



**MONTE  
DEI PASCHI  
DI SIENA**  
BANCA DAL 1472

## **Banca Monte dei Paschi di Siena S.p.A.**

**€12,000,000,000**

### **Debt Issuance Programme**

Under this €12,000,000,000 Debt Issuance Programme (the "Programme"), Banca Monte dei Paschi di Siena S.p.A. (the "Issuer") may from time to time issue notes (the "Notes") denominated in any currency agreed between the Issuer and the relevant Dealer (as defined below).

The maximum aggregate nominal amount of all Notes from time to time outstanding under the Programme will not exceed €12,000,000,000 (or its equivalent in other currencies calculated as described herein), subject to increase as described herein. This Offering Circular replaces the offering circular dated 16th April 2002 in respect of any Notes issued after the date hereof.

The Notes may be issued on a continuing basis to one or more of the Dealers specified under "Summary of the Programme" and any additional Dealer appointed under the Programme from time to time by the Issuer (each a "Dealer" and together the "Dealers"), which appointment may be for a specific issue or on an ongoing basis. References in this Offering Circular to the "relevant Dealer" shall, in the case of an issue of Notes being (or intended to be) subscribed by more than one Dealer, be to all Dealers agreeing to purchase such Notes.

Application has been made to the Luxembourg Stock Exchange for Notes issued under the Programme during the period of 12 months from the date of this Offering Circular to be listed on the Luxembourg Stock Exchange. Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and any other terms and conditions not contained herein which are applicable to each Tranche (as defined under "Terms and Conditions of the Notes") of Notes will be set out in a pricing supplement (the "Pricing Supplement") which, with respect to Notes to be listed on the Luxembourg Stock Exchange, will be delivered to the Luxembourg Stock Exchange on or before the date of issue of the Notes of such Tranche. In relation to Notes listed on the Luxembourg Stock Exchange, this Offering Circular is valid for a period of one year from the date hereof.

The Programme provides that Notes may be listed on such other or further stock exchange(s) as may be agreed between the Issuer and the relevant Dealer. The Issuer may also issue unlisted Notes.

The Issuer may agree with any Dealer that Notes may be issued in a form not contemplated by the Terms and Conditions of the Notes herein, in which event (in the case of Notes intended to be listed on the Luxembourg Stock Exchange) a supplementary Offering Circular, if appropriate, will be made available which will describe the effect of the agreement reached in relation to such Notes.

In certain circumstances, payments of interest relating to the Notes are subject to a deduction by way of "*imposta sostitutiva*" or withholding tax as more fully set out in Condition 8 of the Terms and Conditions and in "Italian Taxation".

The Programme is, as of the date of this Offering Circular, rated A1 in respect of Senior Notes by Moody's Investors Service Limited ("Moody's") and A in respect of Senior Notes by Standard & Poor's Rating Services ("S&P"). Senior Notes issued under the Programme may be rated or unrated. Where an issue of Senior Notes is rated, its rating will not necessarily be the same as the rating applicable to the Programme. A rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, change or withdrawal at any time by the assigning rating agency.

#### **Arranger**

**ABN AMRO**

#### **Dealers**

**ABN AMRO**

**Citigroup**

**Deutsche Bank**

**Lehman Brothers**

**MPS Finance Banca Mobiliare S.p.A.**

**WestLB AG**

**Barclays Capital**

**Credit Suisse First Boston**

**JPMorgan**

**Merrill Lynch International**

**UBS Warburg**

The Issuer, having made all reasonable enquiries, confirms that this Offering Circular contains or incorporates all information which is material in the context of the issuance and offering of Notes, that the information contained or incorporated 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 would make this Offering Circular or any of such information or the expression of any such opinions or intentions misleading.

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

This Offering Circular is to be read in conjunction with all documents which are deemed to be incorporated herein by reference (see “Documents Incorporated by Reference” below). This Offering Circular shall, save as specified herein, be read and construed on the basis that such documents are so incorporated and form part of this Offering Circular.

The Dealers have not independently verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Dealers as to the accuracy or completeness of the information contained or incorporated in this Offering Circular or any other information provided by the Issuer in connection with the Programme. No Dealer accepts any liability in relation to the information contained or incorporated by reference in this Offering Circular or any other information provided by the Issuer in connection with the Programme.

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

Neither this Offering Circular nor any other information supplied in connection with the Programme or any Notes (i) is intended to provide the basis of any credit or other evaluation or (ii) should be considered as a recommendation by the Issuer or any of the Dealers that any recipient of this Offering Circular or any other information supplied in connection with the Programme or any Notes should purchase any Notes. Each investor contemplating purchasing any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer. Neither this Offering Circular nor any other information supplied in connection with the Programme or the issue of any Notes constitutes an offer or invitation by or on behalf of the Issuer or any of the Dealers to any person to subscribe for or to purchase any Notes.

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Notes shall in any circumstances imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. The Dealers expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Programme or to advise any investor in the Notes of any information coming to their attention. Investors should review, *inter alia*, the most recently published documents incorporated by reference into this Offering Circular when deciding whether or not to purchase any Notes.

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

This Offering Circular does not constitute an offer to sell or the solicitation of an offer to buy any Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Offering Circular and the offer or sale of Notes may be restricted by law in certain jurisdictions. The Issuer and the Dealers do not represent that this Offering Circular may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available

thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer or the Dealers which would permit a public offering of any Notes or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Offering Circular nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Offering Circular or any Notes may come must inform themselves about, and observe, any such restrictions on the distribution of this Offering Circular and the offering and sale of Notes. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of Notes in the United States, the United Kingdom, Japan and the Republic of Italy ("Italy"), see "Subscription and Sale".

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

Unless otherwise indicated, the financial information contained in this Offering Circular has been prepared in accordance with the accounting principles prescribed by Italian law (including Legislative Decree No. 87 of 27th January 1992 which implemented EC Directive No. 86/835) and the Bank of Italy regulations of 16th January 1995, and supplemented by the accounting principles issued by the *Consiglio Nazionale dei Dottori Commercialisti e dei Ragionieri* or, in the absence thereof, by the International Accounting Standards Committee (collectively, "Italian GAAP").

Unless otherwise indicated, any reference in this Offering Circular to "Consolidated Financial Statements" is to the consolidated financial statements of the Issuer and its subsidiaries (the "Group") as at and for the years ended 31st December 2000, 2001 and 2002 audited by KPMG S.p.A., independent accountants and incorporated by reference in this Offering Circular.

The Consolidated Financial Statements are denominated in euro.

The Issuer may, from time to time, enter into loan transactions evidenced by *Schuldscheine* (certificates of indebtedness) with lenders who may or may not be Dealers under the Programme. The form of *Schuldschein* to be employed by the Issuer for such purpose is annexed to this Offering Circular but does not form part of the Programme and is included herein for information purposes only.

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**In connection with the issue and distribution of any Tranche of Notes, the Dealer (if any) disclosed as the stabilising manager in the applicable Pricing Supplement or any person acting for him may over-allot or effect transactions with a view to supporting the market price of the Notes of the Series (as defined below) of which such Tranche forms part at a level higher than that which might otherwise prevail for a limited period. However, there may be no obligation on the stabilising manager or any agent of his to do this. Such stabilising, if commenced, may be discontinued at any time and must be brought to an end after a limited period.**

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents published or issued from time to time after the date hereof shall be deemed to be incorporated in, and to form part of, this Offering Circular:

- (a) the most recently published audited consolidated and non-consolidated annual financial statements and, if published later, the most recently published unaudited interim consolidated and non-consolidated financial statements (if any) of the Issuer, see “General Information” for a description of the financial statements currently published by the Issuer; and
- (b) all supplements (including Pricing Supplements relating to Notes listed on the Luxembourg Stock Exchange) or amendments to this Offering Circular circulated by the Issuer from time to time,

save that any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Offering Circular to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Offering Circular.

The Issuer will provide, without charge, to each person to whom a copy of this Offering Circular has been delivered, upon the request of such person, a copy of any or all of the documents deemed to be incorporated herein by reference unless such documents have been modified or superseded as specified above. Requests for such documents should be directed to the Issuer at its office set out at the end of this Offering Circular. In addition, such documents will be available free of charge from the principal office in Luxembourg of Dexia Banque Internationale à Luxembourg, société anonyme (the “Luxembourg Listing Agent”) for Notes listed on the Luxembourg Stock Exchange.

The Issuer will, in connection with the listing of the Notes on the Luxembourg Stock Exchange, so long as any Note remains outstanding and listed on such exchange, in the event of any material change in the condition of the Issuer which is not reflected in this Offering Circular, prepare a supplement to this Offering Circular or publish a new Offering Circular for use in connection with any subsequent issue of the Notes to be listed on the Luxembourg Stock Exchange.

If the terms of the Programme are modified or amended in a manner which would make this Offering Circular, as so modified or amended, inaccurate or misleading, a new offering circular will be prepared.

## GENERAL DESCRIPTION OF THE PROGRAMME

Under the Programme, the Issuer may from time to time issue Notes denominated in any currency, subject as set out herein. A summary of the terms and conditions of the Programme and the Notes appears below. The applicable terms of any Notes will be agreed between the Issuer and the relevant Dealer prior to the issue of the Notes and will be set out in the Terms and Conditions of the Notes endorsed on, attached to, or incorporated by reference into, the Notes, as modified and supplemented by the applicable Pricing Supplement attached to, or endorsed on, such Notes, as more fully described under “Form of the Notes” below.

This Offering Circular and any supplement will only be valid for listing Notes on the Luxembourg Stock Exchange during the period of 12 months from the date of this Offering Circular in an aggregate nominal amount which, when added to the aggregate nominal amount then outstanding of all Notes previously or simultaneously issued under the Programme, does not exceed €12,000,000,000 or its equivalent in other currencies. For the purpose of calculating the euro equivalent of the aggregate nominal amount of Notes issued under the Programme from time to time:

- (a) the euro equivalent of Notes denominated in another Specified Currency (as specified in the applicable Pricing Supplement in relation to the relevant Notes, described under “Form of the Notes”) shall be determined, at the discretion of the Issuer, either as of the date on which agreement is reached for the issue of Notes or on the preceding day on which commercial banks and foreign exchange markets are open for business in London, in each case on the basis of the spot rate for the sale of the euro against the purchase of such Specified Currency in the London foreign exchange market quoted by any leading international bank selected by the Issuer on the relevant day of calculation;
- (b) the amount (or, where applicable, the euro equivalent) of Dual Currency Notes, Index Linked Notes and Partly Paid Notes (each as specified in the applicable Pricing Supplement in relation to the relevant Notes, described under “Form of the Notes”) shall be calculated (in the case of Notes not denominated in euro, in the manner specified above) by reference to the original nominal amount on issue of such Notes (in the case of Partly Paid Notes regardless of the subscription price paid); and
- (c) the amount (or, where applicable, the euro equivalent) of Zero Coupon Notes (as specified in the applicable Pricing Supplement in relation to the relevant Notes, described under “Form of the Notes”) and other Notes issued at a discount or a premium shall be calculated (in the case of Notes not denominated in euro, in the manner specified above) by reference to the net proceeds received by the Issuer for the relevant issue.

## SUMMARY OF THE PROGRAMME

*The following summary does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Offering Circular and, in relation to the terms and conditions of any particular Tranche of Notes, the applicable Pricing Supplement. Words and expressions defined in “Form of the Notes” and “Terms and Conditions of the Notes” below shall have the same meanings in this summary.*

Issuer:	Banca Monte dei Paschi di Siena S.p.A.
Description:	Debt Issuance Programme
Arranger:	ABN AMRO Bank N.V.
Dealers:	ABN AMRO Bank N.V. Barclays Bank PLC Citigroup Global Markets Limited Credit Suisse First Boston (Europe) Limited Deutsche Bank AG London J.P. Morgan Securities Ltd. Lehman Brothers International (Europe) Merrill Lynch International MPS Finance Banca Mobiliare S.p.A. UBS Limited WestLB AG  and any other Dealers appointed in accordance with the Programme Agreement.
Certain Restrictions:	Each issue of Notes denominated in a currency in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see “Subscription and Sale”) including the following restrictions applicable at the date of this Offering Circular.  <b>Swiss Francs</b>  Issues of Notes denominated in Swiss francs or carrying a Swiss franc-related element with a maturity of more than one year (other than Notes privately placed with a single investor with no publicity) will be effected in compliance with the relevant regulations of the Swiss National Bank based on article 7 of the Federal Law on Banks and Savings Banks of 8th November 1934 (as amended) and article 15 of the Federal Law on Stock Exchanges and Securities Trading of 24th March 1995 in connection with article 2, paragraph 2 of the Ordinance of Federal Banking Commission on Stock Exchanges and Securities Trading of 2nd December 1996. Under the said regulations, the relevant Dealer or, in the case of a syndicated issue, the lead manager (the “Swiss Dealer”), must be a bank domiciled in Switzerland (which includes branches or subsidiaries of a foreign bank located in Switzerland) or a securities dealer duly licensed by the Swiss Federal Banking Commission pursuant to the Federal Law on Stock Exchanges and Securities Trading of 24th March 1995. The Swiss Dealer must report certain details of the relevant transaction to the Swiss National Bank no later than the Issue Date of the relevant Notes.
Issuing and Principal Paying Agent:	Citibank, N.A.
Programme Size:	Up to €12,000,000,000 (or its equivalent in other currencies calculated as described under “General Description of the Programme”) outstanding at any

time. The Issuer may increase the amount of the Programme in accordance with the terms of the Programme Agreement (as defined under “Subscription and Sale”).

Distribution:	Notes may be distributed by way of private or public placement and in each case on a syndicated or non-syndicated basis.
Currencies:	Subject to any applicable legal or regulatory restrictions, any currency agreed between the Issuer and the relevant Dealer.
Redenomination:	The applicable Pricing Supplement may provide that certain Notes may be redenominated in euro. The relevant provisions applicable to any such redenomination are contained in Condition 4.
Maturities:	<p>Such maturities as may be agreed between the Issuer and the relevant Dealer, subject to such minimum or maximum maturities as may be allowed or required from time to time by the Bank of Italy (or equivalent body) or any laws or regulations applicable to the Issuer or the relevant Specified Currency.</p> <p>Unless otherwise permitted by current laws, regulations, directives and/or the Bank of Italy’s requirements applicable to the issue of Subordinated Notes, (i) Lower Tier II Subordinated Notes must have a minimum maturity of five years (or, if issued for an indefinite duration, the redemption may only occur upon five years’ prior written notice after the date of issue) and (ii) Upper Tier II Subordinated Notes must have a minimum maturity of 10 years.</p>
Issue Price:	Notes may be issued on a fully-paid or a partly-paid basis and at an issue price which is at par or at a discount to, or premium over, par.
Form of Notes:	The Notes will be issued in bearer form as described in “Form of the Notes”.
Fixed Rate Notes:	Fixed interest will be payable on such date or dates as may be agreed between the Issuer and the relevant Dealer and on redemption, and will be calculated on the basis of such Day Count Fraction as may be agreed between the Issuer and the relevant Dealer.
Floating Rate Notes:	<p>Floating Rate Notes will bear interest at a rate determined:</p> <ul style="list-style-type: none"><li>(i) on the same basis as the floating rate under a notional interest rate swap transaction in the relevant Specified Currency governed by an agreement incorporating the 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., and as amended and updated as at the Issue Date of the first Tranche of the Notes of the relevant Series; or</li><li>(ii) on the basis of a reference rate appearing on the agreed screen page of a commercial quotation service; or</li><li>(iii) on such other basis as may be agreed between the Issuer and the relevant Dealer.</li></ul> <p>The margin (if any) relating to such floating rate will be agreed between the Issuer and the relevant Dealer for each Series of Floating Rate Notes.</p>
Index Linked Notes:	Payments of principal in respect of Index Linked Redemption Notes or of interest in respect of Index Linked Interest Notes will be calculated by reference to such index and/or formula or to changes in the prices of securities or commodities or to such other factors as the Issuer and the relevant Dealer may agree and as provided in the applicable Pricing Supplement.

