of the Dividend Period ending on the relevant Dividend Date will be extinguished and the Company will have no obligation to pay the dividend accrued for such Dividend Period or to pay any interest thereon, whether or not dividends on the Preference Shares are paid for any future Dividend Period.

- (iv) When, by reason of any limitation described in sub-Article 6(a)(iii) above, dividends are not paid in full on the Preference Shares and any Dividend Parity Securities, all dividends declared or payable upon the Preference Shares and any such Dividend Parity Securities will be payable *pro rata* in the proportion that the amounts available for payment on the Preference Shares and any such Dividend Parity Securities on the due date of payment shall bear to the full amount that would have been payable on the Preference Shares and such Dividend Parity Securities but for such limitation and any claims in respect of the difference between the full amount and the amount so payable shall be thereupon extinguished. If dividends are not paid in full in accordance with the foregoing, the Holders will be notified in accordance with sub-Article 6(h).
- (v) Save as described in this sub-Article 6(a), Holders of the Preference Shares will have no right to participate in the profits of the Company.

**(b) Liquidation Distributions**

- (i) In the event of any voluntary or involuntary winding-up of the Company, the Holders of the Preference Shares at the time outstanding will be entitled to receive the Liquidation Distribution in respect of each Preference Share held out of the assets of the Company available for distribution to shareholders.

Such entitlement will arise before any distribution of assets is made to holders of ordinary shares or any other class of shares of the Company ranking junior as regards participation in assets to the Preference Shares, but such entitlement will rank equally with the entitlement of the holders of any other preferred or preference shares, if any, of the Company ranking *pari passu* with the Preference Shares as regards participation in assets of the Company.

Notwithstanding the availability of sufficient assets of the Company to pay any Liquidation Distribution to the Holders of the Preference Shares, if, at the time such Liquidation Distribution is to be paid, proceedings are pending or have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of BAWAG, the Liquidation Distribution paid to Holders of the Preference Shares and the liquidation distribution per share paid to the holders of all Asset Parity Securities, shall not exceed the amount per share that would have been paid as the liquidation distribution from the assets of BAWAG (after payment in full in accordance with Austrian law of all creditors of BAWAG, including holders of its subordinated debt but excluding holders of any liability expressed to rank *pari passu* with or junior to BAWAG's obligations under the Support Agreement) had the Preference Shares and all Asset Parity Securities been issued by BAWAG and ranked (x) junior to all liabilities of BAWAG (other than any liability expressed to rank *pari passu* with or junior to BAWAG's obligations under the Support Agreement), (y) *pari passu* with all Asset Parity Securities of BAWAG and (z) senior to BAWAG's Bank Share Capital.

- (ii) If the Liquidation Distribution and any other such liquidation distributions cannot be made in full by reason of the limitation described in sub-Article 6(b)(i) above, such amounts will be payable *pro rata* in the proportion that the amount available for payment bears to the full amount that would have been payable but for such limitation. After payment of the Liquidation Distribution, as adjusted if applicable, the Holders of Preference Shares will have no right or claim to any of the remaining assets of the Company or BAWAG.
- (iii) In the event of the liquidation, dissolution or winding-up of BAWAG, the Board of Directors shall convene an Extraordinary General Meeting of the Company for the purpose of proposing a Special Resolution to put the Company into voluntary winding-up and the amount per share to which Holders of the Preference Shares shall be entitled as a Liquidation Distribution will be as set out in sub-Articles 6(b) (i) and (ii) above.

*BAWAG will undertake in the Support Agreement that, so long as any of the Preference Shares is outstanding, unless BAWAG itself is in liquidation, BAWAG will not permit, or take any action to cause, the winding-up of the Issuer.*

#### **(c) Optional Redemption**

- (i) The Preference Shares are redeemable, at the option of the Company, subject to the Law and to the prior consent of BAWAG (which shall grant such consent only after having applied to and been granted consent by the *Bundesministerium für Finanzen*), in whole or in part, on the Optional Redemption Date and on any Dividend Date falling thereafter upon not less than 60 nor more than 90 days' notice to the Holders of the Preference Shares specifying the relevant date fixed for redemption (which notice shall be irrevocable), each to be redeemed at the Optional Redemption Price on the date fixed for redemption. In the case of redemption in part, the liquidation preference of each Preference Share shall be redeemed by the proportion which the aggregate liquidation preference of the outstanding Preference Shares to be redeemed on the date fixed for redemption bears to the aggregate liquidation preference of Preference Shares outstanding on such date.
- (ii) Upon the expiry of such notice, the Company shall be bound to redeem the relevant Preference Shares accordingly, in accordance with and subject to the Law.

#### **(d) Redemption for Tax Reasons and for Capital Reasons**

Notwithstanding the foregoing, the Preference Shares will be redeemable, at the option of the Company at any time, subject to the Law and to the prior consent of BAWAG, (which shall grant such consent only after having applied for and been granted consent by the *Bundesministerium für Finanzen*), in whole but not in part, if (i) the Company is or would be required to pay Additional Amounts (as defined in sub-Article 6(g)) at the Optional Redemption Price, or, (ii) the *Bundesministerium für Finanzen* determines and announces that as a result of a change in law or regulation or interpretation thereof the Preference Shares no longer qualify as Core Capital of BAWAG for Austrian Banking capital adequacy purposes on a consolidated basis at the Make Whole Amount for any such redemption on or prior to the Optional Redemption Date and at the Optional Redemption Price for any such redemption

thereafter, upon not less than 60 nor more than 90 days' notice to the Holders of the Preference Shares designating the relevant Specified Redemption Date (which notice shall be irrevocable), each to be redeemed on the Specified Redemption Date. Upon the expiry of such notice, the Company shall be bound to redeem the Preference Shares accordingly, in accordance with and subject to the Law.

**(e) Payments and Purchases**

- (i) Dividends declared or payable on the Preference Shares will be payable by the Company on the relevant Dividend Date (but without interest in respect of a delay where such Dividend Date is not a Business Day) or other due date for payment as provided herein to the Holders of record thereof as they appear on the Register for the Preference Shares on the relevant record date, which will be five days prior to the relevant date for payment.