Linked Instruments:	<p>Instruments may be issued under the programme which are either Credit Linked Instruments or Equity Instruments. The specific terms of any linked instruments will be set out in the applicable Pricing Supplement.</p> <p>Credit Linked Instruments may be principal protected instruments (in which the relevant obligation to pay interest is linked to the credit of one or more reference entities) and/or full instruments (i.e. instruments whereby the Issuer may redeem either at a cash redemption amount or physically by delivering deliverable obligations upon the occurrence of certain events relating to the credit of one or more reference entities).</p> <p>Equity Linked Instruments may be either cash settled (in which payments of principal will be calculated by reference to the value of the underlying shares, as will be set out in the applicable Pricing Supplement) and/or physically delivered equity instruments (in which the Issuer will deliver a specific number of the underlying shares in respect of such instruments).</p>
Other provisions in relation to Floating Rate Notes and Index Linked Interest Notes:	<p>Floating Rate Notes and Index Linked Interest Notes may also have a maximum interest rate, a minimum interest rate or both.</p> <p>Interest on Floating Rate Notes and Index Linked Interest Notes in respect of each Interest Period, as agreed prior to issue by the Issuer and the relevant Dealer, will be payable on such Interest Payment Dates, and will be calculated on the basis of such Day Count Fraction, as may be agreed between the Issuer and the relevant Dealer.</p>
Dual Currency Notes:	<p>Payments (whether in respect of principal or interest and whether at maturity or otherwise) in respect of Dual Currency Notes will be made in such currencies, and based on such rates of exchange, as the Issuer and the relevant Dealer may agree.</p>
Zero Coupon Notes:	<p>Zero Coupon Notes will be offered and sold at a discount to their nominal amount and will not bear interest.</p>
Redemption:	<p>The applicable Pricing Supplement (other than in relation to Subordinated Notes) will indicate either that the relevant Notes cannot be redeemed prior to their stated maturity (other than in specified instalments, if applicable, or for taxation reasons or following an Event of Default) or that such Notes will be redeemable in accordance with the applicable Italian laws and regulations at the option of the Issuer and/or the Noteholders upon giving notice to the Noteholders or the Issuer, as the case may be, on a date or dates specified prior to such stated maturity and at a price or prices and on such other terms as may be agreed between the Issuer and the relevant Dealer.</p> <p>The redemption of Upper Tier II Subordinated Notes shall always be subject to the prior approval of the Bank of Italy, such approval being dependent on the Issuer maintaining its minimum capital requirements (<i>patrimonio di vigilanza</i>) as prescribed in Title IV, Chapter 1 of the Bank of Italy's Regulations immediately following redemption of the Upper Tier II Subordinated Notes. If such approval is not given on or prior to the relevant redemption date, the Issuer will re-apply to the Bank of Italy for its consent to such redemption forthwith upon its having gained, by whatever means, such required minimum capital. The Issuer will use its best endeavours to maintain such required minimum capital and to obtain such approval. Amounts that would otherwise be payable on the due date will continue to bear interest as provided in the Conditions and the Agency Agreement.</p> <p>The applicable Pricing Supplement may provide that Notes may be redeemable in two or more instalments of such amounts and on such dates as are indicated in the applicable Pricing Supplement.</p>

Denomination of Notes:	Notes will be issued in such denominations as may be agreed between the Issuer and the relevant Dealer save that the minimum denomination of each Note will be such as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Specified Currency.
Taxation:	<p>All payments in respect of the Notes will be made without deduction for or on account of withholding taxes imposed by any Tax Jurisdiction, subject as provided in Condition 8. In the event that any such deduction is made, the Issuer will, save in certain limited circumstances provided in Condition 8, be required to pay additional amounts to cover the amounts so deducted.</p> <p>As more fully set out in Condition 8, the Issuer shall not be liable in certain circumstances to pay any additional amounts to holders of the Notes with respect to any payment, withholding or deduction pursuant to Italian Legislative Decree No. 239 of 1st April 1996 (as amended or supplemented) and related regulations of implementation which have been or may subsequently be enacted (“<i>Legislative Decree 239</i>”) on account of <i>imposta sostitutiva</i> as defined therein in relation to interest payable in respect of any Notes.</p>
Negative Pledge:	The terms of the Senior Notes will contain a negative pledge provision as further described in Condition 3. Subordinated Notes will not have the benefit of the negative pledge.
Cross Default:	The terms of the Senior Notes will contain a cross default provision as further described in Condition 10. Subordinated Notes will not have the benefit of the cross default.
Status of the Senior Notes:	The Senior Notes will constitute direct, unconditional, unsubordinated and, subject to the provisions of Condition 3, unsecured obligations of the Issuer and rank <i>pari passu</i> without any preference or priority among themselves and (subject to any applicable statutory exceptions) equally with all other present and future unsecured and unsubordinated obligations of the Issuer.
Subordination:	Payments in respect of the Subordinated Notes will be subordinated as described in Condition 2.
Listing:	<p>Application has been made to list the Notes issued under the Programme on the Luxembourg Stock Exchange. The Notes may also be listed on such other or further stock exchange(s) as may be agreed between the Issuer and the relevant Dealer in relation to each Series. Unlisted Notes may also be issued.</p> <p>The applicable Pricing Supplement will state whether or not the relevant Notes are to be listed and, if so, on which stock exchange(s).</p>
Rating:	<p>The Programme is rated A1 in respect of Senior Notes by Moody’s and A in respect of Senior Notes by S&amp;P.</p> <p>Senior Notes issued under the Programme may be rated or unrated. Where an issue of Senior Notes is rated, its rating will not necessarily be the same as the rating applicable to the Programme. A rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, change or withdrawal at any time by the assigning rating agency.</p>
Governing Law:	The Notes will be governed by, and construed in accordance with, English law, except Conditions 2(b), (c), (d) and (e) which shall be governed by, and construed in accordance with, Italian law.
Selling Restrictions:	There are restrictions on the offer, sale and transfer of the Notes in the United States, the United Kingdom, Japan and Italy and such other restrictions as may

be required in connection with the offering and sale of a particular Tranche of Notes, see “Subscription and Sale”.

Limited Recourse:

Payments of principal and interest in respect of any series of limited recourse Notes may, if so specified in the applicable Pricing Supplement, be restricted upon the occurrence of any event described in the applicable Pricing Supplement.

## FORM OF THE NOTES

Each Tranche of Notes will be in bearer form and will be initially issued in the form of a temporary global note (a “Temporary Global Note”) or, if so specified in the applicable Pricing Supplement, a permanent Global Note (a “Permanent Global Note”) which will be delivered on or prior to the original issue date of the Tranche to a common depositary (the “Common Depositary”) for Euroclear Bank S.A./N.V., as operator of the Euroclear System (“Euroclear”) and Clearstream Banking, société anonyme (“Clearstream, Luxembourg”). Whilst any Note is represented by a Temporary Global Note, payments of principal, interest (if any) and any other amount payable in respect of the Notes due prior to the Exchange Date (as defined below) will be made against presentation of the Temporary Global Note only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in such Note are not U.S. persons or persons who have purchased for resale to any U.S. person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certifications it has received) to the Agent.

On and after the date (the “Exchange Date”) which is 40 days after the Temporary Global Note is issued, interests in such Temporary Global Note will be exchangeable (free of charge) upon a request as described therein either for (i) interests in a Permanent Global Note of the same Series or (ii) for definitive Notes of the same Series with, where applicable, receipts, interest coupons and talons attached (as indicated in the applicable Pricing Supplement and subject, in the case of definitive Notes, to such notice period as is specified in the applicable Pricing Supplement), in each case against certification of beneficial ownership as described above unless such certification has already been given. The holder of a Temporary Global Note will not be entitled to collect any payment of interest, principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Global Note for an interest in a Permanent Global Note or for definitive Notes is improperly withheld or refused.

Payments of principal, interest (if any) or any other amounts on a Permanent Global Note will be made through Euroclear and/or Clearstream, Luxembourg against presentation or surrender (as the case may be) of the Permanent Global Note without any requirement for certification.

The applicable Pricing Supplement will specify that a Permanent Global Note will be exchangeable (free of charge), in whole but not in part, for definitive Notes with, where applicable, receipts, interest coupons and talons attached upon either (i) not less than 60 days’ written notice from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Global Note) to the Agent as described therein or (ii) only upon the occurrence of an Exchange Event. For these purposes, “Exchange Event” means that (i) an Event of Default (as defined in Condition 10) has occurred and is continuing, (ii) the Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available or (iii) the Issuer has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Permanent Global Note in definitive form. The Issuer will promptly give notice to Noteholders in accordance with Condition 14 if an Exchange Event occurs. In the event of the occurrence of an Exchange Event, Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Global Note) may give notice to the Agent requesting exchange and, in the event of the occurrence of an Exchange Event as described in (iii) above, the Issuer may also give notice to the Agent requesting exchange. Any such exchange shall occur not later than 45 days after the date of receipt of the first relevant notice by the Agent.

The following legend will appear on all Notes which have an original maturity of more than 365 days and on all receipts and interest coupons relating to such Notes:

“ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.”

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

Notes which are represented by a Global Note will only be transferable in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be.

Pursuant to the Agency Agreement (as defined under “Terms and Conditions of the Notes”), the Agent shall arrange that, where a further Tranche of Notes is issued which is intended to form a single Series with an existing Tranche of Notes, the Notes of such further Tranche shall be assigned a common code and ISIN which are different from the common code and ISIN assigned to Notes of any other Tranche of the same Series until at least the expiry of the distribution compliance period (as defined in Regulation S under the Securities Act) applicable to the Notes of such Tranche.

Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system specified in the applicable Pricing Supplement.

A Note may be accelerated by the holder thereof in certain circumstances described in Condition 10. In such circumstances, where any Note is still represented by a Global Note and the Global Note (or any part thereof) has become due and repayable in accordance with the Terms and Conditions of such Notes and payment in full of the amount due has not been made in accordance with the provisions of the Global Note then the Global Note will become void at 8.00 p.m. (London time) on such day. At the same time, holders of interests in such Global Note credited to their accounts with Euroclear and/or Clearstream, Luxembourg, as the case may be, will become entitled to proceed directly against the Issuer on the basis of statements of account provided by Euroclear and/or Clearstream, Luxembourg on and subject to the terms of a deed of covenant (the “Deed of Covenant”) dated 16th April 2002 executed by the Issuer.

#### **Applicable Pricing Supplement**

Set out below is the form of Pricing Supplement which will be completed for each Tranche of Notes issued under the Programme. If the applicable Pricing Supplement specifies any modification to the Terms and Conditions of the Notes as described herein, it is envisaged that, to the extent that such modification relates only to Conditions 1, 4, 5, 6, 7 (except Condition 7(b)), 11, 12, 13, 14 (insofar as such Notes are not listed on any stock exchange) or 16, they will not necessitate the preparation of a supplement to this Offering Circular. If the Terms and Conditions of the Notes of any Series are to be modified in any other respect, a supplement to this Offering Circular will be prepared, if appropriate.

*[Date]*

## **BANCA MONTE DEI PASCHI DI SIENA S.P.A.**

**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]**

**under the €12,000,000,000**

**Debt Issuance Programme**

This document constitutes the Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 3rd June 2003. This Pricing Supplement is supplemental to and must be read in conjunction with such Offering Circular.

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

1. Issuer: Banca Monte dei Paschi di Siena S.p.A.
2. (i) Series Number: [ ]
- (ii) Tranche Number: [ ]

*(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible)*

3. Specified Currency or Currencies: [ ]
4. Aggregate Nominal Amount:  
 [(i) Series: [ ]  
 [(ii) Tranche: [ ]]
5. [(i) Issue Price of Tranche: [ ] per cent. of the Aggregate Nominal Amount [plus accrued interest from [insert date] (*in the case of fungible issues only, if applicable*)]  
 [(ii) Net Proceeds: [ ]  
 (*Required only for listed issues*)]
6. Specified Denominations: [ ]  
 [ ]
7. (i) Issue Date: [ ]  
 (ii) Interest Commencement Date: [ ]
8. Maturity Date: [Fixed rate – *specify date*/  
 Floating rate – Interest Payment Date falling in or nearest to [*specify month*]]  
 (*Unless otherwise permitted by current laws, regulations, directives and/or the Bank of Italy's requirements applicable to the issue of Subordinated Notes by the Issuer, (i) Lower Tier II Subordinated Notes must have a minimum maturity of five years and (ii) Upper Tier II Subordinated Notes must have a minimum maturity of 10 years.*)
9. Interest Basis: [[ ] per cent. Fixed Rate]  
 [[LIBOR/EURIBOR] +/- [ ] per cent. Floating Rate]  
 [Zero Coupon]  
 [Index Linked Interest]  
 [Dual Currency Interest]  
 [*specify other*]  
 (further particulars specified below)
10. Redemption/Payment Basis: [Redemption at par]  
 [Index Linked Redemption]  
 [Dual Currency Redemption]  
 [Partly Paid]  
 [Instalment]  
 [*specify other*]
11. Change of Interest Basis or Redemption/  
 Payment Basis: [*Specify details of any provision for change of Notes into another Interest Basis or Redemption/ Payment Basis*]
12. Put/Call Options: [Investor Put]  
 [Issuer Call]  
 [(further particulars specified below)]
13. Status of the Notes: [Senior Notes/Tier III Subordinated Notes/Lower Tier II Subordinated Notes/Upper Tier II Subordinated Notes]
14. Listing: [Luxembourg/*specify other*/None]
15. Method of distribution: [Syndicated/Non-syndicated]

## PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE

16. Fixed Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Rate(s) of Interest for Fixed Rate Notes: [ ] per cent. per annum [payable [annually/semi-annually/quarterly] in arrear]  
*(If payable other than annually, consider amending Condition 5)*
- (ii) Interest Payment Date(s): [[ ] in each year up to and including the Maturity Date]/[specify other]  
*(NB: This will need to be amended in the case of a long or short coupon)*
- (iii) Fixed Coupon Amount(s): [ ] per [ ] in nominal amount
- (iv) Broken Amount(s): *[Insert particulars of any initial or final broken interest amounts which do not correspond with the Fixed Coupon Amount]*
- (v) Day Count Fraction: [30/360 or Actual/Actual (ISMA) or specify other]  
*(NB: if interest is not payable on a regular basis (for example, if there are Broken Amounts specified) Actual/Actual (ISMA) may not be a suitable Day Count Fraction)*
- (vi) Determination Date(s): [ ] in each year  
*[Insert regular interest payment dates, ignoring issue date or maturity date in the case of a long or short first or last coupon.  
NB: This will need to be amended in the case of regular interest payment dates which are not of equal duration.  
(NB: Only relevant where Day Count Fraction is Actual/Actual (ISMA)]*
- (vii) Other terms relating to the method of calculating interest for Fixed Rate Notes: [None/Give details]
17. Floating Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Specified Period(s)/Specified Interest Payment Dates: [ ]
- (ii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/ specify other]
- (iii) Additional Business Centre(s): [ ]
- (iv) Manner in which the Rate of Interest and Interest Amount is to be determined: [Screen Rate Determination/ISDA Determination/specify other]

- (v) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Agent): [ ]
- (vi) Screen Rate Determination: [Applicable/Not Applicable]
- Reference Rate: [ ]  
*(Either LIBOR, EURIBOR or other, although additional information is required if other – including fallback provisions in the Agency Agreement)*
- Interest Determination Date(s): [ ]  
*(Second London business day prior to the start of each Interest Period if LIBOR (other than sterling or euro LIBOR), first day of each Interest Period if sterling LIBOR and the second day on which the TARGET System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*
- Relevant Screen Page: [ ]  
*(In the case of EURIBOR, if not Telerate page 248 ensure it is a page which shows a composite rate or amend the fallback provisions appropriately)*
- (vii) ISDA Determination: [Applicable/Not Applicable]
- Floating Rate Option: [ ]
- Designated Maturity: [ ]
- Reset Date: [ ]
- (viii) Margin(s): [+/-] [ ] per cent. per annum
- (ix) Minimum Rate of Interest: [ ] per cent. per annum
- (x) Maximum Rate of Interest: [ ] per cent. per annum
- (xi) Day Count Fraction: [Actual/365  
Actual/365 (Fixed)  
Actual/365 (Sterling)  
Actual/360  
30/360  
30E/360  
Other]  
*(See Condition 5 for alternatives)*
- (xii) Fall back provisions, rounding provisions and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [ ]
18. Zero Coupon Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Accrual Yield: [ ] per cent. per annum
- (ii) Reference Price: [ ]

- (iii) Any other formula/basis of determining amount payable: [ ]
- (iv) Day Count Fraction in relation to Early Redemption Amounts and late payment: [Conditions 7(e)(iii) and 7(j) apply/specify other] (Consider applicable day count fraction if not U.S. dollar denominated)
19. Index Linked Note Provisions: [Applicable/Not Applicable] (If not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Index/Formula: [give or annex details]
- (ii) Calculation Agent responsible for calculating the principal and/or interest due: [ ]
- (iii) Provisions applicable where calculation by reference to Index and/or Formula is impossible or impracticable: [ ]
- (iv) Specified Period(s)/Specified Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/specify other]
- (vi) Additional Business Centre(s): [ ]
- (vii) Minimum Rate of Interest: [ ] per cent. per annum
- (viii) Maximum Rate of Interest: [ ] per cent. per annum
- (ix) Day Count Fraction for Index Linked Interest Notes: [ ]
20. Dual Currency Note Provisions: [Applicable/Not Applicable] (If not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Rate of Exchange/method of calculating Rate of Exchange: [give details]
- (ii) Calculation Agent, if any, responsible for calculating the principal and/or interest payable: [ ]
- (iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable: [ ]
- (iv) Person at whose option Specified Currency(ies) is/are payable: [ ]

## PROVISIONS RELATING TO REDEMPTION

21. Issuer Call: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]  
*(If the Notes are Subordinated Notes, unless otherwise permitted by current laws, regulations, directives and/or the Bank of Italy's requirements, applicable to the issue of Subordinated Notes by the Issuer, the Optional Redemption Date shall not be earlier than (i) in the case of Lower Tier II Subordinated Notes, five years after the Issue Date, and (ii) in the case of Upper Tier II Subordinated Notes, 10 years after the Issue Date)*
- (ii) Optional Redemption Amount of each Note and method, if any, of calculation of such amount(s): [ ]
- (iii) If redeemable in part:
- (a) Minimum Redemption Amount: [ ]
- (b) Higher Redemption Amount: [ ]
- (iv) Notice period (if other than as set out in the Conditions): [ ]
22. Investor Put: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount of each Note and method, if any, of calculation of such amount(s): [ ]
- (iii) Notice period (if other than as set out in the Conditions): [ ]
23. Final Redemption Amount of each Note: [Nominal Amount/specify other/see Appendix]
24. Early Redemption Amount of each Note payable on redemption for taxation reasons or on event of default and/or the method of calculating the same (if required or if different from that set out in Condition 7(e)): [ ]

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

25. Form of Notes: [Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes [on 60 days' notice given at any time/only upon an Exchange Event]]
- [Temporary Global Note exchangeable for Definitive Notes on and after the Exchange Date]

- [Permanent Global Note exchangeable for Definitive Notes [on 60 days' notice given at any time/only upon an Exchange Event]]
26. Additional Financial Centre(s) or other special provisions relating to Payment Dates: [Not Applicable/give details]  
(Note that this item relates to the place of payment and not Interest Period end dates to which items 17(iii) and 19(vi) relate)
27. Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): [Yes/No. If yes, give details]
28. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details].  
(NB: a new form of Temporary Global Note and/or Permanent Global Note may be required for Partly Paid issues)
29. Details relating to Instalment Notes:
- [(i) Instalment Amount(s): [Not Applicable/give details]
- [(ii) Instalment Date(s): [Not Applicable/give details]
30. Redenomination applicable: Redenomination [not] applicable  
(If Redenomination is applicable, specify the applicable Day Count Fraction and any provisions necessary to deal with floating rate interest calculation (including alternative reference rates))
31. Governing law: [As set out in Condition 18/other]
32. (i) Limited recourse: [Applicable/Not Applicable]
- (ii) Credit Linked Instalments: [Applicable/Not Applicable]
- (iii) Equity Linked Instalments: [Applicable/Not Applicable]
- (If any of these items is applicable, details to be set out in a schedule to the Pricing Supplement)
33. Other terms or special conditions: [Not Applicable/give details]
34. Whether the Notes are typical securities or atypical securities: [Typical/Atypical] securities  
(This relates to the part of the Taxation section in the Offering Circular headed "Republic of Italy". See "Tax Treatment of Notes" on page 74 of the Offering Circular and "Atypical securities" on page 75.)

## DISTRIBUTION

35. (i) If syndicated, names of Managers: [Not Applicable/give names]
- (ii) Stabilising Manager (if any): [Not Applicable/give name]
36. If non-syndicated, name of relevant Dealer: [ ]

- 37. Whether TEFRA D or TEFRA C rules applicable or TEFRA rules not applicable: [TEFRA D/TEFRA C/TEFRA not applicable]
- 38. Additional selling restrictions: [Not Applicable/give details]

**OPERATIONAL INFORMATION**

- 39. Any clearing system(s) other than Euroclear and Clearstream, Luxembourg and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]
- 40. Delivery: Delivery [against/free of] payment
- 41. Additional Paying Agent(s) (if any): [ ]

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ISIN:	[ ]
Common Code:	[ ]

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**[LISTING APPLICATION**

This Pricing Supplement comprises the details required to list the issue of Notes described herein pursuant to the €12,000,000,000 Debt Issuance Programme of Banca Monte dei Paschi di Siena S.p.A.]

**RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in this Pricing Supplement.

Signed on behalf of the Issuer:

By: .....

*Duly authorised*

## TERMS AND CONDITIONS OF THE NOTES

*The following are the Terms and Conditions of the Notes which will be incorporated by reference into each Global Note (as defined below) and each Definitive Note, in the latter case only if permitted by the rules of the relevant stock exchange (if any) and agreed by the Issuer and the relevant Dealer at the time of issue but, if not so permitted and agreed, such definitive Note will have endorsed thereon or attached thereto such Terms and Conditions. The applicable Pricing Supplement in relation to any Tranche of Notes may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. The applicable Pricing Supplement (or the relevant provisions thereof) will be endorsed upon, or attached to, each Global Note and definitive Note. Reference should be made to "Form of the Notes" for a description of the content of Pricing Supplements which will specify which of such terms are to apply in relation to the relevant Notes.*

This Note is one of a Series (as defined below) of Notes issued by Banca Monte dei Paschi di Siena S.p.A. (the "Issuer") pursuant to the Agency Agreement (as defined below).

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

- (i) in relation to any Notes represented by a global Note (a "Global Note"), units of the lowest Specified Denomination in the Specified Currency;
- (ii) any Global Note; and
- (iii) any definitive Notes issued in exchange for a Global Note.

The Notes, the Receipts (as defined below) and the Coupons (as defined below) have the benefit of an amended and restated Agency Agreement dated 16th April 2002 (such Agency Agreement as further amended and/or supplemented and/or restated from time to time, the "Agency Agreement"), and made between the Issuer, Citibank, N.A. as issuing and principal paying agent and agent bank (the "Agent", which expression shall include any successor agent) and the other paying agents named therein (together with the Agent, the "Paying Agents", which expression shall include any additional or successor paying agents).

Interest bearing definitive Notes have interest coupons ("Coupons") and, if indicated in the applicable Pricing Supplement, talons for further Coupons ("Talons") attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Definitive Notes repayable in instalments have receipts ("Receipts") for the payment of instalments of principal (other than the final instalment) attached on issue. Global Notes do not have Receipts, Coupons or Talons attached on issue.

The Pricing Supplement for this Note (or the relevant provisions thereof) is attached to or endorsed on this Note and supplements these Terms and Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of this Note. References to the "applicable Pricing Supplement" are to the Pricing Supplement (or the relevant provisions thereof) attached to or endorsed on this Note.

Any reference to "Noteholders" or "holders" in relation to any Notes shall mean the holders of the Notes and shall, in relation to any Notes represented by a global Note, be construed as provided below. Any reference herein to "Receiptholders" shall mean the holders of the Receipts and any reference herein to "Couponholders" shall mean the holders of the Coupons and shall, unless the context otherwise requires, include the holders of the Talons.

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

The Noteholders, the Receiptholders and the Couponholders are entitled to the benefit of the Deed of Covenant (the "Deed of Covenant") dated 16th April 2002 and made by the Issuer. The original of the Deed of Covenant is held by the common depositary for Euroclear and Clearstream, Luxembourg (each as defined below).

Copies of the Agency Agreement and the Deed of Covenant are available for inspection during normal business hours at the specified office of each of the Paying Agents. Copies of the applicable Pricing Supplement are obtainable during normal business hours at the specified office of each of the Paying Agents save that, if this Note is an unlisted Note of any Series, the applicable Pricing Supplement will only be obtainable by a Noteholder holding one or more unlisted Notes of that Series and such Noteholder must produce evidence satisfactory to the Issuer and the relevant Paying Agent as to its holding of such Notes and identity. The Noteholders, the Receiptholders and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement, the Deed of Covenant and the applicable Pricing Supplement which are applicable to them. The statements in these Terms and Conditions include summaries of, and are subject to, the detailed provisions of the Agency Agreement.

Words and expressions defined in the Agency Agreement or used in the applicable Pricing Supplement shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Agency Agreement and the applicable Pricing Supplement, the applicable Pricing Supplement will prevail.

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

The Notes are in bearer form and, in the case of definitive Notes, serially numbered, in the Specified Currency and the Specified Denomination(s). Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination.

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

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

This Note is a Senior Note, a Tier III Subordinated Note, a Lower Tier II Subordinated Note or an Upper Tier II Subordinated Note, depending on the Status of the Notes specified in the applicable Pricing Supplement.

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

Subject as set out below, title to the Notes, Receipts and Coupons will pass by delivery. The Issuer and the Paying Agents will (except as otherwise required by law) deem and treat the bearer of any Note, Receipt or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any Global Note, without prejudice to the provisions set out in the next succeeding paragraph.

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

## 2. Status of the Notes and Subordination

### (a) Status of the Senior Notes

*This Condition 2(a) applies only to Senior Notes.*

The Senior Notes and any relative Receipts and Coupons are direct, unconditional, unsubordinated and (subject to the provisions of Condition 3) unsecured obligations of the Issuer and rank *pari passu* without any preference or priority among themselves and (subject to any applicable statutory exceptions) equally with all other present and future unsecured and unsubordinated obligations of the Issuer.

### (b) Status of the Subordinated Notes

*This Condition 2(b) applies only to Tier III Subordinated Notes, Lower Tier II Subordinated Notes and Upper Tier II Subordinated Notes (together referred to in these Terms and Conditions as “Subordinated Notes”).*

- (i) The Tier III Subordinated Notes (*Prestiti Subordinati di 3° Livello*, as defined in Title IV, Chapter III, Section 1, paragraph 3 of the Regulations of the Bank of Italy (*Istruzioni di Vigilanza della Banca d'Italia*) (the “Bank of Italy’s Regulations”), the Lower Tier II Subordinated Notes (*passività subordinate*, as defined in Title IV, Chapter I, Section II, paragraph 4.2 of the Bank of Italy’s Regulations and the Upper Tier II Subordinated Notes (*strumenti ibridi di patrimonializzazione*, as defined in Title IV, Chapter I, Section II, paragraph 4.1 of the Bank of Italy’s Regulations), and any relative Receipts and Coupons constitute unconditional, unsecured and subordinated obligations of the Issuer. Tier III Subordinated Notes, Upper Tier II Subordinated Notes and Lower Tier II Subordinated Notes rank at least *pari passu* with all other subordinated obligations of the Issuer which do not rank or are not expressed by their terms to rank junior or senior to the Tier III Subordinated Notes, Upper Tier II Subordinated Notes and the Lower Tier II Subordinated Notes and in priority to the claims of shareholders of the Issuer. In addition, save as otherwise provided in this Condition 2(b)(i), the Tier III Subordinated Notes rank senior to the Upper Tier II Subordinated Notes and the Lower Tier II Subordinated Notes, and the Lower Tier II Subordinated Notes rank senior to the Upper Tier II Subordinated Notes in accordance with Conditions 2(c), 2(d) and 2(e). In relation to each Series of Tier III Subordinated Notes, Lower Tier II Subordinated Notes or Upper Tier II Subordinated Notes, all Tier III Subordinated Notes, Lower Tier II Subordinated Notes or Upper Tier II Subordinated Notes, as the case may be, of such Series will be treated equally and all amounts paid by the Issuer in respect of principal and interest thereon will be paid *pro rata* on all Tier III Subordinated Notes, Lower Tier II Subordinated Notes or Upper Tier II Subordinated Notes, as the case may be, of such Series.
- (ii) In the event of the winding up, dissolution, liquidation or bankruptcy (including, *inter alia*, *Liquidazione Coatta Amministrativa*, as described in Article 80 to 94 of Legislative Decree No. 385 of 1st September 1993, as amended from time to time (the “Italian Banking Act”) of the Issuer, the payment obligations of the Issuer under the Subordinated Notes and the relative Receipts and Coupons will rank in right of payment after unsubordinated unsecured creditors (including depositors) of the Issuer. Tier III Subordinated Notes rank senior to both Upper Tier II Subordinated Notes and Lower Tier II Subordinated Notes. Lower Tier II Subordinated Notes rank senior to Upper Tier II Subordinated Notes. Tier III Subordinated Notes, Lower Tier II Subordinated Notes and Upper Tier II Subordinated Notes rank at least *pari passu* with all other subordinated obligations of the Issuer which do not rank or are not expressed by their terms to rank junior or senior to the Tier III Subordinated Notes, Lower Tier II Subordinated Notes or Upper Tier II Subordinated Notes, as the case may be, and in priority to the claims of shareholders of the Issuer.
- (iii) Each holder of a Subordinated Note unconditionally and irrevocably waives any right of set-off, counterclaim, abatement or other similar remedy which it might otherwise have, under the laws of any jurisdiction, in respect of such Subordinated Note.

### (c) Special provisions applicable to Tier III Subordinated Notes

*This Condition 2(c) applies only to the Tier III Subordinated Notes.*

(i) *Payment of principal and interest*

The repayment of the principal and the payment of interest (as defined below) in respect of the Tier III Subordinated Notes are obligations of the Issuer. The repayment of the Tier III Subordinated Notes is not covered by the guarantee of the “*Fondo Interbancario di Tutela dei Depositi*” (Italian Inter-Bank Fund for the Protection of Deposits).

(ii) *Deferral of interest and/or principal*

(a) The payment of any sums due with respect to interest and/or principal on the Tier III Subordinated Notes will be entirely suspended and deferred, and any such suspension and deferral to pay shall not constitute a default of the Issuer under these Conditions if, at the time any such payment becomes due:

(A) the Issuer’s Total Amount of Regulatory Capital (as defined below) is, on a consolidated or unconsolidated basis, less than the aggregate minimum credit risk (*rischio creditizio*) capital requirements of the Issuer, as provided by the then applicable Bank of Italy’s Regulations, on a consolidated or unconsolidated basis; or

(B) upon payment of interest and/or repayment of principal under the Tier III Subordinated Notes, the Issuer’s Total Amount of Regulatory Capital becomes, on a consolidated or unconsolidated basis, less than the aggregate minimum credit risk (*rischio creditizio*) capital requirements of the Issuer, as provided by the then applicable Bank of Italy’s Regulations, on a consolidated or unconsolidated basis.

(b) “Total Amount of Regulatory Capital” means:

(A) on an unconsolidated basis, the aggregate amount of the items stated and defined in (I), (II), (III), (IV), (V), and (VI) and/or any additional, replacement and/or adjusted or other items, in each case which may from time to time be required to be included pursuant to the then applicable Bank of Italy’s Regulations for the purposes of calculating the Issuer’s Total Amount of Regulatory Capital; or

(B) on a consolidated basis, the aggregate amount of the items listed in (A) above, calculated on a consolidated basis, according to the Bank of Italy’s Regulations from time to time applicable,

WHERE:

(I) means, taken as a positive figure, the aggregate amount of the regulatory capital of the Issuer (*Patrimonio di Vigilanza*), calculated on an unconsolidated basis, as set forth in the then applicable Bank of Italy’s Regulations (currently being Title IV, Chapter 1, Section II);

(II) means, taken as a positive figure, the aggregate amount of any indebtedness of the Issuer qualified by the Bank of Italy as “*passività subordinate di 3° livello*” (Subordinated Tier 3 Capital), intended to cover the minimum capital requirements for market risks, calculated on an unconsolidated basis (as defined in Title IV, Chapter 3 of the Bank of Italy’s Regulations or any provision which amends or replaces such definition) in accordance with the following paragraph (III), provided however that the amount of such indebtedness can only be included up to the absolute amount of the following paragraph (III);

(III) means, taken as a negative figure, the minimum capital requirements for market risks of the Issuer, calculated on an unconsolidated basis (as defined in Title IV, Chapter 3 of the Bank of Italy’s Regulations or any provision which amends or replaces such definition);

(IV) means, taken as a negative figure, the excess over the limit on the ownership of shareholdings in non-financial companies acquired by the Issuer following the recovery of credits (as defined in Title IV, Chapter 9, Section V of the Bank of Italy’s Regulations or any provision which amends or replaces such definition);

- (V) means, taken as a negative figure, the excess over the limit on the ownership of real estate acquired by the Issuer following the recovery of credits (as defined in Title IV, Chapter 10, Section II of the Bank of Italy's Regulations or any provision which amends or replaces such definition); and
- (VI) means, taken as a negative figure, any additional specific capital requirements imposed on the Issuer by the Bank of Italy, to the extent not taken into account in paragraphs (III) to (V).
- (c) For the purposes of the Tier III Subordinated Notes, the Issuer's Total Amount of Regulatory Capital is deemed to be equal to or more than the minimum credit risk (*rischio creditizio*) capital requirements of the Issuer as required by the then applicable Bank of Italy's Regulations, when:
  - (A) the Issuer's Total Amount of Regulatory Capital, calculated on an unconsolidated basis, is equal to or more than 7 per cent. (or such other percentage as may be, from time to time, set forth, on an unconsolidated basis, by the Bank of Italy) of the aggregate weighted assets to be comprised in the calculation, on an unconsolidated basis, of the minimum capital requirements of the Issuer (such assets as being defined in Title IV, Chapter 2, Section II of the Bank of Italy's Regulations or any provision which amends or replaces such definition); and
  - (B) the Issuer's Total Amount of Regulatory Capital, calculated on a consolidated basis, is equal to or more than 8 per cent. (or such other percentage as the Bank of Italy may, from time to time, require on a consolidated basis) of the aggregate weighted assets to be comprised in the calculation of the consolidated minimum capital requirements of the banking group controlled directly or indirectly by the Issuer (such assets as being defined in Title IV, Chapter 2, Section III of the Bank of Italy's Regulations or any provision which amends or replaces such definition).
- (d) The obligations of the Issuer to effect the payment of interest (including Arrears of Interest and Default Interest (each as defined below)) not paid when due and/or to repay principal not repaid when due, in each case in accordance with Condition 2(c)(ii)(a), will (subject to, and to the extent provided in, Condition 2(c)(ii)(e)), be reinstated and will start to accrue in whole and as if the payment obligations of the Issuer had never been so suspended (but without prejudice to the subordination provided for in Condition 2(b)):
  - (A) in the event of a bankruptcy, dissolution, liquidation or winding-up of the Issuer or in the event that the Issuer becomes subject to an order for *Liquidazione Coatta Amministrativa*; or
  - (B) in the event that the Issuer's Total Amount of Regulatory Capital (as defined above) after the payment of interest and/or repayment of principal is, both on an unconsolidated and on a consolidated basis, equal to or more than the minimum aggregate credit risk (*rischio creditizio*) capital requirements of the Issuer, both on an unconsolidated and consolidated basis, as respectively required by the then applicable Bank of Italy's Regulations.
- (e) Where, following any suspension and deferral pursuant to Condition 2(c)(ii)(a), the obligation to pay interest (including Arrears of Interest and Default Interest) and/or to repay principal has been reinstated pursuant to Condition 2(c)(ii)(d)(B), the obligation will become effective at and will be paid on the first Interest Payment Date immediately following the date of receipt by the Bank of Italy of a Report (as defined below), according to which the Issuer's Total Amount of Regulatory Capital net of amounts to be paid in respect of interest and/or repayment of principal, both on an unconsolidated and consolidated basis, is equal to or more than the minimum aggregate credit risk (*rischio creditizio*) capital requirements set forth by the then applicable Bank of Italy's Regulations.

If the payment of interest and/or the repayment of principal has been suspended pursuant to the provisions of Condition 2(c)(ii)(a), the reinstatement of the obligation to make payment and/or repayment in respect thereof pursuant to Condition 2(c)(ii)(d) shall, where there are

insufficient amounts pursuant to the foregoing provisions to make full payment in respect thereof, be made in part as such amounts become so available pursuant to the foregoing provisions in the following order:

- (A) payment of any Default Interest (where not paid in full, Default Interest shall be paid in the order in which it accrued);
- (B) payment of any Arrears of Interest (where not paid in full, Arrears of Interest shall be paid in the order in which it accrued);
- (C) payment of interest otherwise due pursuant to Condition 5; and
- (D) repayment of principal.

All payments to holders of the Tier III Subordinated Notes will be made on a pro rata basis.

- (f) If for any reason (including, but not limited to, merger or any other extraordinary transaction) the Issuer, in accordance with any applicable laws and regulations, ceases to be a member of a banking group, the percentage referred to in Condition 2(c)(ii)(c)(A) will be the percentage required by the then applicable Bank of Italy's Regulations on an unconsolidated basis (currently, 8 per cent.).
- (g) If for any reason (including, but not limited to, merger or any other extraordinary transaction) the Issuer, in accordance with any applicable laws and regulations, ceases to be a member of a banking group, all references in this Condition 2(c) to parameters referred to consolidated figures of the Issuer will automatically be voided, becoming reference to parameters calculated on an unconsolidated basis (but without prejudice to the provisions of Condition 2(c)(ii)(f) above).

*(iii) Arrears of Interest and Default Interest*

Any interest that the Issuer does not pay when due shall constitute, for the purposes of the Tier III Subordinated Notes, "Arrears of Interest".

Arrears of Interest not paid by the Issuer in accordance with Condition 2(c)(ii)(a) shall not bear default interest. In all other cases, Arrears of Interest not paid by the Issuer when due for reasons other than those provided for in this Condition 2(c), shall accrue default interest ("Default Interest") at the Rate of Interest. Such Default Interest will accrue during the entire period from and including the date of the failure to pay Arrears of Interest until but excluding the date of their full payment.