If the Company gives a notice of redemption in respect of the Preference Shares, then, by 3.00 p.m. (London time) on the date specified for redemption, the Company will irrevocably deposit with the Agent funds sufficient to pay the Optional Redemption Price, and will give the Agent irrevocable instructions and authority to pay the Optional Redemption Price to the Holders of the Preference Shares as at the relevant record date, which will be seven days prior to the relevant date specified for redemption. If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit, all rights of Holders of the Preference Shares will be extinguished, except the right of the Holders of Preference Shares to receive the Optional Redemption Price in respect of each share, but without interest, and the Preference Shares will cease to be outstanding.

- (ii) Subject to any applicable fiscal or other laws and regulations:
  - (a) each payment in respect of dividends will be made by cheque and mailed to the Holder of record at such Holder's address as it appears on the Register on the relevant record date for the Preference Shares; and
  - (b) any payment in respect of the redemption of any Preference Share will be made by cheque against presentation and surrender of the relevant share certificate at the office of the Paying and Transfer Agent,

provided however, that a Holder of Preference Shares may receive any such payment by wire transfer if the Company (or its agent) so agrees with such Holder and if appropriate wire transfer instructions have been received by the Paying and Transfer Agent in sufficient time prior to the relevant date of payment.

- (iii) In the event that payment of the Optional Redemption Price in respect of any Preference Share is improperly withheld or refused and not paid by the Company, dividends on such Preference Share, subject as described in sub-Article 6(a)(iii), will continue to accrue, at the then applicable rate, from the date specified for redemption to the date of actual payment of such Optional Redemption Price.
- (iv) In making any payment in respect of the Preference Shares, amounts shall be rounded, if necessary, to the nearest €0.01 (with €0.005 being rounded upwards).
- (v) Subject to the foregoing and to applicable law (including, without limitation, to Jersey and Austrian securities and banking laws and regulations) and to the rules of the Luxembourg Stock Exchange (for such time as the Preference Shares remain listed thereon), the Company or BAWAG or any of BAWAG's other Subsidiaries may at any time and from time to time purchase outstanding Preference Shares by tender, in the open market or by private agreement. If purchases are made by tender, the tender must be available to all Holders of Preference Shares alike. Any such Preference Share so purchased by BAWAG or any of BAWAG's other Subsidiaries may be resold.

Any such purchase if made by the Company shall be made in such manner and on such terms as the Company shall approve in general meeting.

**(f) Voting Rights**

- (i) Holders of Preference Shares will not be entitled to receive notice of or attend or vote at any general meeting of shareholders of the Company.
- (ii) If for one Fixed Dividend Period or for four consecutive Floating Dividend Periods (as the case may be), dividends (whether or not declared) and any Additional Amounts in respect of such dividends have not been paid in whole or in part on the Preference Shares by the Company, then the Holders of outstanding Preference Shares together with the holders of any other preferred or preference shares of the Company having the right to vote for the election of Directors in such event, acting as a single class without regard to series, will be entitled, by written notice to the Company given by the Holders of a majority in Liquidation Preference of such shares or by ordinary resolution passed by the Holders of a majority in Liquidation Preference of such shares present in person or by proxy at a separate general meeting of such Holders convened for the purpose, to appoint two additional members of the Board of Directors.

Not later than 30 days after such entitlement arises, if the written notice of the Holders of outstanding Preference Shares and the holders of any other preferred or preference shares of the Company having the right to vote for the election of Directors in the circumstances described in the preceding paragraph has not been given as provided for in the preceding paragraph, the Board of Directors will convene a separate general meeting for the above purpose. If the Board of Directors fails to convene such meeting within such 30 day period, the Holders of 10 per cent. in Liquidation Preference of the Preference Shares and such other preferred or preference shares will be entitled to convene such meeting. The provisions of the Articles concerning the convening and conduct of general meetings of shareholders will apply with respect to any such separate general meeting. Any member of the Board of Directors so appointed shall vacate office, subject to the terms of such other preferred or preference shares, if for any Dividend Period, dividends and any Additional Amounts in respect of such dividends have been paid in full on the Preference Shares by the Company.

- (iii) Any variation or abrogation of the rights, preferences and privileges of the Preference Shares by way of amendment of these Articles or otherwise (including, without limitation, the authorisation or issuance of any shares of the Company ranking, as to participation in the profits or assets of the Company, senior to the Preference Shares) shall not be effective (unless otherwise required by applicable law) except with the consent in writing of the Holders of at least two-thirds of the outstanding Preference Shares or with the sanction of a resolution, passed at a separate meeting, by the Holders of at least two-thirds of the outstanding Preference Shares present and voting at such meeting.
- (iv) Notwithstanding the foregoing, provided that the most recent dividend payable on the Preference Shares has been paid in full by the Company, the holders of ordinary shares of the Company (in the case of the increase of the authorised amount of Preference Shares and the creation of one or more other series of preferred or preference shares of the Company as provided in sub-Article 6(f)(iv)(a) and the authorisation and creation of one or more other classes of shares of the Company as provided in sub-Article 6(f)(iv)(b)), or the Board of Directors (in the case of the issue of such shares as provided in sub-Article 6(f)(iv)(a) and 6(f)(iv)(b)) may, without the consent or sanction of the Holders of the Preference Shares, take such action as is required in order to amend these Articles:
  - (a) to increase the authorised amount of Preference Shares or to create and issue one or more other series of preferred or preference shares of the Company ranking *pari passu* with the Preference Shares as regards participation in the profits and assets of the Company; or
  - (b) to authorise, create and issue one or more other classes of shares of the Company ranking junior, as regards participation in the profits and assets of the Company, to the Preference Shares.