In this Condition 2(c), "Report" means the report that the Issuer under Title IV, Chapter 2, Sections II and III of the Bank of Italy's Regulations, is required to send semi-annually to the Bank of Italy for purposes of the control of compliance with minimum regulatory capital requirements, on an unconsolidated and consolidated basis, as of 31 December and 30 June of each fiscal year. For the purposes of this Condition 2(c), neither the quarterly report which Italian banks are currently required to send for the sole purposes of the control of compliance with the minimum regulatory capital requirements on an unconsolidated basis as of 31 March and 30 September of each fiscal year, nor any such other reporting which the Bank of Italy may in the future require to be made, will be taken into account.

**(d) Special provisions applicable to Lower Tier II Subordinated Notes**

*This Condition 2(d) applies only to the Lower Tier II Subordinated Notes*

*(i) Minimum maturity*

Lower Tier II Subordinated Notes may be validly issued with a minimum maturity of five years agreed at issue or with a maturity which may be determined by the Issuer while the Lower Tier II Subordinated Notes are outstanding. In such latter circumstance the Lower Tier II Subordinated Notes can be validly redeemed by giving a minimum five years' prior written notice to the Noteholders in accordance with Condition 14.

(ii) *Early redemption*

Lower Tier II Subordinated Notes may be validly redeemed early by the Issuer only with the prior consent of the Bank of Italy. Early redemption of the Lower Tier II Subordinated Notes may not be made in circumstances other than those specified under this Condition 2(d).

(e) **Special provisions relating to Upper Tier II Subordinated Notes**

*This Condition 2(e) applies only to Upper Tier II Subordinated Notes.*

(i) *Redemption at maturity and Early Redemption*

The Upper Tier II Subordinated Notes may be perpetual (*passività irredimibili*) or with fixed maturity of 10 years or longer (*altri strumenti rimborsabili*). The Upper Tier II Subordinated Notes may be redeemed early by the Issuer only with the prior consent of the Bank of Italy. Redemption of the Upper Tier II Subordinated Notes at maturity is also subject to the prior written consent of the Bank of Italy.

(ii) *Loss Absorption*

To the extent that the Issuer at any time suffers losses which in accordance with applicable provisions of Italian law and regulation would require the Issuer to reduce its capital below the minimum capital as provided for by the Bank of Italy from time to time for the issuance or maintenance of the Bank of Italy's authorisation to carry on banking activities and as determined by the external auditors of the Issuer and certified in writing to the Agent by two Directors of the Issuer (the "Minimum Capital"), the obligations of the Issuer in respect of principal and interest under the Upper Tier II Subordinated Notes will be reduced to the extent necessary to enable the Issuer, in accordance with requirements under Italian legal and regulatory provisions, to maintain at least the Minimum Capital. The obligations of the Issuer in respect of principal and interest under the Upper Tier II Subordinated Notes which are reduced in accordance with this Condition 2 (e)(ii) will be reinstated whether or not the Maturity Date of the relevant obligations has occurred:

- (A) in whole, in the event of winding up, dissolution, liquidation or bankruptcy (including, *inter alia*, *Liquidazione Coatta Amministrativa*, as described in Articles 80 to 94 of the Italian Banking Act) of the Issuer and with effect immediately prior to the commencement of such winding up, dissolution, liquidation or bankruptcy (including, *inter alia*, *Liquidazione Coatta Amministrativa*), as if such obligations of the Issuer had not been so reduced in accordance with this Condition 2(e)(ii); and
- (B) in whole or in part, from time to time, to the extent that the Issuer, by reason of its having profits, or by reason of its obtaining new capital contributions, or by reason of the occurrence of any other event, would again have at least the Minimum Capital and, therefore, would not be required to reduce its obligations in respect of principal and interest in accordance with this Condition 2(e)(ii).

The Issuer shall forthwith give notice of any such reduction and/or reinstatement to the Noteholders in accordance with Condition 14.

(iii) *Deferral of Interest*

The Issuer will not be required to pay interest on the Upper Tier II Subordinated Notes on an Interest Payment Date if (A) no annual dividend has been approved, paid or set aside for payment by a shareholders' meeting of the Issuer or paid in respect of any class of shares of the Issuer during the 12-month period ending on, but excluding, the second London Business Day (as defined in Condition 5(b)(v)) immediately preceding such Interest Payment Date or (B) the Board of Directors of the Issuer has announced, at the time of the release of any interim accounts published during the six-month period ending on, but excluding, the second London Business Day immediately preceding such Interest Payment Date, that, based on such interim accounts, no sums are available at such time for the payment of interim dividends, in accordance with Article 2433-bis of the Italian Civil Code.

Any such unpaid amounts of interest will constitute arrears of interest which will bear interest at the rate applicable to the relevant Upper Tier II Subordinated Notes. Arrears of interest (together with any additional interest amount in respect of such arrears of interest) will become due and payable (i) in part *pari passu* and *pro rata* if and to the extent that the Issuer makes payments of or in respect of amounts of interest on or in relation to any other *pari passu* claims with the exception of Lower Tier II and Tier III Subordinated Notes; and (ii) in full on the earliest to occur of (A) the Interest Payment Date falling on or after the date on which a dividend is approved or paid on any class of shares of the Issuer; (B) the date for repayment of the Upper Tier II Subordinated Notes; or (C) the date on which the *Liquidazione Coatta Amministrativa* of the Issuer is commenced pursuant to Article 83 of the Italian Banking Act or on which the Issuer becomes subject to a liquidation order.

### 3. Negative Pledge

*This Condition 3 applies only to Senior Notes.*

So long as any Senior Note remains outstanding (as defined in the Agency Agreement), the Issuer will not create or have outstanding (other than by operation of law) any mortgage, lien, pledge or other charge upon the whole or any part of its assets or revenues, present or future, to secure (i) any External Indebtedness or (ii) any guarantee of or indemnity in respect of any External Indebtedness unless:

- (i) the same security at the same time is extended equally and rateably to the Notes, Receipts and Coupons; or
- (ii) such other security as shall be approved by an Extraordinary Resolution (as defined in the Agency Agreement) of the Noteholders shall previously have been, or shall forthwith be, extended equally and rateably to the Notes, Receipts and Coupons.

As used herein:

“External Indebtedness” means any present or future indebtedness for borrowed money of the Issuer or any Subsidiary (as defined below) in the form of, or represented by, bonds, notes, debentures, loan stock, certificates of deposit or other like instruments (whether or not initially distributed by means of a private placing) which is intended to be, or is capable of being, quoted, listed or ordinarily dealt in on any stock exchange, over-the-counter or other established securities market (for which purpose any such indebtedness shall be deemed not to be capable of being quoted, listed or ordinarily dealt in, as aforesaid, if the terms of issue expressly so provide) and which by its terms is payable, or may be required to be paid, in or by reference to a currency either (i) not being euro or (ii) being euro and more than 50 per cent. of the aggregate principal amount whereof is initially distributed by, or with the authorisation of, the Issuer outside the Republic of Italy (“Italy”); and

“Subsidiary” means any entity which is a subsidiary within the meaning of Section 736 of the Companies Act 1985.

### 4. Redenomination

#### (a) Redenomination

Where redenomination is specified in the applicable Pricing Supplement as being applicable, the Issuer may, without the consent of the Noteholders, the Receiptholders and the Couponholders, on giving prior notice to the Agent, Euroclear and Clearstream, Luxembourg and at least 30 days’ prior notice to the Noteholders in accordance with Condition 14, elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be redenominated in euro.

The election will have effect as follows:

- (i) the Notes and the Receipts shall be deemed to be redenominated into euro in the denomination of euro 0.01 with a principal amount for each Note and Receipt equal to the principal amount of that Note or Receipt in the Specified Currency, converted into euro at the Established Rate, provided that, if the Issuer determines, with the agreement of the Agent, that the then market practice in respect of the redenomination into euro of internationally offered securities is different from the

provisions specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, the stock exchange (if any) on which the Notes may be listed and the Paying Agents of such deemed amendments;

- (ii) save to the extent that an Exchange Notice has been given in accordance with paragraph (iv) below, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of Notes presented (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest euro 0.01;
- (iii) if definitive Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Issuer in the denominations of euro 1,000, euro 10,000, euro 100,000 and (but only to the extent of any remaining amounts less than euro 1,000 or such smaller denominations as the Agent may approve) euro 0.01 and such other denominations as the Agent shall determine and notify to the Noteholders;
- (iv) if issued prior to the Redenomination Date, all unmatured Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void with effect from the date on which the Issuer gives notice (the “Exchange Notice”) that replacement euro-denominated Notes, Receipts and Coupons are available for exchange (provided that such securities are so available) and no payments will be made in respect of them. The payment obligations contained in any Notes and Receipts so issued will also become void on that date although those Notes and Receipts will continue to constitute valid exchange obligations of the Issuer. New euro-denominated Notes, Receipts and Coupons will be issued in exchange for Notes, Receipts and Coupons denominated in the Specified Currency in such manner as the Agent may specify and as shall be notified to the Noteholders in the Exchange Notice. No Exchange Notice may be given less than 15 days prior to any date for payment of principal or interest on the Notes;
- (v) after the Redenomination Date, all payments in respect of the Notes, the Receipts and the Coupons, other than payments of interest in respect of periods commencing before the Redenomination Date, will be made solely in euro as though references in the Notes to the Specified Currency were to euro. Payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (vi) if the Notes are Fixed Rate Notes and interest for any period ending on or after the Redenomination Date is required to be calculated for a period ending other than on an Interest Payment Date, it will be calculated by applying the Rate of Interest to each Specified Denomination, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention; and
- (vii) if the Notes are Floating Rate Notes, the applicable Pricing Supplement will specify any relevant changes to the provisions relating to interest.

**(b) Definitions**

In these Terms and Conditions, the following expressions have the following meanings:

“Established Rate” means the rate for the conversion of the Specified Currency (including compliance with rules relating to roundings in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to Article 123 of the Treaty;

“euro” means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty;

“Redenomination Date” means (in the case of interest bearing Notes) any date for payment of interest under the Notes or (in the case of Zero Coupon Notes) any date, in each case specified by the Issuer in the notice given to the Noteholders pursuant to paragraph (a) above and which falls on or after the date on which the country of the Specified Currency first participates in the third stage of European economic and monetary union; and

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

## 5. Interest

### (a) Interest on Fixed Rate Notes

Each Fixed Rate Note bears interest on its outstanding nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date.

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

If interest is required to be calculated for a period ending other than on an Interest Payment Date, such interest shall be calculated by applying the Rate of Interest to each Specified Denomination, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

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

- (i) if “Actual/Actual (ISMA)” is specified in the applicable Pricing Supplement:
  - (a) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the “Accrual Period”) is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates that would occur in one calendar year assuming interest was to be payable in respect of the whole of that year; or
  - (b) in the case of Notes where the Accrual Period is longer than the Determination Period commencing on the last Interest Payment Date on which interest was paid (or, if none, the Interest Commencement Date), the sum of:
    - (1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year assuming interest was to be payable in respect of the whole of that year; and
    - (2) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year assuming interest was to be payable in respect of the whole of that year; and
- (ii) if “30/360” is specified in the applicable Pricing Supplement, the number of days in the period from and including the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to but excluding the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

In these Terms and Conditions:

“Determination Period” means the period from and including a Determination Date to but excluding the next Determination Date; and

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

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

**(i) Interest Payment Dates**

Each Floating Rate Note and Index Linked Interest Note bears interest on its outstanding nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

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

Such interest will be payable in respect of each Interest Period (which expression shall, in these Terms and Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date).

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

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

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

- (A) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in any Additional Business Centre specified in the applicable Pricing Supplement; and
- (B) either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the

principal financial centre of the country of the relevant Specified Currency (if other than any Additional Business Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System (the “TARGET System”) is open.

(ii) *Rate of Interest*

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

(A) *ISDA Determination for Floating Rate Notes*

Where ISDA Determination is specified in the applicable Pricing Supplement as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Pricing Supplement) the Margin (if any). For the purposes of this sub-paragraph (A), “ISDA Rate” for an Interest Period means a rate equal to the Floating Rate that would be determined by the Agent under an interest rate swap transaction if the Agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2000 ISDA Definitions as published by the International Swaps and Derivatives Association Inc. and as amended and updated as at the Issue Date of the first Tranche of the Notes (the “ISDA Definitions”) and under which:

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

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

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

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

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

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

The Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (1) above, no such offered

quotation appears or, in the case of (2) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph.

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

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

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

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

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

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

The Agent will calculate the amount of interest (the “Interest Amount”) payable on the Floating Rate Notes or Index Linked Interest Notes in respect of each Specified Denomination for the relevant Interest Period. Each Interest Amount shall be calculated by applying the Rate of Interest to each Specified Denomination, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

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

- (i) if “Actual/365” or “Actual/Actual” is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (ii) if “Actual/365 (Fixed)” is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365;
- (iii) if “Actual/365 (sterling)” is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (iv) if “Actual/360” is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 360;
- (v) if “30/360”, “360/360” or “Bond Basis” is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (a) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (b) the last day of the Interest Period

is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and

- (vi) if “30E/360” or “Eurobond Basis” is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of the final Interest Period, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

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

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

(vi) *Certificates to be final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 5(b), whether by the Agent or, if applicable, the Calculation Agent, shall (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Agent, the Calculation Agent (if applicable), the other Paying Agents and all Noteholders, Receiptholders and Couponholders and (in the absence as aforesaid) no liability to the Issuer, the Noteholders, the Receiptholders or the Couponholders shall attach to the Agent or the Calculation Agent (if applicable) in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

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

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

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

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

**(e) Accrual of interest**

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

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

## **6. Payments**

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

Subject as provided below:

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

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 8.

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

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

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

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

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

Upon the date on which any Floating Rate Note, Dual Currency Note, Index Linked Note or Long Maturity Note in definitive form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A "Long Maturity Note" is a Fixed Rate Note (other than a Fixed Rate Note

which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

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

**(c) Payments in respect of Global Notes**

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

**(d) General provisions applicable to payments**

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

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

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

**(e) Payment Day**

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

- (i) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
  - (A) the relevant place of presentation;
  - (B) any Additional Financial Centre specified in the applicable Pricing Supplement; and
- (ii) either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial

centre of the country of the relevant Specified Currency (if other than the place of presentation and any Additional Financial Centre and which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney or Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET System is open.

**(f) Interpretation of principal and interest**

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

- (i) any additional amounts which may be payable with respect to principal under Condition 8;
- (ii) the Final Redemption Amount of the Notes;
- (iii) the Early Redemption Amount of the Notes;
- (iv) the Optional Redemption Amount(s) (if any) of the Notes;
- (v) in relation to Notes redeemable in instalments, the Instalment Amounts;
- (vi) in relation to Zero Coupon Notes, the Amortised Face Amount (as defined in Condition 7(e)); and
- (vii) any premium and any other amounts other than interest which may be payable by the Issuer under or in respect of the Notes.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 8.

**7. Redemption and Purchase**

**(a) Redemption at maturity**

Unless previously redeemed or purchased and cancelled as specified below, each Note will (subject, with respect to Tier III Subordinated Notes, to the provisions of Condition 2(c)) be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement in the relevant Specified Currency on the Maturity Date.

*The redemption of Upper Tier II Subordinated Notes shall always be subject to the prior approval of the Bank of Italy, such approval being dependent on the Issuer maintaining its minimum capital requirements (patrimonio di vigilanza) as prescribed in Title IV, Chapter 1 of the Bank of Italy's Regulations immediately following redemption of the Upper Tier II Subordinated Notes. If such approval is not given on or prior to the redemption date, the Issuer will re-apply to the Bank of Italy for its consent to such redemption forthwith upon its having gained, by whatever means, such required minimum capital. The Issuer will use its best endeavours to maintain such required minimum capital and to obtain such approval. Amounts that would otherwise be payable on the due date will continue to bear interest as provided in Condition 5(e).*

**(b) Redemption for tax reasons**

The Notes may be redeemed at the option of the Issuer (subject to the prior approval of the Bank of Italy in the case of Subordinated Notes) in whole, but not in part, at any time (if this Note is neither a Floating Rate Note nor an Index Linked Interest Note) or on any Interest Payment Date (if this Note is either a Floating Rate Note or an Index Linked Interest Note), on giving not less than 30 nor more than 60 days' notice to the Agent and, in accordance with Condition 14, the Noteholders (which notice shall be irrevocable), if:

- (i) on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8 as a result of any change in, or amendment to, the laws or regulations of a Tax Jurisdiction (as defined in Condition 8) or any political subdivision of, or any authority in, or of, a Tax Jurisdiction having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date on which agreement is reached to issue the first Tranche of the Notes; and

- (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it,

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

Prior to the publication of any notice of redemption pursuant to this Condition, the Issuer shall deliver to the Agent a certificate signed by two Directors of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or will become obliged to pay such additional amounts as a result of such change or amendment.

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

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

If Issuer Call is specified in the applicable Pricing Supplement, the Issuer may (subject to the prior approval of the Bank of Italy in the case of Subordinated Notes), having given:

- (i) not less than 15 nor more than 30 days' notice to the Noteholders in accordance with Condition 14; and
- (ii) not less than 15 days before the giving of the notice referred to in (i), notice to the Agent;

(which notices shall be irrevocable and shall specify the date fixed for redemption), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount equal to the Minimum Redemption Amount or a Higher Redemption Amount. In the case of a partial redemption of Notes, the Notes to be redeemed ("Redeemed Notes") will be selected individually by lot, in the case of Redeemed Notes represented by definitive Notes, and in accordance with the rules of Euroclear and/or Clearstream, Luxembourg, in the case of Redeemed Notes represented by a Global Note, not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the "Selection Date"). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 15 days prior to the date fixed for redemption. The aggregate nominal amount of Redeemed Notes represented by definitive Notes shall bear the same proportion to the aggregate nominal amount of all Redeemed Notes as the aggregate nominal amount of definitive Notes outstanding bears to the aggregate nominal amount of the Notes outstanding, in each case on the Selection Date, provided that such first mentioned nominal amount shall, if necessary, be rounded downwards to the nearest integral multiple of the Specified Denomination, and the aggregate nominal amount of Redeemed Notes represented by a Global Note shall be equal to the balance of the Redeemed Notes. No exchange of the relevant Global Note will be permitted during the period from (and including) the Selection Date to (and including) the date fixed for redemption pursuant to this paragraph (c) and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 14 at least five days prior to the Selection Date.

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

This Condition 7(d) applies only to Senior Notes.