- (v) Notwithstanding the foregoing, no vote of the Holders of the Preference Shares will be required for the Company to redeem and cancel the Preference Shares in accordance with these Articles.
- (vi) No resolution may be proposed for adoption by the ordinary shareholders of the Company providing for the winding-up of the Company, unless the Holders of the outstanding Preference Shares and any other preferred or preference shares of the Company ranking *pari passu* as regards participation in profits or assets with the Preference Shares have approved such resolution. Such approval may only be given by the consent in writing of the Holders of at least two-thirds in Liquidation Preference of the outstanding Preference Shares and such other preferred or preference shares or with the sanction of a resolution passed by at least two-thirds in Liquidation Preference at a meeting of the Holders of the Preference Shares and such other preferred or preference Shares present and voting at such meeting. Such approval shall not be required if the winding-up of the Company is proposed or initiated because of the liquidation, dissolution or winding-up of BAWAG.
- (vii) Any Preference Share outstanding at such time that is owned by BAWAG or any entity in which BAWAG, either directly or indirectly, owns 20 per cent., or more of the voting shares or similar ownership interests, shall not carry a right to vote and shall, for voting purposes, be treated as if it were not outstanding.
- (viii) The Company will cause a notice of any meeting at which Holders of the Preference Shares are entitled to vote to be mailed to each Holder of a Preference Share. Each such notice will include a statement setting forth (a) the date, time and place of such meeting, (b) a description of any resolution to be proposed for adoption at such meeting on which such Holders are entitled to vote and (c) instructions for the delivery of proxies.

**(g) Additional Amounts**

All payments in respect of the Preference Shares by the Company will be made without withholding or deduction for, or on account of, any Jersey Tax, unless the withholding or deduction of such Jersey Tax is required by law. In that event, the Company will pay, as further dividends, such additional amounts (“Additional Amounts”) as may be necessary in order that the net amounts received by the Holders of Preference Shares after such withholding or deduction shall equal the amounts which would have been receivable in respect of the Preference Shares in the absence of such withholding or deduction; except that no such Additional Amounts will be payable, (i) to a Holder of Preference Shares (or to a third party on his behalf) with respect to any Preference Share to the extent that such Jersey Tax is imposed or levied by virtue of such Holder (or the beneficial owner) of such Preference Share (a) having some connection with Jersey, other than being a Holder (or beneficial owner) of such Preference Share, or (b) being able to avoid such withholding or deduction by making a declaration of non-residence or any other claim for exemption to the relevant tax authority (but failing to do so) or (ii) more than 30 days after the Relevant Date except to the extent that the Holder thereof would have been entitled to such Additional Amounts on presenting the same for payment on the expiry of such period of 30 days and except that the Company’s obligations to make any such payments are subject to the limitations provided in sub-Article 6(a)(iii) and sub-Articles 6(b)(i) and (ii) above.

As used herein, the “Relevant Date” means the date on which the relevant payment first becomes due and payable or, if the full amount of the money payable has not been duly received by the Paying Agent or the Registrar on or prior to such due date, the date on which, the full amount of such money having been so received, notice to that effect shall have been duly given to the Holders of Preference Shares in accordance with these Articles.

**(h) Notices**

All notices to the Holders will be mailed to the Holder of record and, so long as the Preference Shares are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, published in a leading Luxembourg daily newspaper (which is expected to be the *Luxemburger Wort*). All notices required to be published by the rules of the Luxembourg Stock Exchange shall be published in the *Luxemburger Wort*.”

## OTHER PROVISIONS OF THE ISSUER'S ARTICLES

In addition, the Articles of Association of the Issuer contain, *inter alia*, provisions (with the exception of sections in italics) to the following effect:

### **(a) Transfer of Shares**

The shares of the Issuer are in registered form. Shares may be transferred by instrument in writing in the usual or common form, or in such other form as the Directors may approve. All instruments of transfer shall be signed by or on behalf of the transferor and, in the case of a partly paid share, by the transferee. Registration of transfers of shares will be effected without charge by or on behalf of the Issuer, but upon payment (or the giving of such indemnity as the Issuer may require) in respect of any tax or other governmental charges which may be imposed in relation to it. The Directors of the Issuer may, without assigning any reason, refuse to register a transfer of any share which is not fully paid and may also refuse the registration of any transfer of any share (which is not fully paid) on which the Issuer has a lien. The Directors of the Issuer will not be required to register the transfer of any Preference Share after it has been called for redemption. Save as aforesaid, the Articles of Association contain no restrictions on the transferability of fully paid shares, provided that the instrument of transfer is lodged at the office of the Paying and Transfer Agent in Luxembourg or at the offices of any other authorised transfer agent appointed by the Issuer in respect of the Preference Shares, accompanied by the relevant share certificate and such other evidence of title as the Directors may require and is only in respect of one class of share.

Every person whose name is entered as a member in the Register shall be entitled without payment to one certificate, for each class of shares, evidencing all shares in registered form held by him. Where a Holder has transferred part of the shares comprised in his holding, he shall be entitled to a share certificate for the balance without charge. Every certificate with respect to shares shall be issued within two months after allotment or the lodgement at the office of the Paying and Transfer Agent in Luxembourg or such other authorised transfer agent appointed by the Issuer for such purposes by the relevant Holder of an instrument of transfer in respect of the shares (unless the conditions of issue of such shares otherwise provide).

*If definitive share certificates are made available in respect of Preference Shares, such share certificates will be available from the Paying and Transfer Agent at its offices in Luxembourg, and will be posted to the relevant Holders at the address shown in the Register or, as applicable, in the relevant instrument of transfer within three days of issue, by uninsured post at the risk of such Holders.*

*In the Agency Agreement (the "Agency Agreement") to be dated 31 October 2000 between the Issuer, BAWAG, the Agent, the Registrar and the Paying and Transfer Agent, the Issuer will agree that if a transferee is not a nominee for a common depositary for Euroclear and Clearstream, Luxembourg, it shall give sufficient notice to the Registrar to allow for the appointment of a replacement registrar, if necessary.*

The Registrar will initially be HSBC Bank plc and the Paying and Transfer Agent will initially be Banque Internationale à Luxembourg S.A. (or such other person as the Issuer may appoint and notify to the Holders. *For so long as the Preference Shares are listed on the Luxembourg Stock Exchange, the Issuer will maintain a paying and transfer agent in Luxembourg.*

### **(b) Replacement of Share Certificate**

If a share certificate is damaged, defaced, lost, stolen or destroyed, a new share certificate representing the same shares may be issued on payment of such fee and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses as the Directors of the Issuer may think fit and on payment of any exceptional expenses of the Issuer incidental to its investigation of the evidence and, if damaged or defaced, on delivery of the old share certificate.

**(c) Alteration in Capital**

Subject as described in “Description of the Preference Shares” above, the Issuer may from time to time by special resolution alter its share capital in any manner permitted by the Law and, in particular, may increase its share capital by the creation of new shares, such new capital to be of such amount and to be divided into shares of such respective amounts and to carry such special rights (if any) or to be subject to such restrictions (if any) as the resolution may prescribe.

Subject as described in “Description of the Preference Shares” above, the Issuer may from time to time by special resolution consolidate and divide all or any of its share capital into shares of larger nominal amount than its existing shares, cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person, sub-divide its shares or any of them into shares of smaller amount and redeem its shares and may by special resolution reduce its share capital and capital redemption reserve in any manner authorised by Jersey law.

**(d) Variation of Rights**

All or any of the rights attached to any class of shares (other than the Preference Shares) may be varied or abrogated in such manner (if any) as may be provided by such rights or, in the absence of any such provision, with the consent in writing of the holders of not less than two-thirds of the issued shares of the class or with the sanction of a special resolution passed at a separate meeting of the holders of shares of that class. The necessary quorum for such separate meeting (other than an adjourned meeting) is two holders holding or representing at least one-third in nominal amount of the issued shares of that class or, if there is only one holder of the issued shares of such class, such holder.

**(e) Dividends**

Subject to the Law and as provided in sub-Article 6(a) in relation to the automatic declaration of dividends, the general meeting may declare annual or interim dividends out of profits on the recommendation of, and not exceeding the amount recommended by, the Directors. The Preference Shares ordinarily will rank senior to the Issuer’s ordinary shares as to payment of dividends. However, in the event that dividends do not fall to be paid in relation to a Dividend Period on the Preference Shares, all amounts received by the Issuer in relation to such Dividend Period may be distributed as dividends to the holders of the Issuer’s ordinary shares instead of being paid to the holders of the Preference Shares. *No dividend has been paid on the ordinary shares of the Issuer since its incorporation.*

**(f) Prescription and Governing Law**

Any dividend or distribution unclaimed for a period of ten years from its date of declaration shall be forfeited and shall cease to be owing by the Issuer. *The Preference Shares are governed by Jersey law.*

**(g) Members’ Rights**

Subject to any rights or restrictions as to voting attached to any class of shares, at any General Meeting on a show of hands, every member who is present in person or by proxy has one vote, and, on a poll, every member present in person or by proxy has one vote for every share of any class of which he is the holder.

Subject to the rights attached to the Preference Shares, the directors or the liquidator of the Issuer may, as the case may be, with the sanction of a special resolution of the Issuer and any other sanction required by law, divide amongst the members *in specie* or in kind the whole or any part of the assets of the Issuer and may determine how such division shall be carried out as between the members or different classes of members.

## SUPPORT AGREEMENT

Set forth below is the text of the Support Agreement:

“THIS SUPPORT AGREEMENT (the “**Support Agreement**”), dated 31 October 2000, is executed and delivered by each of BANK FÜR ARBEIT UND WIRTSCHAFT AKTIENGESELLSCHAFT, incorporated under the laws of Austria (“**BAWAG**”) and BAWAG CAPITAL FINANCE (JERSEY) LIMITED, a company incorporated with limited liability under the laws of Jersey (the “**Company**”).

WHEREAS, BAWAG desires to cause the Company to issue, and the Company desires to issue, the Preference Shares (as defined below) and BAWAG and the Company desire to enter into this Support Agreement.

NOW, THEREFORE each of BAWAG and the Company executes and delivers this Support Agreement for the benefit of the Holders (as defined below) and, in the case of BAWAG only, of the Company.

1. As used in this Support Agreement, the following terms shall, unless the context otherwise requires, have the following meanings:

“**Additional Amounts**”, in relation to the Company, has the meaning given to that term in sub-article 6(g) of the Company’s Articles of Association;

“**Asset Parity Security**” means any preferred or preference share or other security issued by BAWAG, the Company or any other Subsidiary of BAWAG (i) ranking *pari passu* as to participation in the assets of BAWAG with BAWAG’s obligations under this Support Agreement, or (ii) entitled to the benefit of a guarantee or support agreement from BAWAG ranking *pari passu* as to participation in the assets of BAWAG with BAWAG’s obligations under this Support Agreement;

“**Bank Share Capital**” means the common shares of BAWAG, together with all other securities of BAWAG (including *Vorzugsaktien*) ranking *pari passu* with the common shares of BAWAG as to participation in a liquidation surplus;

“**Distributable Funds**” means, in respect of each fiscal year of BAWAG, the aggregate amount, as calculated as of the end of the immediately preceding fiscal year, of accumulated retained earnings and any other reserves and surpluses of each member of the Group capable under the companies laws of Austria of being available for distribution as cash dividends to holders of Bank Share Capital, but before deduction of the amount of any dividend or other distribution declared on Bank Share Capital in respect of such prior fiscal year;

“**Dividend Parity Security**” means any preferred or preference share or other security (i) issued by BAWAG and ranking *pari passu* as to payment of dividends with BAWAG’s obligations under this Support Agreement, or (ii) issued by the Company or any other Subsidiary of BAWAG and entitled to the benefit of a guarantee or support agreement from BAWAG ranking *pari passu* as to payment of dividends with BAWAG’s obligations under this Support Agreement;

“**Dividend Period**” has the meaning, in relation to the Preference Shares, given to such term in the Articles of Association of the Company;

“**Dividends**” means the amount of dividends payable on the Preference Shares in accordance with the terms thereof;

“**Fixed Dividend Period**” has the meaning, in relation to the Preference Shares, given to such term in the Articles of Association of the Company;

“**Floating Dividend Period**” has the meaning, in relation to the Preference Shares, given to such term in the Articles of Association of the Company;

“**Group**” means BAWAG together with its consolidated Subsidiaries;

“**Holder**” means any holder from time to time of any Preference Share of the Company, provided, however, that in determining whether the Holders of the requisite percentage of Preference Shares have given any request, notice, consent or waiver hereunder, such term

shall not include BAWAG or any entity of which BAWAG, either directly or indirectly, owns 20 per cent. or more of the voting shares or similar ownership interests (including the Company);

“**Liquidation Date**” means the date of final distribution of the assets of the Company in the case of a winding-up of the Company (whether voluntary or involuntary);

“**Liquidation Distribution**” means, with respect to the Preference Shares, the liquidation preference per share as provided by the terms thereof;

“**Optional Redemption Date**” has the meaning, with respect to the Preference Shares, given to such term in the Articles of Association of the Company;

“**Optional Redemption Price**” means with respect to each Preference Share the amount required under the terms thereof to be paid to the Holder upon the optional redemption of such Preference Shares;

“**Preference Shares**” means all of the Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares of the Company in issue from time to time, whether or not in issue on the date of this Support Agreement, the Holders of which are entitled to the benefits of this Support Agreement as evidenced by the execution of this Support Agreement; and

“**Subsidiary**” means a subsidiary of BAWAG (within the meaning of §228 paragraph 3 of the Austrian Commercial Code).