If Investor Put is specified in the applicable Pricing Supplement, upon the holder of any Note giving to the Issuer in accordance with Condition 14 not less than 15 nor more than 30 days' notice the Issuer will, upon the expiry of such notice, redeem, subject to, and in accordance with, the terms specified in the applicable Pricing Supplement, in whole (but not in part), such Note on the Optional Redemption Date and at its Optional Redemption Amount together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date.

To exercise the right to require redemption of this Note the holder of this Note must, if this Note is in definitive form and held outside Euroclear and Clearstream, Luxembourg, deliver, at the specified office of any

Paying Agent at any time during normal business hours of such Paying Agent falling within the notice period, a duly completed and signed notice of exercise in the form (for the time being current) obtainable from any specified office of any Paying Agent (a “Put Notice”) and in which the holder must specify a bank account (or, if payment is required to be made by cheque, an address) to which payment is to be made under this Condition accompanied by, if this Note is in definitive form, this Note or evidence satisfactory to the Paying Agent concerned that this Note will, following delivery of the Put Notice, be held to its order or under its control. If this Note is represented by a Global Note or is in definitive form and held through Euroclear or Clearstream, Luxembourg, to exercise the right to require redemption of this Note the holder of this Note must, within the notice period, give notice to the Agent of such exercise in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg (which may include notice being given on his instruction by Euroclear or Clearstream, Luxembourg or any common depositary for them to the Agent by electronic means) in a form acceptable to Euroclear and Clearstream, Luxembourg from time to time and, if this Note is represented by a Global Note, at the same time present or procure the presentation of the relevant Global Note to the Agent for notation accordingly.

Any Put Notice given by a holder of any Note pursuant to this paragraph shall be irrevocable except where prior to the due date of redemption an Event of Default shall have occurred and be continuing in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this paragraph and instead to declare such Note forthwith due and payable pursuant to Condition 10.

**(e) Early Redemption Amounts**

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

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

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

where:

“RP” equals the Reference Price;

“AY” equals the Accrual Yield; and

“y” is a fraction the numerator of which is equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption of (as the case may be) the date upon which such Note becomes due and repayable and the denominator of which is 360,

or on such other calculation basis as may be specified in the applicable Pricing Supplement.

**(f) Instalments**

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

**(g) Partly Paid Notes**

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

**(h) Purchases**

The Issuer or any Subsidiary of the Issuer may at any time purchase Notes (provided that, in the case of definitive Notes, all unmatured Receipts, Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. If purchases are made by tender, tenders must be available to all Noteholders alike. All Notes so purchased will be surrendered to a Paying Agent for cancellation. References in these Conditions to the purchase of Notes shall not include the purchase of Notes by the Issuer or any of its Subsidiaries in the ordinary course of business of dealing in securities, as nominee or as a bona fide investment.

Subordinated Notes may only be purchased by the Issuer or any of the Issuer's Subsidiaries with the prior approval of the Bank of Italy.

**(i) Cancellation**

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

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

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

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

**8. Taxation**

All payments of principal and interest in respect of the Notes, Receipts and Coupons by the Issuer will be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of any Tax Jurisdiction unless such withholding or deduction is required by law. In such event, the Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes, Receipts or Coupons after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, Receipts or Coupons, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts shall be payable:

- (a) with respect to any payment or deduction of any interest, principal or other proceeds or on account of *imposta sostitutiva* (at the then applicable rate of tax) pursuant to Italian Legislative Decree No. 239 of 1st April 1996 and in all circumstances in which the procedures set forth in Legislative Decree No. 239 have not been met or complied with except where such procedures have not been met or complied with due to the actions or omissions of the Issuer or its agents;
- (b) with respect to any Note, Receipt or Coupon presented for payment:
  - (i) in Italy; or

- (ii) by or on behalf of a holder who is liable for such taxes or duties in respect of such Note, Receipt or Coupon by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Note, Receipt or Coupon; or
  - (iii) by or on behalf of a holder who is entitled to avoid such withholding or deduction in respect of such Note, Receipt or Coupon by making a declaration of non-residence or other similar claim for exemption to the relevant taxing authority; or
  - (iv) more than 30 days after the Relevant Date (as defined below) except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day assuming that day to have been a Payment Day (as defined in Condition 6(e)); or
  - (v) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26th-27th November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or
  - (vi) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a Member State of the European Union; or
- (c) in respect of any Note having an original maturity of less than eighteen months where such withholding or deduction is required pursuant to Presidential Decree No. 600 of 29th September 1973, as amended and supplemented.

As used herein:

- (i) “Tax Jurisdiction” means Italy or any political subdivision or any authority thereof or therein having power to tax; and
- (ii) “Relevant Date” means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Agent on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

## **9. Prescription**

The Notes, Receipts and Coupons will become void unless presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 8) therefor.

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

## **10. Events of Default**

### **(a) Events of Default relating to Senior Notes**

This Condition 10(a) applies only to Senior Notes.

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

- (i) there is default for more than 7 days in the payment of any principal or 15 days in the case of any interest due in respect of the Senior Notes; or
- (ii) the Issuer shall be adjudicated or found bankrupt or insolvent or shall stop or threaten to stop payment or shall be found unable to pay its debts, or any order shall be made by any competent court or administrative agency for, or any resolution shall be passed by the Issuer for, judicial composition proceedings with its creditors or for the appointment of a receiver or trustee or other similar official in insolvency proceedings in relation to the Issuer; or

- (iii) the Issuer becomes subject to an order for “*Amministrazione straordinaria*”, “*Gestione provvisoria*” or “*Liquidazione coatta amministrativa*” (within the meanings ascribed to those expressions by the Italian Banking Act and the other laws of Italy); or
- (iv) the Issuer fails to pay a final judgment of a court of competent jurisdiction within 30 days from the entering thereof or an execution is levied on or enforced upon or sued out pursuant to any such judgment against any substantial part of the assets or property of the Issuer; or
- (v) the Issuer shall be wound up, liquidated or dissolved (otherwise than for the purposes of an amalgamation, merger, reconstruction or reorganisation on terms approved by an Extraordinary Resolution of the Noteholders); or
- (vi) the Issuer shall cease to carry on business or threaten to cease to carry on all or a substantial part of its business (otherwise than for the purposes of an amalgamation, merger, reconstruction or reorganisation on terms approved by an Extraordinary Resolution of the Noteholders); or
- (vii) the security for any debenture, mortgage or charge of the Issuer shall become enforceable and the holder or holders thereof shall take any legal proceedings to enforce the same; or
- (viii) any indebtedness for borrowed money of the Issuer either (i) shall become, or become capable of being declared, due and payable prior to its stated maturity or (ii) shall not be repaid at maturity as extended by any applicable grace period therefor and, in either case, steps shall have been taken to obtain repayment, provided that, for the purposes of this Condition 10(a)(viii), the indebtedness for borrowed money must, either alone or when aggregated with (I) other indebtedness for borrowed money to which any part of this Condition 10(a)(viii) applies and/or (II) any guarantee to which any part of Condition 10(a)(ix) applies, amount to at least €20,000,000 (or its equivalent in any other currency); or
- (ix) any guarantee (other than a guarantee given in the ordinary course of its banking business or in respect of which the Issuer is restrained by an order of any court of competent jurisdiction from discharging its liability in respect thereof) given by the Issuer of any indebtedness for borrowed money shall not be honoured when due and called, provided that, for the purpose of this Condition 10(a)(ix), the amount payable under any guarantee as aforesaid must, either alone or when (I) aggregated with any indebtedness for borrowed money to which any part of Condition 10(a)(viii) applies and/or (II) any other guarantee to which any part of this Condition 10(a)(ix) applies, amount to at least €20,000,000 (or its equivalent in any other currency); or
- (x) default is made by the Issuer in the performance or observance of any obligation, condition or provision binding on it under the Senior Notes (other than any obligation for payment of any principal moneys or interest in respect of the Senior Notes) and such default continues for 30 days after written notice thereof by any Noteholder to the Issuer requiring the same to be remedied,

then any holder of a Senior Note may, by written notice to the Issuer at the specified office of the Agent, effective upon the date of receipt thereof by the Agent, declare any Senior Notes held by the holder to be forthwith due and payable whereupon the same shall become forthwith due and payable at its Early Redemption Amount (as described in Condition 7(e)), together with accrued interest (if any) to the date of repayment, without presentment, demand, protest or other notice of any kind.

**(b) Event of Default relating to Subordinated Notes**

This Condition 10(b) applies only to Subordinated Notes.

In the event of a winding up of the Issuer other than for the purposes of an amalgamation, merger, reconstruction or reorganisation on terms approved by an Extraordinary Resolution of the Noteholders, any holder of a Subordinated Note may, by written notice to the Issuer at the specified office of the Agent, effective upon the date of receipt thereof by the Agent, declare any such Subordinated Notes held by the holder to be forthwith due and payable whereupon the same shall become forthwith due and payable at its Early Redemption Amount (as described in Condition 7(e)), together with accrued interest (if any) to the date of repayment, without presentment, demand, protest or other notice of any kind.

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

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

## **12. Paying Agents**

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

The Issuer is entitled to vary or terminate the appointment of any Paying Agent and/or appoint additional or other Paying Agents and/or approve any change in the specified office through which any Paying Agent acts, provided that:

- (a) there will at all times be an Agent;
- (b) so long as the Notes are listed on any stock exchange (or any other relevant authority), there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange (or any other relevant authority); and
- (c) if any European Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26th-27th November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive is introduced, there will at all times be a Paying Agent in a Member State of the European Union (if any) that will not be obliged to withhold or deduct such tax pursuant to such Directive or law.

In addition, the Issuer shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in Condition 6(d). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Noteholders in accordance with Condition 14.

In acting under the Agency Agreement, the Paying Agents act solely as agents of the Issuer and do not assume any obligation to, or relationship of agency or trust with, any Noteholders, Receiptholders or Couponholders. The Agency Agreement contains provisions permitting any entity into which any Paying Agent is merged or converted or with which it is consolidated or to which it transfers all or substantially all of its assets to become the successor paying agent.

## **13. Exchange of Talons**

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

## **14. Notices**

All notices regarding the Notes will be deemed to be validly given if published (i) in a leading English language daily newspaper of general circulation in London, and (ii) if and for so long as the Notes are listed on the Luxembourg Stock Exchange, a daily newspaper of general circulation in Luxembourg. It is expected that such publication will be made in the *Financial Times* in London and the *Luxemburger Wort* in Luxembourg. The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any stock exchange (or any other relevant authority) on which the Notes are for the time being listed. Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers.

Until such time as any definitive Notes are issued, there may, so long as any Global Notes representing the Notes are held in their entirety on behalf of Euroclear and/or Clearstream, Luxembourg, be substituted for such

publication in such newspaper(s) the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg for communication by them to the holders of the Notes and, in addition, for so long as any Notes are listed on a stock exchange (or any other relevant authority) and the rules of that stock exchange (or any other relevant authority) so require, such notice will be published in a daily newspaper of general circulation in the place or places required by the rules of that stock exchange (or any other relevant authority). Any such notice shall be deemed to have been given to the holders of the Notes on the seventh day after the day on which the said notice was given to Euroclear and/or Clearstream, Luxembourg.

Notices to be given by any Noteholder shall be in writing and given by lodging the same, together (in the case of any Note in definitive form) with the relative Note or Notes, with the Agent. Whilst any of the Notes are represented by a Global Note, such notice may be given by any holder of a Note to the Agent through Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Agent and Euroclear and/or Clearstream, Luxembourg, as the case may be, may approve for this purpose.

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

The Agency Agreement contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Notes, the Receipts, the Coupons or any of the provisions of the Agency Agreement. Such a meeting may be convened by the Issuer or Noteholders holding not less than ten per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than 50 per cent. in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes, the Receipts or the Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereon, reducing or cancelling the amount of principal or the rate of interest payable in respect of the Notes or altering the currency of payment of the Notes, the Receipts or the Coupons), the quorum shall be one or more persons holding or representing not less than three-quarters in nominal amount of the Notes for the time being outstanding, or at any adjourned such meeting one or more persons holding or representing not less than one-half in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all Receiptholders and Couponholders.

The Agent and the Issuer may agree, without the consent of the Noteholders, Receiptholders or Couponholders, to:

- (a) any modification (except as mentioned above) of the Notes, the Receipts, the Coupons or the Agency Agreement which is not prejudicial to the interests of the Noteholders; or
- (b) any modification of the Notes, the Receipts, the Coupons or the Agency Agreement which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law.

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

## **16. Further Issues**

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

## **17. Contracts (Rights of Third Parties) Act 1999**

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Note, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

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

### **(a) Governing law**

The Agency Agreement, the Deed of Covenant, the Notes (except for Conditions 2(b), (c), (d) and (e) which are governed by, and shall be construed in accordance with, Italian law), the Receipts and the Coupons are governed by, and shall be construed in accordance with, English law.

### **(b) Submission to jurisdiction**

The Issuer agrees, for the exclusive benefit of the Noteholders, the Receiptholders and the Couponholders, that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Notes, the Receipts and/or the Coupons and that accordingly any suit, action or proceedings (together referred to as "Proceedings") arising out of or in connection with the Notes, the Receipts and the Coupons may be brought in such courts.

The Issuer hereby irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any such Proceedings in any such court and any claim that any such Proceedings have been brought in an inconvenient forum and hereby further irrevocably agrees that a judgment in any such Proceedings brought in the English courts shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.

Nothing contained in this Condition shall limit any right to take Proceedings against the Issuer in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

### **(c) Appointment of Process Agent**

The Issuer appoints Banca Monte dei Paschi di Siena S.p.A., London branch at its registered office at 122 Leadenhall Street, London EC3V 4RH as its agent for service of process, and undertakes that, in the event of such agent ceasing so to act or ceasing to be registered in England, it will appoint another person as its agent for service of process in England in respect of any Proceedings. Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

### **(d) Other documents**

The Issuer has in the Agency Agreement and the Deed of Covenant submitted to the jurisdiction of the English courts and appointed an agent for service of process in terms substantially similar to those set out above.

## **USE OF PROCEEDS**

The net proceeds from each issue of Notes will be applied by the Issuer for its general corporate purposes and for general capital requirements.

## BANCA MONTE DEI PASCHI DI SIENA S.P.A.

### General

Banca Monte dei Paschi di Siena S.p.A. (“BMPS” or the “Bank”) is the parent company of a leading Italian banking group operating throughout Italy (with a particularly strong presence in central Italy) and in the principal international financial centres. The Monte dei Paschi Group (the “BMPS Group” or the “Group”) offers a wide range of financial services and products to private individuals and corporations. The products and services include ordinary and specialised deposit-taking and lending (both short- and medium- to long-term), including leasing and factoring; payment services (home banking, cash management, credit or debit cards and treasury services for public entities); administration services for securities held in custody; asset management (closed-ended and open-ended mutual funds, management of customer investment portfolios, life insurance policies and pension funds); brokerage services; corporate finance (project finance, merchant banking, financial consulting) and tax collection services.

As of 31st December 2002 (according to the consolidated financial statements approved by the Board of Directors on 26th March 2003, and approved by the Annual General Shareholders Meeting on 26th April 2003) the Group had total assets of approximately Euro 128,883 million, total customer funds of approximately Euro 172,505 million (with a 6.7 per cent market share in direct funding as of such date), a domestic network made up of 1,827 branches and assets under management amounting to about Euro 37,035 million.

The BMPS Group operates through a network of branches which are well-rooted in their respective areas of operation, permitting the BMPS Group to develop close ties with its large retail customer base. The BMPS Group has more than 27,000 employees, approximately 1,500 “financial advisors”, and approximately 4,500,000 customers. Through its network of 37 branches and representative offices abroad, the BMPS Group provides international products and services to satisfy its Italian customers’ needs.

Most of the BMPS Group’s assets and operating profits are derived from its operations in Italy, where it plays a particularly significant role in offering financial services to private individuals and to small and medium-sized companies.

The BMPS Group reported a consolidated net profit of approximately Euro 582 million for the full year 2002 and a return on equity of 12.1 per cent.

### History

BMPS, which is believed to be the oldest bank in the world, has operated continuously since 1472, when its original charter was approved by the General Council of the Republic of Siena. The Bank, then known as “Monte di Pietà”, was originally established by the Republic of Siena for the purpose of providing a controlled source of lending for the local community, principally to fight usury. In 1624, the Bank changed its name to “Monte dei Paschi di Siena” after the paschi, the grazing fields owned by the Grand Duchy of Tuscany, the income from which was pledged to support the Bank’s capital. Following the unification of Italy, the Bank extended its activities beyond the immediate outskirts of Siena; but only after World War I did the Bank expand significantly, both geographically (with the opening of approximately 100 additional branches) and in terms of activities undertaken (with the commencement of various tax collection activities on behalf of national and regional governments). In 1936, the Bank was declared a public credit institution (Istituto di Credito di Diritto Pubblico) organised under a new charter, which, although modified during this period, remained in force until 1995.

In 1995, the Bank was again reorganised according to the Amato Law. At that time the Bank was formed as a “Società per Azioni” (“S.p.A.”), or joint stock company, which was owned by Monte dei Paschi di Siena — Istituto di Diritto Pubblico (the “Foundation”), a newly-formed non-profit entity. In accordance with the Amato Law, the Bank was given sole responsibility for all banking activities, while the objects of the Foundation were limited to pursuing projects of social importance in the areas of scientific research, education and health care.

On 25th June 1999, the Bank and the Foundation completed an initial public offering of 575,728,000 ordinary shares of the Bank (representing approximately 28 per cent. of the then outstanding ordinary shares) to investors in Italy and to institutional investors in certain other jurisdictions. The Foundation currently holds 59 per cent. of the Bank’s ordinary shares.

In the period 1999-2000 the Group strengthened its presence in Italy through the purchase of other regional banks.

On 20th February 1999 the Bank acquired 70 per cent. of Banca Agricola Mantovana S.p.A. (“BAM”), a bank operating principally in the regions of Lombardy and Emilia, and on 27th July 2000, the Bank purchased approximately 53.25 per cent. of Banca 121 S.p.A. Following a public tender offer to acquire the residual outstanding shares which was completed on 13th November 2000 the Bank increased its shareholding in Banca 121 S.p.A. to 93.98 per cent. In 1999, the Bank also acquired minority stakes in: Banca Monte Parma S.p.A. (41 per cent.), and Cassa di Risparmio di San Miniato S.p.A. (25 per cent.). In 1998, BMPS also acquired 20 per cent. of Banca Popolare di Spoleto S.p.A. On 14th November 2000 the Bank’s Board of Directors approved a new strategic plan for the Group to be implemented in the period from 2001 to 2004. An update of this plan was approved on 10th January 2002.

## **Group Structure**

The BMPS Group is structured along the lines of a multi-specialist and multi-market business model, based on a divisional configuration of the Corporate Centre and commercial banks according to customer segment (family, affluent and private clients in the retail market; small business, middle-market companies, large corporations, public-sector entities and financial institutions in the corporate market) and on specialised platforms for retail and corporate clients. The diagram on page 49 illustrates the structure of the Group.

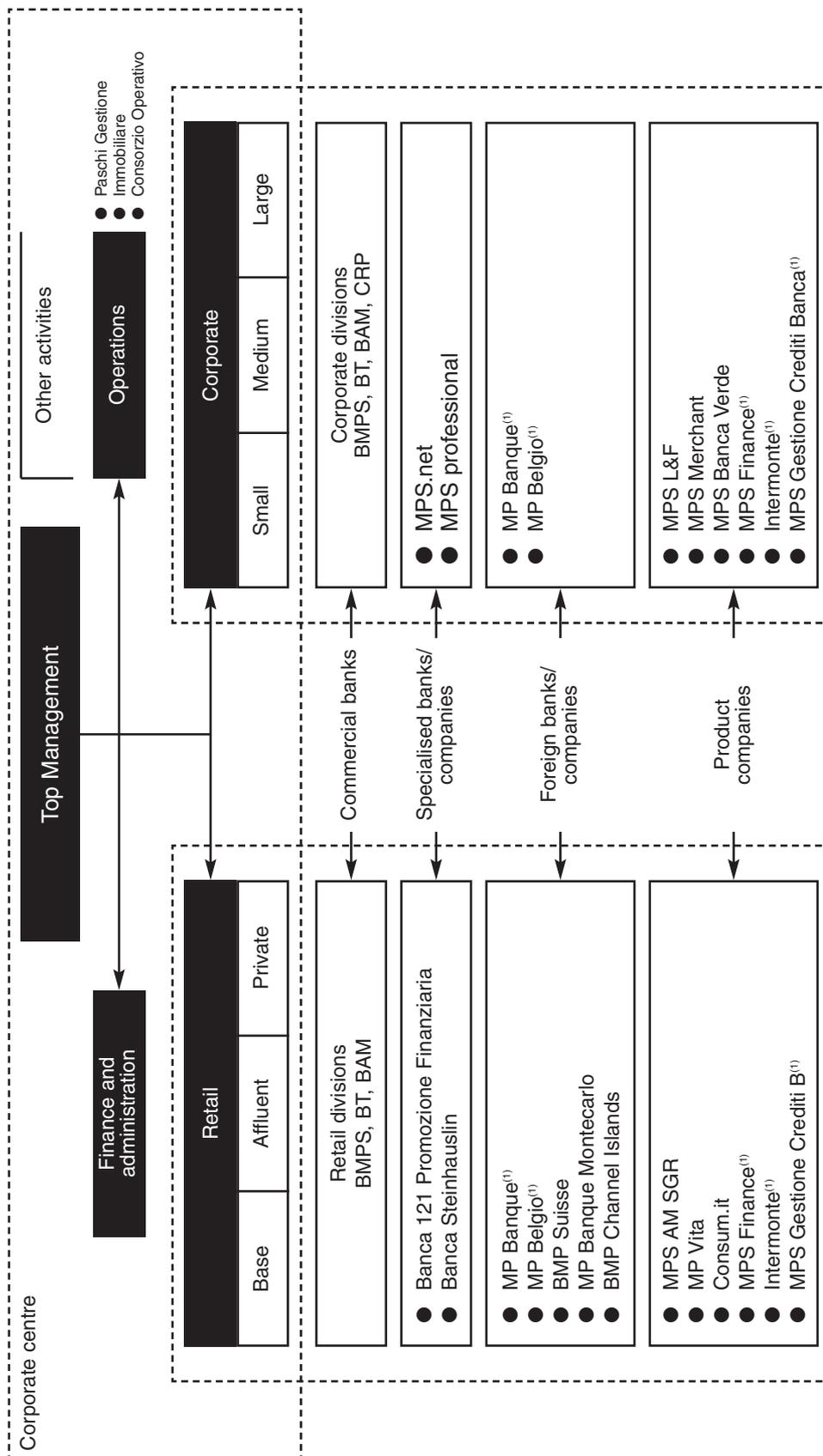
The Group operates as an integrated structure in which the Corporate Centre coordinates the activities of the Group’s banks and other subsidiaries, most of which offer specified types of services (the “Product Companies”), in order to optimise the Group’s ability to offer a comprehensive range of specialised services by capitalising on the value of the Group’s brands and on its presence in specific local markets.

The Product Companies are active in the provision of products and services, including: (i) industrial and agricultural lending, leasing and factoring and consumer credit; (ii) asset management; (iii) bancassurance; (iv) brokerage; and (v) tax collection.

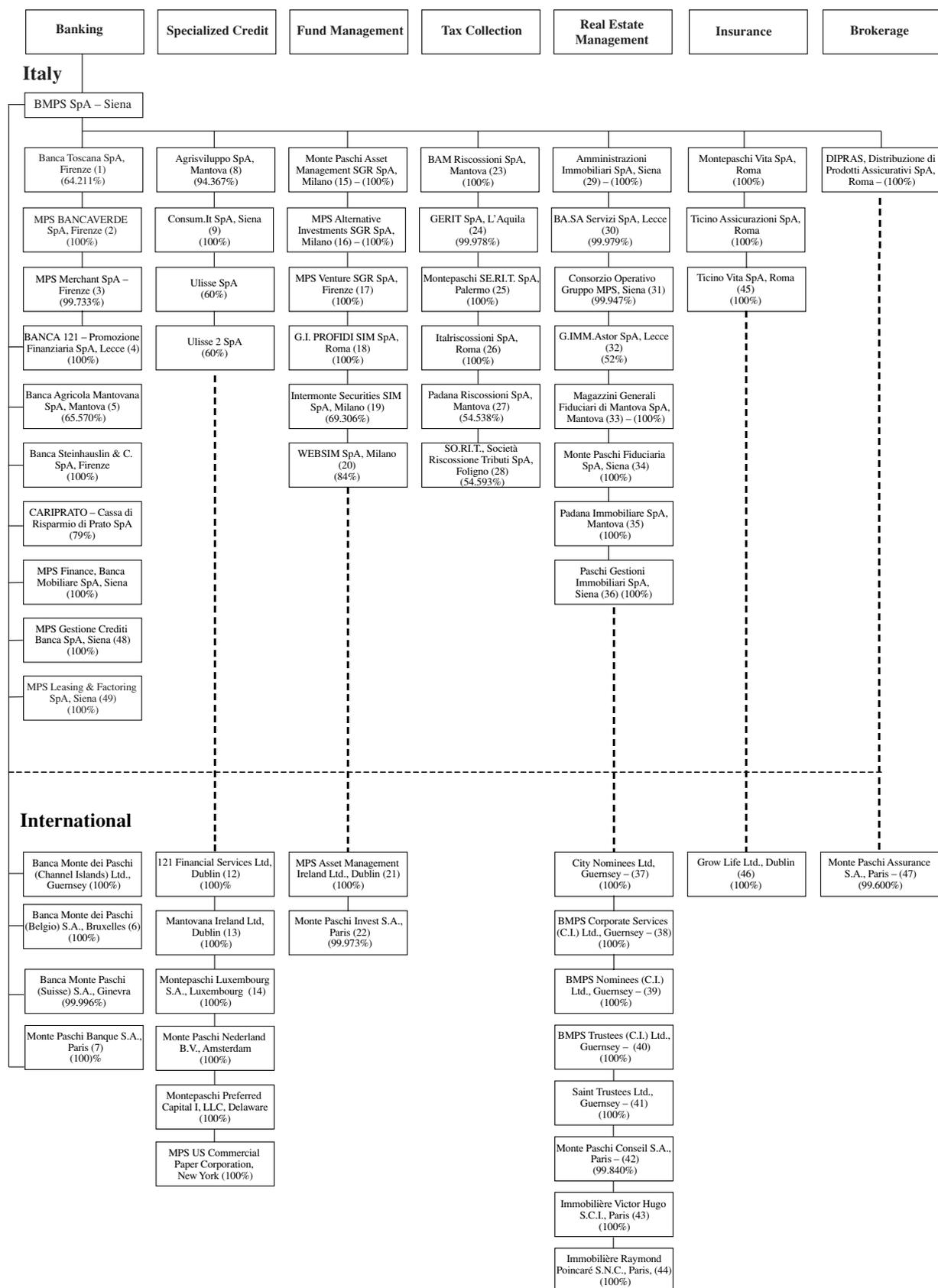
Other than in a few limited cases, the Product Companies do not have their own separate distribution capability and are dedicated to the development of specialised products and services essential to the operations of the banks. These include various types of specialised lending, mutual funds and insurance policies. This operational strategy enables the Group to exploit synergies which arise from combining the specialisation of the Product Companies with the strong territorial presence and operational experience of the commercial networks within the Group.

At the international level, the Group operates through a network of representative offices, foreign branches and foreign subsidiaries, which principally serve the local requirements of the Group’s domestic customers.

The chart on page 50 sets out the principal companies of the Group and their percentage ownerships as at 31st December 2002.



(1) Servicing both Retail and Corporate markets



- 1) The Bank owns 64.211 per cent.
- 2) The Bank owns 67 per cent., Banca Toscana owns 29.230 per cent. and Cariprato owns 3.770 per cent.
- 3) The Bank owns 88.053 per cent. and Banca Toscana owns 11.680 per cent.
- 4) The Bank owns 99.961 per cent. and MPS.net owns 0.039 per cent.
- 5) The Bank owns 65.546 per cent., Monte Paschi Vita owns 0.021 per cent. and Ticino Vita owns 0.003 per cent.

- 6) The Bank owns 64.473 per cent. and Banca Toscana owns 35.527 per cent.
- 7) The Bank owns 70.175 per cent. and Banca Toscana owns 29.825 per cent.
- 8) BAM owns 84.867 per cent. and MPS BANCAVERDE owns 9.5 per cent.
- 9) The Bank owns 70 per cent. and Banca Toscana owns 30 per cent.
- 10) The Bank owns 82.624 per cent., Banca Toscana owns 6.647 per cent., Cariprato owns 4.292 per cent. and BAM owns 6.437 per cent.
- 11) The Bank owns 99.500 per cent. and Banca Toscana owns 0,500 per cent.
- 12) The Bank owns 100 per cent.
- 13) BAM owns 100 per cent.
- 14) The Bank owns 99.2 per cent. and Monte Paschi Banque owns 0.80 per cent.
- 15) The Bank owns 79.98 per cent.; Banca Toscana owns 6.333 per cent., Cariprato owns 1.267 per cent., BAM owns 8.505 per cent. and Banca 121 PF owns 3.915 per cent.
- 16) Monte Paschi Asset Management owns 100 per cent.
- 17) MPS Merchant owns 70 per cent. and Intermonte Securities SIM owns 30 per cent.
- 18) BAM owns 100 per cent.
- 19) BAM owns 34.653 per cent. and MPS Finance B.M. owns 34.653 per cent.
- 20) Intermonte Securities owns 84 per cent.
- 21) BAM owns 100 per cent.
- 22) Monte Paschi Banque owns 99.973 per cent.
- 23) BAM owns 100 per cent.
- 24) The Bank owns 95.572 per cent. and BAM owns 4.407 per cent.
- 25) The Bank owns 100 per cent.
- 26) The Bank owns 100 per cent.
- 27) BAM owns 54.538 per cent.
- 28) The Bank owns 54.593 per cent.
- 29) The Bank owns 100 per cent.
- 30) The Bank owns 99.979 per cent.
- 31) The Bank owns 71.685 per cent., Banca Toscana owns 20.124 per cent., Cariprato owns 0.056 per cent., MPS Merchant owns 0,028 per cent., BANCAVERDE owns 0.028 per cent., Banca Steinhauslin owns 0.028 per cent., BAM owns 7.886 per cent., MPS Leasing & Factoring owns 0.028 per cent., MPS Gestione Crediti Banca owns 0.028 per cent., Banca 121 PF owns 0.028 per cent. and MPS Finance B.M. owns 0.028 per cent.
- 32) The Bank owns 52 per cent.
- 33) The Bank owns 100 per cent.
- 34) The Bank owns 86 per cent. and Banca Toscana 14 per cent.
- 35) The Bank owns 100 per cent.
- 36) The Bank owns 100 per cent.
- 37) Banca Monte Paschi Channel Islands owns 100 per cent.
- 38) Banca Monte Paschi Channel Islands owns 100 per cent.
- 39) Banca Monte Paschi Channel Islands owns 100 per cent.
- 40) Banca Monte Paschi Channel Islands owns 100 per cent.
- 41) Banca Monte Paschi Channel Islands owns 100 per cent.
- 42) Monte Paschi Banque owns 99.840 per cent.
- 43) Monte Paschi Banque owns 100 per cent.
- 44) Monte Paschi Banque owns 100 per cent.
- 45) Banca Toscana owns 40 per cent. and Monte Paschi Vita owns 60 per cent.
- 46) The Bank owns 40 per cent. and Monte Paschi Vita owns 60 per cent.
- 47) Monte Paschi Banque owns 99.6 per cent.
- 48) The Bank owns 99.5 per cent. and Banca Toscana owns 0.5 per cent.
- 49) The Bank owns 82.624 per cent., Banca Toscana owns 6.647 per cent., Cariprato owns 4.292 per cent. and BAM owns 6.437 per cent.

## Strategy

The Group has adopted a strategy to expand its traditional activities of retail banking and strengthen its position as the “bank of choice” for private individuals and small and medium-sized companies by anticipating client needs and offering an increasing range of innovative products and services. In this respect, the Group intends to continue to pursue a policy aimed at broadening its sources of revenue to a range of income-generating activities designed to provide the Group with more stable sources of revenue. The Group will seek to increase productivity by continuing its strategy of reducing and re-allocating its operating expenses, as well as exploiting synergies inherent within the Group’s organisational structure, by redirecting resources to the more productive activities of marketing and customer care. At the same time, the Group will follow a policy of selective credit allocation aimed at preserving its spreads through a careful risk versus profit analysis of its clients. In addition, the Group is seeking to expand and diversify its distribution channels in a way which will complement its branch

network. These alternative distribution channels include electronic on-line banking, automated branches, financial shops and a network of financial advisers.

On 10th January 2002, the Bank's Board of Directors approved a new three-year strategic plan for the Group. The plan represented an update of the previous strategic plan, adjusting the strategy to reflect the developments that occurred in the macroeconomic scenario and in the financial markets. According to the plan the Group's strategy is focused on three pillars: the business model, the specialisation of the commercial approach and improved efficiency.

On 12th September 2002, the boards of directors of BMPS and B121 approved the merger of BPMS and one of its subsidiaries, Banca 121 S.p.A. ("B121"), with a view to creating a new bank to specialise in financial management activities for affluent customers, thereby strengthening the BMPS Group in this sector. As a result of the merger which was completed in December 2002, B121 was incorporated into BMPS, except for: (i) the financial promotion business of B121, which has been transferred to a newly incorporated bank and (ii) the information technology systems of B121, which have been transferred to the Consorzio Operativo di Gruppo (the entity within the BMPS Group responsible for all information technology activities).

Through the merger with B121, BMPS aimed to consolidate its presence in the region of Apulia and to establish a "services centre" based in Lecce as support for the information technology needs of the new bank and any other bank of the BMPS Group located in southern Italy.

The incorporation of B121 branches into the BMPS network was consistent with the Group's plan to develop a specialised multi-channel distribution system.

On 10th October 2002, BMPS entered into an agreement with Società Cattolica di Assicurazione Coop a.r.l for the sale of the equity investment held by BMPS in Cassa di Risparmio di San Miniato S.p.A., representing 25 per cent. of the capital. The selling price has been set at Euro 72 million.

On 19th December 2002, the Boards of Directors of Banca Monte dei Paschi di Siena S.p.A. and Banca Popolare di Vicenza S.c.p.a.r.l. ("BPV") authorised the conclusion of negotiations for the sale by BMPS to BPV of 1,580,000 shares or 79 per cent. of Cassa di Risparmio di Prato S.p.A. for a price of roughly Euro 411.2 million.

On 24th December 2002, BMPS and BPV entered into a new shareholders' agreement (the "Agreement") (which replaced the then existing shareholders' agreement between the two banks and expiring on 31st January 2003) relating to the ownership by them of 168,641,830 shares in Banca Nazionale del Lavoro S.p.A. ("BNL") (96,773,829 shares are owned by BMPS and 71,868,001 shares are owned by BPV) and concerning:

- (i) a Voting Syndicate, stating that the parties shall vote in accordance with the decisions of the Executive Committee in relation to the matters indicated in the Agreement;
- (ii) a Consultative Syndicate, stating that the parties shall consult each other on matters other than those submitted to the Voting Syndicate.

Pursuant to shareholder resolutions approved on 28th February 2003 by BMPS, Banca Agricola Mantovana S.p.A. ("BAM") and Banca Toscana S.p.A. ("BT"), an agreement was signed on 25th March 2003 by the three banks covering the merger by incorporation of BT and BAM into BMPS. In accordance with the terms and conditions of the agreement, the merger became effective on 31st March 2003. The increase of share capital to service the merger occurred through the issue of 406,640,039 new ordinary shares of BMPS at a par value of Euro 0.64, for a total amount of Euro 260,249,624.96. The share swap ratios were affirmed as 4.15 ordinary shares of BMPS for every share of BAM and 1.95 ordinary shares of BMPS for every share of BT.

The overall transaction figures are part of the process to streamline the structure of the BMPS Group, and the related objective of bolstering the overall governance of the Group and improving operational synergies. The merger transaction occurred with the simultaneous spin-off of the banking activity of the subsidiaries to two new banks. The new institutions, which are 100 per cent. owned by BMPS and thus not publicly traded, will maintain their respective brand names in accordance with the guidelines set forth in the 2002-2005 Business Plan. The transactions are expected to result in advantages in terms of:

- greater efficacy in the implementation of the Group's overall policies;

- cost synergies and the streamlining of the holdings of non-banking assets of the two banks to be incorporated;
- growth of the Group's profitability, with all other profit-and-loss accounts remaining constant.