Any other terms used in this Agreement and defined in the Articles of Association of the Company shall have the same meaning when used in this Agreement.

2. (i) (a) Subject to the limitations contained in the following paragraphs of this clause 2(i), BAWAG irrevocably and unconditionally agrees, if at any time the Company has insufficient funds to enable it to meet in full all of its obligations under or in respect of the Preference Shares as and when such obligations fall due, to make available to the Company funds sufficient to enable it to meet such payment obligations. The Company shall use any amount made available to it by BAWAG pursuant to this Support Agreement solely to fulfil its payment obligations under or in respect of the Preference Shares.
- (b) Notwithstanding clause 2(i)(a), BAWAG will not be obliged to make any payment to the Company under this Support Agreement in respect of Dividends (including accrued and unpaid Dividends relating to any payment due upon redemption or liquidation distribution and any Additional Amounts payable by the Company in respect of Dividends) on any Preference Shares in any calendar year;
  - (A) to the extent that such payment, together with the amount of:
    - (i) any Dividends (including any Additional Amounts in respect thereof) previously paid by the Company in respect of the Preference Shares in the then current fiscal year;
    - (ii) any dividends previously paid on, or payments made to holders in respect of, Dividend Parity Securities in the then current fiscal year; and
    - (iii) any dividends proposed to be paid on, or payments proposed to be made to holders in respect of, Dividend Parity Securities in the then current year, for the period up to but excluding the Optional Redemption Date, or in the current calendar quarter for any period thereafter,would exceed Distributable Funds for the prior fiscal year; or
  - (B) even if Distributable Funds were sufficient, to the extent that, in accordance with applicable Austrian banking regulations affecting banks which fail to meet their capital ratios on a consolidated basis, BAWAG would be limited

in making payments on preferred or preference shares issued by it ranking *pari passu* as to participation in profits with BAWAG's obligations under this Support Agreement.

- (c) Notwithstanding clause 2(i)(a), if, at the time that any amounts are to be paid in respect of Liquidation Distributions on the Preference Shares, proceedings are pending or have been commenced for the voluntary or involuntary liquidation, distribution or winding-up of BAWAG, payment under this Support Agreement of amounts in respect of such Liquidation Distributions and payment by BAWAG in respect of any liquidation distributions payable with respect to any Asset Parity Securities shall not exceed the amount per share that would have been paid as the liquidation distribution from the assets of BAWAG (after payment in full in accordance with Austrian law of all creditors of BAWAG, including holders of its subordinated debt but excluding holders of any liability expressed to rank *pari passu* with or junior to BAWAG's obligations under this Support Agreement) had the Preference Shares and all such Asset Parity Securities been issued by BAWAG and ranked (i) junior to all liabilities of BAWAG (other than any liability expressed to rank *pari passu* with or junior to BAWAG's obligations under this Support Agreement), (ii) *pari passu* with Asset Parity Securities of BAWAG and (iii) senior to Bank Share Capital.
- (d) In the event that the amounts described in clause 2(i)(a) cannot be paid in full by reason of any limitation referred to in clause 2(i)(a), (b) or (c), such amounts will be payable by BAWAG to the Company *pro rata* in the proportion that the amount available for payment bears to the full amount that would have been payable but for such limitation.

The determination of any such limitation of BAWAG's obligations under this Support Agreement as set forth above will be made on the relevant Dividend Date, date specified for redemption or Liquidation Date, as the case may be.

- (ii) This Support Agreement shall be deposited with and held by HSBC Bank plc, as Agent until all the obligations of BAWAG hereunder have been discharged in full. BAWAG hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain a copy of, this Support Agreement.
  - (iii) Subject to applicable law, BAWAG, may from time to time purchase Preference Shares from any Holder and hold or resell any Preference Share so purchased.
  - (iv) Subject to applicable law, BAWAG's obligations hereunder constitute unsecured obligations of BAWAG and rank and will at all times rank (a) junior to all liabilities of BAWAG (other than any liability expressed to rank *pari passu* with or junior to this Support Agreement), (b) *pari passu* with all payment obligations of BAWAG in respect of Asset Parity Securities and (c) senior to Bank Share Capital.
3. (i) BAWAG undertakes that it will not issue any preferred or preference shares ranking senior to its obligations under this Support Agreement or enter into any support agreement or give any guarantee in respect of any preference shares issued by any Subsidiary of BAWAG if such support agreement or guarantee (including, without limitation, any support agreement or guarantee that would provide a priority of payment with respect to Distributable Funds) would rank senior to this Support Agreement unless, in each case, (a) this Support Agreement is changed to give the Company and/or the Holders (as applicable) such rights and entitlements as are contained in or attached to such preferred or preference shares or such other support agreement or guarantee so that this Support Agreement ranks *pari passu* with, and contains substantially equivalent rights of priority as to payment out of Distributable Funds as, any such preferred or preference shares or other support agreement or guarantee, provided that in no case shall this Support Agreement be changed so that

BAWAG's obligations in respect of it rank *pari passu* with, or junior to, Bank Share Capital and (b) the most recent dividend payment on the Preference Shares has been paid in full by the Company.

- (ii) BAWAG undertakes that any amount required to be paid to the Company pursuant to this Support Agreement to enable the Company to pay any Dividend payable in respect of the most recent Dividend Period will be paid prior to any payment or other distribution in respect of any dividends upon common shares, *Vorzugsaktien* or any other shares of BAWAG ranking junior to BAWAG's obligations under this Support Agreement (whether issued directly by BAWAG or by a Subsidiary of BAWAG and entitled to the benefit of a support agreement or guarantee ranking junior to BAWAG's obligations under this Support Agreement).

BAWAG also undertakes that it will not pay any dividends or distributions in respect of dividends upon common shares, *Vorzugsaktien* or any other shares of BAWAG ranking *pari passu* with or junior to this Support Agreement (whether issued directly by BAWAG or by a Subsidiary of BAWAG and entitled to the benefit of a support agreement or guarantee ranking *pari passu* with or junior to BAWAG's obligations under this Support Agreement) if dividends have not been paid (whether in whole or in part) in respect of the Preference Shares, from the date on which the Issuer first fails to pay such dividend until the date on which payments in respect of dividends on the Preference Shares are resumed.

BAWAG also undertakes that Bank Share Capital and any other shares of BAWAG ranking *pari passu* with or junior to the obligations of BAWAG under this Support Agreement (whether issued directly by BAWAG or by a Subsidiary of BAWAG and entitled to the benefits of any support agreement or guarantee ranking *pari passu* with or junior to BAWAG's obligations under this Support Agreement) will not be redeemed, repurchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such shares) by BAWAG or any Subsidiary of BAWAG (except by conversion into or in exchange for shares of BAWAG ranking junior to BAWAG's obligations under this Support Agreement), at any time whilst the Company is unable to pay Dividends in whole or in part and until such time as the Company shall have resumed the payment of, or set aside payment with respect to, full Dividends on all outstanding Preference Shares for the Fixed Dividend Period or the four consecutive Floating Dividend Periods (as the case may be) thereafter.

- (iii) BAWAG undertakes to maintain the Company as a subsidiary for so long as any Preference Share shall remain in issue. BAWAG undertakes that, so long as any Preference Share is outstanding, unless BAWAG is itself in liquidation, BAWAG will not permit, or take any action to cause, the winding-up of the Company.
4. This Support Agreement shall terminate and be of no further force and effect upon full payment of the Optional Redemption Price on, or purchase and cancellation of, all outstanding Preference Shares or full payment of the Liquidation Distributions and liquidation of the Company, provided however that this Support Agreement will continue to be effective or will be reinstated, as the case may be, if at any time payment of any sums paid under the Preference Shares or this Support Agreement must be restored by a Holder for any reason whatsoever.
  5. Each of BAWAG and the Company undertakes, for the benefit of the Holders:
    - (a) that it will perform its obligations and exercise its rights under this Support Agreement and, in the case of the Company (without limitation to the foregoing), will exercise its right to enforce performance of the terms of this Support Agreement by BAWAG; and
    - (b) that it will consent to an order for specific performance or similar relief by any court of competent jurisdiction in the event that any such order or relief is sought in an action brought by a Holder in respect of this Support Agreement.

6. This Support Agreement shall take effect as a Deed Poll for the benefit of the Holders. Each of BAWAG and the Company hereby acknowledges and covenants that the obligations binding upon it contained in this Support Agreement are owed to, and shall be for the benefit of, each and every Holder, and that each Holder shall be entitled severally to enforce the said obligations against BAWAG or the Company.
7. (i) Subject to operation of law, all undertakings and agreements contained in this Support Agreement shall bind the successors, assigns, receivers, trustees and representatives of BAWAG and the Company (as the case may be) and shall inure to the benefit of the Holders and/or the Company (as applicable). The Company shall not transfer its obligations hereunder in any circumstances and BAWAG shall not transfer its obligations hereunder without the prior approval of the Holders of not less than two thirds of the Preference Shares, which consent shall be obtained in accordance with procedures contained in the Company's Memorandum and Articles of Association and the applicable laws of Jersey; *provided, however*, that the foregoing shall not preclude BAWAG from merging or consolidating with, or transferring or otherwise assigning all or substantially all of its assets and obligations (including its obligations under this Agreement) to, a banking organisation organised under the laws of a member state of the European Union, without obtaining any approval of such Holders.
- (ii) Except for those changes (a) required by clause 3(i) hereof; (b) which do not materially adversely affect the rights of Holders; or (c) necessary or desirable to give effect to any one or more transactions referred to in the proviso to clause 7(i) (in any of which cases no agreement will be required), this Support Agreement shall be changed only by agreement in writing signed by BAWAG and the Issuer with the prior approval of the Holders of not less than two-thirds of the Preference Shares (excluding in each case any Preference Shares held by BAWAG or any entity of which BAWAG, either directly or indirectly, owns 20 per cent. or more of the voting shares or other similar ownership interests), in accordance with the procedures contained in the Issuer's Memorandum and Articles of Association and the applicable laws of Jersey.
- (iii) Any notice, request or other communication required or permitted to be given hereunder to BAWAG shall be given in writing by delivering the same against receipt therefor or by facsimile transmission (confirmed by mail) addressed to BAWAG, as follows (and if so given, shall be deemed given upon mailing of confirmation, if given by facsimile transmission), to:

Bank für Arbeit und Wirtschaft Aktiengesellschaft  
Seitzergasse 2-4  
A-1010 Vienna

Facsimile: + 43 1 534 532 930

Attention: Vorstand

The address of BAWAG may be changed at any time and from time to time and shall be the most recent such address furnished in writing by BAWAG to HSBC Bank plc as Agent.

Any notice, request or other communication required or permitted to be given hereunder to the Company shall be given in writing by delivering the same against receipt therefor or by facsimile transmission (confirmed by mail) addressed to the Company, as follows (and if so given, shall be deemed given upon mailing of confirmation, if given by facsimile transmission), to:

BAWAG Capital Finance (Jersey) Limited  
22 Grenville Street  
St. Helier  
Jersey JE4 8PX  
Facsimile: 01534 609333  
Attention: Group 18 – Mourant & Co. Limited

The address of the Company may be changed at any time and from time to time and shall be the most recent such address furnished in writing by the Company to HSBC Bank plc as Agent.

Any notice, request or other communication required or permitted to be given hereunder to the Holders shall be given by BAWAG or the Company in the same manner as notices sent by the Company to the Holders.