## **Distribution**

### *General*

The Group's banks draw their funding and provide their services through a variety of channels, predominantly relying on their extensive networks of branches. Other distribution channels include financial shops, ATMs, online and remote banking services and a network of POS terminals, call centres and personal financial consultants.

The Group's distribution philosophy focuses on proximity to the client, which management seeks to achieve through a strong territorial presence and by continuously tailoring its market approach to cater to a range of clients. The traditional branch remains the mainstay of client contact, but electronic and telephone banking are growing rapidly in importance. Management believes that the lower overhead costs required by these non-traditional networks provide an opportunity for significant saving, while also granting clients access to a wide range of banking and financial services. In addition, with non-traditional networks performing a substantial volume of routine transactions and the distribution of lower value-added products, the overhead costs of the branch network can be reduced.

### *The Branch Network*

The Group had a network of 1,827 branches in Italy at 31st December 2002, covering most of the country.

As of 31st December 2002, the Bank operated through 1,080 branches which are divided into 21 groups, which generally correspond to one or more Italian provinces. Each group of branches is headed by one lead branch (capogruppo) which centralises certain functions of the Bank's network for its area and acts as an interface between the central administration and the other branches within that group. In particular, these lead branches perform specialised marketing functions relating to asset management products and medium and long-term lending, as well as centralising the credit approval process. The other branches are classified as either succursali or agenzie, depending upon their location rather than their size. There is some concentration of the branches in central Italy and particularly in Tuscany, where the activity of the Bank and its clients have traditionally been based.

As of 31st December 2002, Banca Toscana operated through 409 branches. These branches were located in Liguria, Tuscany, Umbria, Lazio, Marche and Abruzzi. The Banca Toscana branch network overlaps somewhat with the Bank's network in certain areas, and particularly in Tuscany. However, management believes that, besides serving partially different needs and client bases, the two banks have distinct areas of concentration, with the Bank mainly concentrating in the southern part of Tuscany, and Banca Toscana in the northern part of Tuscany. Moreover, management believes that the joint presence of the Bank and Banca Toscana in Tuscany has strengthened the Group due to the deep territorial rooting of the two banks and their respective brands, which is reflected in the large market share that each bank holds in its respective area of concentration.

As of 31st December 2002, BAM and its subsidiaries operated through 290 branches, principally located in the regions of Lombardy, Emilia Romagna and Abruzzo.

## **Funding**

### *General*

During 2002 the Group successfully continued to employ various sources of funding both traditional (i.e. CD's and interbank market) and innovative (structured finance). The Group also issued various kinds of securities such as structured and/or plain vanilla bonds placed to retail customers of the Group while the amounts raised from the international markets (through its Debt Issuance Programme) were limited to a few private placements.

## *Bond Indebtedness*

As parent company, the Bank covers its medium term funding requirements as well as those of its subsidiaries by issuing a variety of debt instruments on the Italian and on the international markets mainly through euro-denominated issues such as fixed rate, zero coupon and floating rate notes (including equity-linked and/or index-linked struments).

The Bank has been devoting increasing attention to the international markets as a source of funding in recent years.

During 2002 the Bank effected a number of issues under the Programme for a total amount of about €825,000,000 of senior debt. These were public and privately placed issues with maturities from 2 up to 10 years. Furthermore, with the aim of ameliorating the capital ratios (consolidated and unconsolidated) in 2002 the Bank issued a total of €100,000,000 of Subordinated Tier III FRNs due 2005 as well as €100,000,000 Subordinated Amortizing Lower Tier II FRNs due 2007 (both issues were privately placed).

## **Information Technology**

In recent years the Group has implemented a reorganisation of its information technology (IT) operations directed at promoting more uniformity of IT systems and structures within the Group. As part of this restructuring, a consortium was created to manage the Group's IT systems and serve the need of the various functions within the Bank, Banca Toscana and Cariprato.

The initial process for the banking subsidiaries of the Group was substantially completed in October 1998 with the introduction of a single IT system (Sistema Informativo Unificato, or SIU) for the Bank, Banca Toscana and Cariprato.

The consortium is currently engaged in several development projects principally for the areas of risk management, trading back office procedures, credit rating and scoring, customer service centre, new products catalogue, payment and settlement procedures, and software enhancement for the international branches.

The Group does not have a separate hardware system for immediate recovery procedures; however, the Group has two distinct hardware systems (one located at the Bank and the other in Florence, serving Banca Toscana and Cariprato) operating with the same IT system. The Group also maintains back-up files of its data. Management believes that, should severe disruptions occur on one hardware system, services can be restored, although on a limited basis, by operating the second hardware system.

## **Competition**

The Group faces significant competition from a large number of banks throughout Italy and abroad. According to the Bank of Italy, around 930 banks were operating in Italy at the end of 1999. The implementation of the EU Directives, the Amato Law and the Dini Directive (see "The Italian Banking System, Supervision and Regulation") have led to a privatisation and consolidation process in the Italian banking system and are expected to lead to the creation of larger, more publicly accountable and more competitive banking institutions. The deregulation of the banking industry in Italy, and throughout the European Union, is intensifying competition in both deposit-taking and lending activities, which has contributed to a progressive narrowing of spreads between deposit and loan rates. In attracting retail deposits and financing retail customers, the Bank primarily competes at the local level with medium-sized local banks, and to a lesser extent, with super-regional banks. The Bank's major competitors in other areas of the Italian banking market are Italian national and super-regional banks, such as San Paolo IMI, Banca Intesa, UniCredito Italiano, Banca Nazionale del Lavoro and Capitalia. The leasing and factoring markets in Italy are also maturing, leading to increased competition in those areas.

Foreign banking institutions operating in Italy, that may also have greater financial and other resources than the Group, are growing in number and are regarded as increasingly more effective competitors, mainly in corporate banking and sophisticated services related to asset management, securities dealing and brokerage activities and, increasingly, in mortgage lending. In addition, as with all European banks, the adoption of the European Monetary Union (EMU) has increased competition from non-Italian banks and eliminated or significantly changed certain markets in which the Group has historically held a comparative advantage, principally Lit.-denominated markets.

## Legal Proceedings

The Group is subject to a variety of claims and the Bank and its subsidiaries are party to a large number of legal proceedings arising in the ordinary course of business. Although the outcome of such claims is inherently uncertain and several actions claim relatively large sums as damages, management does not believe that liabilities related to such claims are likely to have a material adverse effect on the Group's consolidated financial position or results of operations. The Group and its directors are parties to the significant claims and legal proceedings described below:

- Following an inspection, the Ministry of the Treasury claimed that the Bank, in the context of the treasury services it performs for the Istituto Postelegrafonici, had agreed to accept in deposit from the Istituto Postelegrafonici sums larger than allowed by Art. 40 of Decree no. 119 dated 30th March 1991. The Treasury consequently imposed a fine of 95 billion Italian lire (approximately Euro 49 million). The Group has commenced a proceeding challenging this claim before the Administrative Tribunal of Lazio. Management believes that the Group's case is well founded but, in light of the complexity of the matter, the outcome of the case cannot be predicted.
- In July 1997, Sante Dalle Carbonare, principal shareholder of Trevitex S.p.A., together with other interested parties including members of his family, sued a syndicate of 24 banks including the Bank claiming 1,220 billion Italian lire (approximately Euro 630 million) in damages in connection with the restructuring of the debt of Trevitex S.p.A., in which those banks participated. On 16th April 2000 the Court of Vicenza excluded certain members of the Dalle Carbonare family from the proceedings and consequently reduced Sante Dalle Carbonare's claim for damages. The plaintiff and the banks appealed against the decision and the suit is now pending before the Court of Venezia. In addition, the plaintiffs, including those excluded from the proceedings, have been ordered by the Court to pay 39 billion Italian lire (approximately Euro 20.1 million) towards the legal costs of the banks. On 1st December 2000, following the merger of two of the defendant banks in the syndicate, the Court of Vicenza suspended the proceedings against all the syndicate banks. The plaintiffs then recommenced their action against the syndicate banks before the Court of Vicenza. Management believes the plaintiffs' claims are without merit, that the risk of loss on the merits is low and adequately covered by the Bank's provision for future losses.
- Effective 30th December 1996, Serit terminated its tax collection activities in Sicily in a further attempt to resolve the dispute over the sums owed by the region. The termination was only carried on for a few days. Serit had given six months advance formal notice of the termination and had made available to the region all personnel and structures necessary to continue tax collection in the territory. Subsequently, the District Attorney of Palermo commenced a criminal proceeding against the then directors of Serit and the Bank (including one current director of the Bank) for the crime of interruption of public service. Management believes that the claims are without merit and that, regardless of the outcome, the litigation could not have a material adverse effect on the Group.
- In June 1999 a shareholder of BAM filed a suit challenging the validity of the BAM shareholders' meeting resolution of 20th February 1999 concerning the transformation of BAM into a joint stock company. Management believes that the claim is without merit and that the risk of loss on the merits is low.

## Employees

The Group had an average number of employees at the end of 2002 of 27,580.

Management believes that its relations with its employees are satisfactory. The level of unionisation of the Group's employees is higher than the average in Italian banks, although management believes that this does not negatively impact labour relations in the Group. In the last three years there have not been work stoppages with any significant effect on the activities of the Group.

## SUMMARY FINANCIAL INFORMATION OF THE GROUP

*The Consolidated Financial Statements of the Group are incorporated by reference into this Offering Circular. Copies of the 2002 and 2001 Annual Reports (including the Consolidated Financial Statements) are available on request from the Bank and free of charge at the office of the Paying Agent in Luxembourg.*

### Summary Historical Financial Information

The following tables set forth summary financial data and statistical information for the Group at and for each year in the three-year period ended 31st December 2002, 2001 and 2000. The financial information and certain of the statistical information at and for each year in the three-year period ended 31st December 2002, 2001 and 2000 have been derived from the audited Consolidated Financial Statements, which have been prepared in accordance with Italian GAAP.

	Years ended 31st December		
	2002 <i>euro</i>	2001 <i>euro</i>	2000 <i>euro</i>
<b>Income Statement Data:</b>			
Interest income .....	5,067.0	5,615.0	5,230.5
Interest expenses .....	(2,727.0)	(3,330.8)	(3,168.1)
Net interest income: .....	2,340.0	2,284.2	2,062.4
Income from financial transactions .....	(74.8)	395.9	239.9
Net commissions and other income .....	1,957.2	2,020.5	2,222.5
Dividends and tax credits .....	547.8	372.1	138.8
Non-interest income .....	2,430.2	2,788.5	2,601.3
Total net interest income and non-interest income .....	4,770.2	5,072.7	4,663.6
General and administrative expenses .....	(2,927.5)	(2,909.6)	(2,685.4)
Gross operating profit .....	1,842.7	2,163.1	1,978.3
Depreciation and amortisation .....	(494.7)	(376.5)	(308.4)
Provisions for risks and contingencies.....	(42.3)	(75.6)	(107.4)
Net adjustments to loans .....	(438.0)	(326.9)	(371.7)
Provisions for loan risk .....	(90.0)	(57.1)	(40.9)
Net adjustments to securities and investments in associated companies	(290.8)	(21.6)	2.2
Income before extraordinary items, provision for general banking risks and income taxes .....	486.9	1,305.4	1,152.1
Extraordinary items .....	316.6	24.5	151.5
Provision for general banking risks .....	85.0	(5.5)	1.6
Income taxes.....	(216.6)	(610.9)	(655.7)
Net income before minority interest .....	671.9	713.5	649.5
Minority interest .....	(90.0)	(96.1)	(83.8)
Net income .....	581.8	617.4	565.7

## Balance Sheet Data

	As at 31st December		
	2002 <i>euro</i>	2001 <i>euro</i>	2000 <i>euro</i>
<b>Assets</b>			
Cash and deposits with central banks and post office .....	833.6	707.5	474.0
Total loans and advances .....	84,499.1	79,033.0	76,821.9
Loans and advances to banks .....	16,027.1	14,088.7	15,870.2
Loans and advances to customers .....	68,472.0	64,944.3	60,951.7
Securities .....	16,910.6	15,803.2	15,803.6
Trading securities .....	12,458.0	11,466.8	10,468.6
Investment securities .....	4,452.6	4,336.4	5,334.9
Investments in associated companies .....	2,188.6	2,718.8	1,872.3
Fixed assets, net .....	3,450.7	3,491.5	3,198.8
Other assets .....	21,000.3	15,199.4	10,140.1
<b>Total assets .....</b>	<b>128,882.9</b>	<b>116,953.4</b>	<b>108,310.7</b>
<b>Liabilities and Shareholders' Equity Funding:</b>			
Deposits from banks .....	20,516.3	15,142.2	17,778.5
Customers accounts .....	49,816.3	48,478.8	47,019.0
Securities issued .....	27,474.7	27,464.7	24,019.4
Provision for termination indemnities .....	434.2	445.6	446.3
Other liabilities .....	18,893.5	13,403.9	8,607.4
Provision for risk and charges <sup>(1)</sup> .....	2,474.8	2,654.7	2,735.6
Subordinated loans .....	3,276.1	3,060.0	1,794.7
Net equity attributable to minority interest .....	807.6	973.4	787.7
Shareholders' equity .....	4,607.6	4,712.9	4,556.4
Share capital .....	1,675.0	1,356.1	1,219.1
Reserves .....	2,932.6	3,356.8	3,337.3
Net income for the period .....	581.8	617.4	565.7
<b>Total liabilities and shareholders' equity .....</b>	<b>128,882.9</b>	<b>116,953.4</b>	<b>108,310.7</b>
<b>Selected Off-Balance Sheet Data:</b>			
Guarantees .....	6,390.9	9,431.6	7,536.4
Commitments .....	25,879.8	22,399.6	21,694.4
Assets under management:			
Mutual funds .....	13,058.0	15,799.0	16,542.6
Customers investment portfolio Management .....	11,151.0	13,347.0	16,979.6
Life insurance .....	12,641.0	10,248.0	8,023.7
Pension funds .....	185.0	105.0	63.0

(1) Includes the Group's reserve for general banking risks, equivalent to €361 million in 2002, €456 million in 2001 and €451 million in 2000.

**As at and for the  
years ended 31st December**

	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>
<b>Balance Sheet Account Ratios</b>					
Loans and advances to					
customers/total assets .....	53.13	55.53	56.27	53.75	49.66
Securities/total assets .....	13.12	13.51	14.59	17.28	20.22
Fixed assets/total assets .....	2.68	2.99	2.95	2.44	1.00
Due to customers and debts represented by securities/total liabilities and shareholders' equity .....	59.97	64.93	65.58	63.79	59.74
Shareholders' equity/total liabilities and shareholders' equity .....	4.31	4.95	4.21	4.55	4.77
<b>Profitability Ratios</b>					
Net interest income/total assets .....	1.82	1.95	1.90	2.01	2.11
Net interest income and non-interest income/total assets .....	3.70	4.34	4.24	4.01	4.16
Non-interest income/Net interest income and non-interest income.....	50.94	54.97	55.09	49.84	49.38
General and administrative expenses/Net interest income and non-interest income.....	61.37	57.36	58.49	60.70	58.81
Gross operating profit/total assets .....	1.43	1.85	1.76	1.57	1.71
Net income/total assets .....	0.45	0.53	0.52	0.46	0.50
Net income/shareholders' equity .....	10.49	10.67	12.40	12.67	11.74
<b>Risk Indicators</b>					
Net overdue loans/loans and advances to customers .....	1.72	1.47	2.94	3.22	3.71
Net doubtful loans <sup>(1)</sup> /loans and advances to customers .....	3.54	3.07	4.69	5.52	6.97
<b>Productivity Indicators</b>					
Due to customers and debts represented by securities/ average number of employees <sup>(2)</sup> .....	2751.84	2655.83	4.90	4.68	4.39
Loans and advances to customers/average number of employees <sup>(2)</sup> .....	2437.85	2271.18	4.21	3.94	3.65
Capital (Tier 1) ratios .....	6.05	5.77	5.30	6.68	8.14

(1) Doubtful loans include overdue loans, non-performing loans and loans to high-risk countries.

(2) Based on number of employees as at 31st December 2002.

### *Recent Developments*

On 26th March 2003, Vincenzo De Bustis, the then Chief Executive Officer of the Bank resigned from his post with immediate effect.

On 26th April 2003, the annual general meeting of the shareholders of the Bank approved the annual financial statements for the year ended 31st December 2002 and the allocation of the annual net profit of EUR 599.5 million. In addition, the shareholders approved a total of 16 members for the Board of Directors and two vice chairmen of the Bank for the years 2003, 2004 and 2005, and appointed the following persons to the Board for the three-year period: Pier Luigi Fabrizio, Stefano Bellaveglia, Fabio Borghi, Turiddo Campaigni, Giuseppe Catturi, Luca Fiorito, Andrea Pisaneschi, Roberto Rossi, Lorenzo Gorgoni, Carlo Querci, Emilio Gnutti, Girolamo Strozzi, Francesco Gaetano Caltagirone, Massimo Caputi, Ivano Sacchetti and Francesco Saverio Carpinelli.

At the same meeting, Pier Luigi Fabrizio was elected as the chairman of the Board of Directors, and Stefano Bellaveglia and Emilio Gnutti were elected as vice chairmen.

The shareholders then approved the appointment of the following persons to the Board of Statutory Auditors for the above three-year period: Giuseppe Vittimberga, as chairman, Leonardo Pizzichi and Pietro Fabretti, as acting auditors, and Marco Turillazzi and Stefano Mendicino, as substitute auditors.

On 15th May 2003, the Board of Directors appointed Emilio Tonini as Chief Executive Officer of the Bank.

## MANAGEMENT OF THE BANK

The management of the Bank is divided among three governing bodies: the Board of Directors, the Executive Committee, which acts under the delegated authority of the Board of Directors, and the Chief Executive Officer, who manages the day-to-day operations of the Bank. The Board of Directors consists of sixteen members. The selection of such members must be notified to the Bank of Italy according to the Bank of Italy Supervisory Rules (“*Istruzioni di Vigilanza*”). Each member of the Board of Directors is required to meet the honourability and professionalism requirements provided by law.

The Executive Committee is appointed for a period of one year by the Board of Directors pursuant to the by-laws of the Bank. The Chief Executive Officer is also appointed by the Board of Directors but is not a member of the Board of Directors. Under the Italian Civil Code, the Bank is required to have a board of statutory auditors.