- (iv) The obligations of BAWAG and the Company to the Holders under this Support Agreement are solely for the benefit of the Holders and are not separately transferable from the Preference Shares.
  - (v) BAWAG will furnish any Holder, upon request of such Holder, with a copy of its annual report, and any interim reports made generally available by BAWAG to holders of the common shares of BAWAG.
8. (i) This Support Agreement shall be governed by, and construed in accordance with English law save that Clauses 2(i)(b) and (c) and Clause 2(iv) shall be governed by, and construed in accordance with Austrian law.
- (ii) Each of BAWAG and the Company hereby irrevocably agrees for the benefit of the Holders (and, in the case of BAWAG only, the Company) that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Support Agreement and that accordingly any suit, action or proceedings arising out of or in connection therewith (together referred to as ("**Proceedings**") may be brought in such courts.

Each of BAWAG and the Company irrevocably and unconditionally waives and agrees not to raise any objection which it may have now or subsequently to the laying of the venue of any Proceedings in the courts of England or any claim that any Proceedings have been brought in an inconvenient forum and further irrevocably and unconditionally agrees that a final judgment in any Proceedings brought in the courts of England shall be conclusive and binding upon BAWAG and the Company and may be enforced in the courts of any other jurisdiction. Nothing contained in this clause shall limit any right to take Proceedings against BAWAG or the Company in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other competent jurisdictions, whether concurrently or not.

Each of BAWAG and the Company hereby irrevocably and unconditionally appoints Clifford Chance Secretaries Limited at 200 Aldersgate Street, London EC1A 4JJ as its agent for service of process in England in respect of any Proceedings and has undertaken that in the event of its ceasing so to act it will appoint another person as its agent for that purpose.

IN WITNESS WHEREOF this Support Agreement has been executed as a deed and delivered on behalf of each of BAWAG and the Company on the date shown below:

Executed as a deed by

**BANK FÜR ARBEIT UND WIRTSCHAFT AKTIENGESELLSCHAFT**

By:

acting under the authority of that company in the presence of:

Witness's Signature:

Name:

Address:

Executed as a deed by

**BAWAG CAPITAL FINANCE (JERSEY) LIMITED**

By:

acting under the authority of that company in the presence of:

Witness's Signature:

Name:

Address:

Dated:

31 October 2000"

## TAXATION

### General

**The comments below are of a general nature based on current law and practice in the relevant jurisdiction referred to. They relate only to the position of persons who are the holders of their Preference Shares and may not apply to certain classes of persons such as dealers. Any holders of Preference Shares who are in doubt as to their personal tax position should consult their professional advisers.**

### Taxation in Jersey

Holders of Preference Shares (other than residents of Jersey) are not subject to any tax in Jersey in respect of the holding, exchange, sale or other disposal of the Preference Shares. Dividend payments may be made by the Issuer without withholding or deduction for, or on account of, and without, any payment of Jersey income tax.

No stamp duties are payable in Jersey on the acquisition, ownership, exchange, sale or other disposal of Preference Shares.

### Taxation in Austria

Holders of Preference Shares (other than residents of Austria) are not subject to any tax in Austria in respect of the holding, exchange, sale or other disposal of the Preference Shares. Payments in respect of the Preference Shares may be made by the Issuer without withholding or deduction for or on account of Austrian tax.

## SUBSCRIPTION AND SALE

Under a Subscription Agreement dated 25 October 2000 (the "Subscription Agreement") Goldman Sachs International, Bank für Arbeit und Wirtschaft Aktiengesellschaft, Credit Suisse First Boston (Europe) Limited and Lehman Brothers International (Europe) (the "Managers") have jointly and severally agreed with the Issuer and BAWAG, subject to the satisfaction of certain conditions, to subscribe for the Preference Shares at the issue price of €1,000 per Preference Share. The Issuer has agreed to pay to the Managers a selling commission of €5 per Preference Share and a combined management and underwriting commission of €5 per Preference Share. Goldman Sachs International on behalf of the Managers is entitled to terminate the Subscription Agreement in certain circumstances prior to payment to the Issuer. The Issuer and BAWAG have agreed to indemnify the Managers against certain liabilities in connection with the issue of the Preference Shares.

### United States of America

The Preference Shares have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from the registration requirements of the Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

Each of the Managers has agreed that, except as permitted by the Subscription Agreement, it will not offer, sell or deliver the Preference Shares (i) as part of their distribution at any time or (ii) otherwise until the expiration of the period ending 40 days after the later of the commencement of the offering and the Closing Date (the "Distribution Compliance Period") within the United States or to, or for the account or benefit of, U.S. persons, and that it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration to which it sells Preference Shares during the Distribution Compliance Period a confirmation or other notice setting forth the restrictions on offers and sales of the Preference Shares within the United States or to, or for the account or benefit of, U.S. persons. Terms used in this paragraph have the meaning given to them by Regulation S.

The Preference Shares are being offered and sold outside the United States to non-U.S. persons in reliance on Regulation S.

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

### United Kingdom

Each of the Managers has represented and agreed that:

1. it has not offered or sold and prior to the date six months after the issue of the Preference Shares will not offer or sell any Preference Shares to persons in the United Kingdom except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations 1995;
2. it has complied and will comply with all applicable provisions of the Financial Services Act 1986 with respect to anything done by it in relation to the Preference Shares in, from or otherwise involving the United Kingdom; and
3. it has only issued or passed on, and will only issue or pass on, in the United Kingdom any document received by it in connection with the issue of the Preference Shares to a person who is of a kind described in Article 11(3) of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1996 or is a person to whom the document may otherwise lawfully be issued or passed on.

**Austria**

Each of the Managers has represented and agreed that it will only offer the Preference Shares in the Republic of Austria in compliance with the provisions of the Austrian Capital Markets Act, Federal Law Gazette 199 1/625 as amended, and any other laws applicable in the Republic of Austria governing the offer and sale of the Preference Shares in the Republic of Austria. Each of the Managers further agrees that the minimum amount of Preference Shares that it will sell to any individual investor in Austria will be 100 (which exceeds the threshold provided for in Paragraph 3(1) No. 9 of the Austrian Capital Markets Act).

**The Netherlands**

The Preference Shares may not be offered or sold to any individual or legal entity in the Netherlands other than to individuals or legal entities who or which trade in securities in the conduct of their profession or trade, which includes banks, securities intermediaries, insurance companies, pension funds, other institutional investors and commercial enterprises which, as an ancillary activity, regularly invest in securities.

**General**

Each of the Managers has undertaken that it will comply with all applicable securities laws and regulations in each jurisdiction in which it purchases, offers, sells or delivers Preference Shares or possesses or distributes this Offering Circular or any other offering material and will obtain any consent, approval or permission which is required by it for the purchase, offer or sale by it of Preference Shares under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers or sales in all cases at its own expense.

## GENERAL INFORMATION

### 1. Listing

Application has been made to list the Preference Shares on the Luxembourg Stock Exchange. At the date hereof it is not intended to list the Preference Shares on any other stock exchange.

As required by Luxembourg law, a *notice légale* in connection with the application for listing of the Preference Shares on the Luxembourg Stock Exchange will be filed, together with copies of the Memorandum and Articles of Association of the Issuer, with the Registrar of the District Court in Luxembourg prior to the listing of the Preference Shares and copies thereof may be obtained on request.

The Articles of Association of the Issuer have been filed with the Luxembourg Register of Commerce and Companies, where copies are available against payment of customary charges.

Deutsche Bank Luxembourg S.A. as Luxembourg listing agent will serve as intermediary between the Luxembourg Stock Exchange and persons connected with the issuance and listing of the Preference Shares for so long as the Preference Shares remain listed on the Luxembourg Stock Exchange.

### 2. Authorisations

The issue of the Preference Shares by the Issuer has been duly authorised by a resolution of the Board of Directors of the Issuer passed on 25 October 2000.

The entering into of the Support Agreement by BAWAG has been duly authorised by resolutions of its Board of Directors passed on 25 October 2000.

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer and/or BAWAG under the laws of Jersey and Austria have been given for the issue of Preference Shares and for the Issuer and BAWAG, as the case may be, to undertake and perform their respective obligations under each of the Subscription Agreement, the Agency Agreement, the Preference Shares and the Support Agreement.

### 3. Legal status

The Issuer operates under the laws of Jersey with limited liability and for an unlimited duration.

BAWAG operates under Austrian law. BAWAG is registered in the Commercial Register of the Commercial Court in Vienna under file number FN 107053g.

### 4. Clearing

The Preference Shares have been accepted for clearance through Euroclear and Clearstream, Luxembourg.

ISIN: XS0119643897

Common Code: 11964389

### 5. No material change

Save as described herein, there has been no material adverse change in the financial position or prospects of BAWAG or the Group since 31 December 1999 or, in the case of the Issuer, since the date of its incorporation on 3 October 2000.

### 6. Subsidiaries

A list of BAWAG's subsidiaries including BAWAG's holdings of subsidiaries as at 31 December 1999 is set out in the published consolidated audited financial statements of BAWAG for the year ended 31 December 1999.

## **7. Documents for inspection**

Copies of the following documents will be available (together, if applicable, with an English translation thereof) from the offices of Deutsche Bank Luxembourg S.A. shown on the back page of this Offering Circular during normal business hours for so long as the Preference Shares are outstanding and at the registered offices of the Issuer and BAWAG:

- (a) the memorandum and articles of association of the Issuer;
- (b) the articles of association of BAWAG;
- (c) the consolidated audited accounts and the annual reports of BAWAG and its subsidiaries for the financial year ended 31 December 1999;
- (d) the Auditors' reports set out herein;
- (e) the consents and authorisations referred to in paragraph 2 above;
- (f) the Support Agreement;
- (g) the Agency Agreement; and
- (h) the Subscription Agreement.

For so long as the Preference Shares are listed on the Luxembourg Stock Exchange, the most recently published consolidated and non-consolidated audited annual financial statements and consolidated unaudited semi-annual interim financial statements of BAWAG, and the most recently published audited annual accounts and unaudited semi-annual interim financial statements of the Issuer, will also be available at the offices of Deutsche Bank Luxembourg S.A. in Luxembourg, currently shown on the back page of this Offering Circular. BAWAG does not publish non-consolidated interim financial statements. The first annual accounts of the Issuer are expected to be prepared for the period commencing on 3 October 2000 and ending on 31 December 2000 and its first interim financial statements are expected to be prepared in respect of the period commencing on 1 January 2001 and ending 30 June 2001.

## **8. Auditors**

KPMG Austria has audited the consolidated financial statements of BAWAG prepared in accordance with International Accounting Standards for the financial year ended 31 December 1999. The auditors expressed an unqualified opinion on the accounts of BAWAG for the financial year ended 31 December 1999. KPMG Austria has given and not withdrawn its written consent to the issue of this Offering Circular with their report in the form and context in which it is included.

No accounts of the Issuer have yet been prepared or audited. KPMG Jersey have been appointed as auditors to the Issuer.

## **9. Notices**

Notices to the holders of Preference Shares, including notices for general meetings of holders of the Preference Shares and payments of distributions or other amounts in relation to the Preference Shares will be published, for so long as the Preference Shares are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, in a leading Luxembourg daily newspaper (which is expected to be the *Luxemburger Wort*).

**REGISTERED OFFICE OF THE ISSUER**

22 Grenville Street  
St. Helier  
Jersey JE4 8PX

**REGISTERED OFFICE OF BAWAG**

Seitzergasse 2-4  
A-1010 Vienna

**AGENT AND REGISTRAR****HSBC Bank plc**

Mariner House  
Pepys Street  
London EC3N 4DA

**PAYING AND TRANSFER AGENT****Banque Internationale à Luxembourg S.A.**

69 route d'Esch  
L-2953 Luxembourg

**LEGAL ADVISERS**

*To the Issuer in Jersey*

**Mourant du Feu & Jeune**

22 Grenville Street, St. Helier  
Jersey JE4 8PX

*To the Issuer and BAWAG in England*

**Clifford Chance****Limited Liability Partnership**

200 Aldersgate Street  
London EC1A 4JJ

*To the Lead Managers in England*

**Linklaters****Linklaters & Alliance**

One Silk Street  
London EC2Y 8HQ

**AUDITORS**

*To the Issuer*

**KPMG Jersey**

45 The Esplanade  
St Helier Jersey JE1 1BL

*To BAWAG*

**KPMG Austria GmbH****Wirtschaftsprüfungs- und  
Steuerberatungsgesellschaft**

Kolingasse 19, A-1090 Vienna

**LISTING AGENT****Deutsche Bank Luxembourg S.A.**

14, Boulevard Royal  
L-2449 Luxembourg