### Board of Directors

The Board of Directors of the Bank is composed of the following persons:

<i>Name</i>	<i>Year of Birth</i>	<i>Position</i>	<i>Year Appointed</i>
Pier Luigi Fabrizi	1948	Chairman	2003
Stefano Bellaveglia	1958	Deputy Chairman	2003
Emilio Gnutti	1947	Deputy Chairman	2003
Fabio Borghi	1952	Director	2003
Francesco Gaetano Caltagirone	1943	Director	2003
Turiddo Campaini	1940	Director	2003
Massimo Caputi	1952	Director	2003
Francesco Saverio Carpinelli	1948	Director	2003
Giuseppe Catturi	1942	Director	2003
Luca Fiorito	1967	Director	2003
Lorenzo Gorgoni	1942	Director	2003
Andrea Pisaneschi	1959	Director	2003
Carlo Querci	1928	Director	2003
Roberto Rossi	1940	Director	2003
Ivano Sacchetti	1944	Director	2003
Girolamo Strozzi	1938	Director	2003

The Directors currently in office have all been appointed by the annual general shareholders’ meeting held on 26th April 2003. The present Board of Directors will remain in charge until the approval of the annual financial statements for the year ending 31st December 2005.

The Foundation continues to hold the majority of shares of capital stock in the Bank.

Shareholders’ meetings may be called by the Board of Directors and generally must be called at the request of holders of at least 10 per cent. of the outstanding ordinary shares.

Directors hold office for a period of three years and are elected by a majority of the voting shareholders who also nominate the Chairman and two Deputy Chairmen among the elected Board of Directors. Directors may be re-elected for consecutive terms and their office may be revoked at any time by the voting shareholders in general meeting.

The Board of Directors meets regularly at the Bank’s registered office. Meetings of the Board of Directors are convened on a monthly basis upon request of the Chairman. Meetings may also be convened upon reasonable and detailed request of at least three Directors or upon written request of the Board of Statutory Auditors or at least two Statutory Auditors addressed to the Chairman.

Meetings may be held in person or through video-conference. The quorum for meetings of the Board of Directors is a majority of the Directors in office. Resolutions are adopted by the vote of a majority of the Directors attending the meetings. In case of a voting tie the Chairman has a casting vote.

## **Executive Committee**

The Executive Committee consists of the Chairman, the Deputy Chairman, the Executive Directors and a variable number of Directors in order to ensure that the Executive Committee consists of a minimum of five members and a maximum of nine. Executive Committee meetings are convened by the Chairman normally at two-weekly intervals. The Executive Committee exercises the powers that are delegated to it by the Board of Directors and, in the case of emergency, may adopt resolutions concerning any transaction or operation within the power of the Board of Directors, other than transactions or operations expressly reserved for consideration by the full Board of Directors and must inform the Board of Directors of such resolutions at its next meeting.

The Executive Committee, appointed by the Board of Directors on 8th May 2003 and which will remain in office until the shareholders' meeting for approval of the 2003 budget, consists of:

Pier Luigi Fabrizi	Chairman
Stefano Bellaveglia	Deputy Chairman
Emillio Gnutti	Deputy Chairman
Fabio Borghi	Member
Massimo Caputi	Member
Francesco Saverio Carpinelli	Member
Luca Fiorito	Member
Lorenzo Gorgoni	Member

## **Chief Executive Officer**

Pursuant to Italian banking regulations, the selection of the Chief Executive Officer (Direttore Generale) of the Bank must be notified to the Bank of Italy.

The duties of the Chief Executive Officer are currently being undertaken by Acting Deputy Chief Executive Officer Pier Giorgio Primavera.

The Chief Executive Officer is appointed by the Board of Directors which may also remove or suspend the Managing Director from his office. He attends the meeting of the Board of Directors but has no right to vote on resolutions passed at such meetings.

The Chief Executive Officer undertakes all operations and acts which are not expressly reserved for the Board of Directors or the Executive Committee. He oversees and is responsible for the overall administration and structure of the Bank and implements resolutions of the Board of Directors. He participates in meetings of the Board of Directors and proposes matters to the Board of Directors for approval, including matters relating to loans, the coordination of activities of the Group, and the recruitment of officers and employees.

## **Senior Management**

Since 1st August 2001, pursuant to the new organisational model of the Bank set forth in the 2001-2004 Group Business Plan, the following divisions were established:

- the Corporate Centre with supervisory, co-ordination, control and management responsibilities within the Bank's general objects set by the Board of Directors. The Corporate Centre also provides assistance and services to the whole Group; and
- the Commercial Division responsible for the development of the market and client relations.

The table below sets forth the names of the current senior management of the Bank, together with their positions.

<i>Name</i>	<i>Position</i>
<b>General Affairs Division</b>	
Emilio Tonini	Chief Executive Officer
Pier Giorgio Primavera	Deputy Chief Executive Officer
Antonio Vigni	Vice Chief Executive Officer
Pier Luigi Corsi	Vice Chief Executive Officer
<b>Corporate Centre</b>	
Roberto Martinelli	Corporate and Legal Department Chief Officer
Gustavo Crescenzo	Internal Audit Department Chief Officer
Vittorio Calvanico	Development Department Chief Officer
Gianluca Baldassarri	Finance Department Chief Officer
Pier Giorgio Primavera (interim)	Planning, Control and Risk Management Department Chief Officer
Mauro Gennari	Personnel Department Chief Officer
Enrico Grazzini	Technology and Organisation Department Chief Officer
Giuseppe Iosco	Logistic and Corporate Responsibility Department Chief Officer
Rossano Bagnai	Tax and Collection Department Chief Officer
Roberto Menchetti	Credit Policy and Control Department Chief Officer
Paolo Molesini	Retail-Clients Department Chief Officer
Antonio Marino	Corporate-Clients department Chief Officer
Primo Brioni	International Affairs Department Chief Officer
<b>Commercial Division</b>	
Giorgio Olivato	Head of Division
Giorgio Occhipinti	Planning and Control Department Chief officer
Luca Ricci	Audit Department Chief Officer
Silvano Del Greco	Retail-Client Department Chief Officer
Lamberto Rosetti	Corporate-Clients Department Chief Officer
Giancarlo Pompei	Credit Control and Granting Department Chief Officer
Marcello Cardinali	Organisation and Personnel Department Chief Officer
Roberto Tuzzami	Litigation Department Chief Officer

### **Board of Statutory Auditors**

The Bank, like all Italian *società per azioni* is required to have a Board of Statutory Auditors, who have a duty to shareholders, to whom they report at the annual general shareholders' meeting approving the financial statements. The Board of Statutory Auditors is required to verify that the Bank (i) complies with applicable law and its by-laws, (ii) respects the principles of correct administration, (iii) maintains adequate organisational structure, internal controls and administrative and accounting systems and (iv) adequately instructs its subsidiaries to transmit to the Bank information relevant to the disclosure obligations of the Bank. The members of the Board of Statutory Auditors are required to meet at least once each quarter and may be present at meetings of the Board of Directors and shareholders' meetings and of the Executive Committee. The Board of Statutory Auditors of the Bank is composed of three standing members and two alternate members. Statutory Auditors are appointed by the shareholders at a general meeting for a three year term and may be re-elected for consecutive terms. The general meeting of shareholders also sets the remuneration of the Statutory Auditors for their entire terms.

The Board of Statutory Auditors of the Bank, who will remain in office until the shareholders' meeting to approve the financial statements for the 2005 fiscal year, is as follows:

<i>Name</i>	<i>Year of Birth</i>	<i>Title</i>
Giuseppe Vittimberga	1932	President
Pietro Fabretti	1943	Auditor
Leonardo Pizzichi	1967	Auditor
Stefano Mendicino	1961	Alternate Auditor
Marco Turillazzi	1961	Alternate Auditor

### **External Auditors**

Companies whose shares are listed on the Mercato Telematico Italiano (the Italian Stock Exchange for shares) are required to appoint a firm of external auditors that are to verify (i) that during the fiscal year, the relevant company's accounting records are correctly kept and accurately reflect the company's activities, and (ii) that the financial statements correspond to the accounting records and the verifications conducted by the external auditors and comply with applicable rules. The external auditors express their opinions on the financial statements in a report that may be consulted by the shareholders prior to the annual shareholders' meeting.

The external auditors are appointed by the ordinary shareholders' meeting for a three-year term and may be re-appointed for up to three consecutive terms.

On 27th April 2002, KPMG S.p.A. was re-appointed as the Bank's external auditors for a three-year period.

## CAPITALISATION AND CAPITAL ADEQUACY

### Capitalisation

The following table sets forth the consolidated capitalisation of the Group as at 31st December 2002.

	<b>As of 31st December 2002</b>
	(€ million)
<b>Debt</b>	
Sums owed to banks .....	20,516
Sums owed to customers plus notes .....	77,254
Subordinated loans .....	3,276
<b>Total debt</b> .....	101,046
Minority interest .....	808
<b>Shareholders' equity:</b>	
Share capital <sup>1</sup> .....	1,675
Additional paid-in capital .....	523
Reserves <sup>2</sup> .....	2,770
Net income.....	582
<b>Total shareholders' equity</b> .....	5,550
<b>Total capitalisation</b> .....	107,404

- 1 As of 31st December 2002 the Issuer had an authorized and fully paid share capital of €1,675,023,207.04 divided into 2,607,791,591 [Bank] Ordinary Shares issued and outstanding, each share having a par value of €0.64 (for an amount of €1,668,986,618.24) and 9,432,170 savings shares each having a par value of €0.64 (for an amount of €6,036,588.80).
- 2 Includes the Group's revaluation reserve, equivalent to €14 million; the Group's reserve for general banking risks, equivalent to €361 million; and the Group's negative consolidation differences, equivalent to €23 million.
- 3 There has been no material change in the capitalisation of the Group since 31st December 2002. The Banca Toscana and Banca Agricola Mantovana mergers do not have a material effect on the consolidated financial statements of the Group.

### Capital Adequacy

The Bank of Italy has adopted risk-based capital guidelines pursuant to the EU capital adequacy directives. Italy's current capital ratio requirements are in line with the requirements imposed by the international framework for capital measurement and capital standards of banking institutions of the Basle Committee on Banking Regulations and Supervisory Practices (the "Basle Committee"). The capital adequacy guidelines set forth Tier I and Tier II capital requirements relative to a bank's assets and certain off-balance sheet items weighted according to risks ("Risk-Weighted Assets"). See "The Italian Banking System, Supervision and Regulation". Under the Bank of Italy's guidelines, risk-weighted capital ratios are required to be calculated for the Bank on an unconsolidated basis and for the Bank and its consolidated subsidiaries as a group. In addition, certain of the Group's banking subsidiaries are subject to the capital adequacy guidelines on a stand-alone basis. The Group is required to maintain a consolidated total capital ratio (which is the ratio of total capital to total Risk Weighted Assets) of at least 8 per cent., and each of its banking subsidiaries is required to maintain a total capital ratio on a stand-alone basis of 7 per cent. See "The Italian Banking System, Supervision and Regulation". At 31st December 2002, the consolidated total capital ratio of the Group was 8.83 per cent. and of the Bank was 12.89 per cent.

# THE ITALIAN BANKING SYSTEM, SUPERVISION AND REGULATION

## Regulation in the European Union

Within the European Union, the creation of a single financial market at the end of 1992 has involved continued negotiations among member states towards establishing greater freedom in the cross-border banking and securities business through a harmonised institutionally based regulatory environment, with emphasis on the role of the home country regulator. The Second Banking Co-ordination Directive established a framework for the mutual recognition of each European Economic Area member state's supervision of banks, enabling a bank authorised in one European Economic Area member state to carry out banking and investment activities in a branch or on a cross-border service basis in other European Economic Area member states through the use of a single licence provided by the home country supervisory authority. Supporting the Second Banking Co-ordination Directive are the Solvency and Own Funds Directives which establish a minimum harmonisation of regulatory capital requirements to enable banks to operate throughout the European Union under authorisation granted by the regulators of the bank's home state. The Capital Adequacy Directive establishes minimum capital standards for the investment business of securities firms and banks.

On 1st January 1999, eleven EU countries adopted the euro, relinquishing their monetary independence. On 1st January 2001, Greece also adopted the euro. At present, the European Central Bank ("ECB"), together with the EU national central banks, define and implement EU monetary policy, hold and manage some or all of member states' official foreign currency reserves and promote the smooth operation of payment systems. The implementation of EU monetary policy in the participating member states is carried out by their respective national central banks pursuant to their powers under national legislation, amended to reflect the introduction of the euro and the ECB. Foreign exchange operations, particularly open market operations, are strictly coordinated by the ECB, but are largely carried out by national central banks. Starting from 1st January 2002 euro notes and coins became the single currency unit in the twelve countries that have adopted the euro.

## Structure of the Italian Banking System

Since the early 1990s, the Italian banking system has been undergoing a process of reorganisation and consolidation which has led to growth in the average size of banks and in the number of their branches, but has overall reduced the total number of banks. The reorganisation is the consequence of changes in banking regulations and the competitive stimulus resulting from the liberalisation of European financial markets and the expected advent of the euro. At the end of 2002, according to the Bank of Italy, Italy had 814 banks and the process of reorganisation and consolidation is expected to continue.

Historically, the Italian banking system divided banking institutions into different specialised types and limited the activities in which each type could engage. The system was based on a strict regime of prior approval for the business and structural decisions of banks. In sharp contrast, the new system emphasises the freedom of banks to decide which banking and related financial activities to engage in and which structures to adopt, subject to generally applicable rules of prudence. The framework of the Italian banking regulations now largely mirrors the EC Second Banking Directive (as defined below). The effect of the regulatory changes and Europe-wide liberalisation have resulted in a significant increase in competition in the Italian banking industry.

The principal components of regulatory and structural changes in Italy have been Legislative Decree No.385 of 1st September 1993, as amended, (the "Consolidated Banking Law"), Law No.218 of 30th July 1990 (the "Amato Law"), implemented by Legislative Decrees No.356, 357, 358 of 20th November 1990, the Directive of the Ministry of Treasury (the "Treasury") of 18th November 1994 (the "Dini Directive"), Law No. 461 of 23rd December 1998 (the "Ciampi Law"), implemented by Legislative Decree No.153 of 17th May 1999, and certain fiscal changes (that implement the EU Banking Directives and Treaties). Taken together, these regulatory changes have altered the basic structure of the Italian banking industry.

## Background

Italy's banking industry was regulated for over 50 years under the Banking Act of 1936 (the "Banking Act"), a law that set out the structure for the banking industry and regulated the different types of institutions permitted to operate in that market. The Banking Act was significantly modified by (i) EC Directive No. 77/80, implemented by Presidential Decree No.350 of 27th June 1985 (the "EC First Banking Directive"), which

facilitated the creation of new banking institutions and the opening in Italy of branches of banks based in other EU countries, (ii) the Amato Law and its implementing legislation, discussed below, and (iii) Legislative Decree No. 481 of 14th December 1992, implementing EC Directive No. 89/646 (the “EC Second Banking Directive”).

Prior to 1993, the Banking Act divided the banking industry into two broad categories: “Ordinary Credit Institutions” and “Special Credit Institutions”. Generally, Ordinary Credit Institutions provided mainly short-term credit (less than 18 months maturity). Special Credit Institutions provided medium- and long-term credit and mortgage loans financed predominantly in the medium- and long-term debt markets. Ordinary and Special Credit Institutions fell into two further classes, those entities organised under public law and those in corporate form.

Effective on 1st January 1994, the Consolidated Banking Law eliminated the distinction between Ordinary Credit Institutions and Special Credit Institutions. Banking activities can now be performed by a single category of banks, which may collect demand and savings deposits from the public, issue bonds and extend medium- and long-term credit, subject to regulations issued by the Bank of Italy. Furthermore, subject to their respective by-laws and applicable regulations, banks may engage in all the business activities that are described as ancillary to banking in the EC Second Banking Directive.

In addition, pursuant to the provisions of the Amato Law, most of the Ordinary and Special Credit Institutions organised under public law have been transformed into joint stock companies. Consequently, Italian banks are now either (a) banks in the legal form of joint stock companies owned directly or indirectly by the private or public sector or by public law foundations (mostly controlled by local authorities) or (b) co-operative banks (“*banche popolari*” and “*banche di credito cooperativo*”).

Furthermore, in Italy, non-Italian EU banks may carry out banking business and business activities that are described as ancillary to banking in the EC Second Banking Directive and that they are authorised to carry out in their home country, provided the Bank of Italy is informed by the entity supervising the relevant non-Italian EU bank. Such supervising entity retains primary control over the relevant non-Italian EU bank (the principle of “home-country control”).

### **Consolidated Banking Law**

The Consolidated Banking Law repealed and replaced, among others, the Banking Act. The Consolidated Banking Law governs the role of the supervisory authorities, investment in banks, the definition of banking and related activities, the authorisation of banking activities, the scope of banking supervision (in particular on a consolidated basis), special bankruptcy procedures for banks and the supervision of financial companies.

Generally, Italian banks are currently able to decide which banking and related financial activities to carry out and which structure to adopt, subject only to generally applicable prudential rules and the bank’s own by-laws.

### **The Amato Law**

The Amato Law was enacted in July 1990 to strengthen the capital base of the Italian banking system, create incentives for its consolidation and permit greater private investment. The restructuring process under the Amato Law was intended to create larger and more efficient institutions capable of providing better services and which could compete more effectively both in Italy and abroad.

The Amato Law contained two principal provisions:

- (1) Conversion and organisation: Ordinary and Special Credit Institutions organised as public law entities were allowed to convert into, or to transfer their assets to, one or more joint-stock companies. The Amato Law also allowed banks to be members of a holding company structure.
- (2) Tax incentives: The tax incentives provided for in the Amato Law applied to mergers, conversion, contributions and spin-offs of assets relating to public law credit institutions completed prior to the end of 1995. Registration tax and other indirect taxes applicable to such reorganisations were substantially reduced. In addition, in order to encourage consolidation, the surviving banks following such reorganisations were permitted to deduct from their taxable income over a period of between three to five years sums set aside into a special reserve. Such sums may, over such period, be up to 1.2 per cent. (measured at the time of such consolidation) of the difference between the sum

of customer loans and customer deposits of the larger component bank. Other favourable tax rules concern asset write-ups and capital gains on asset contributions.

### **The Dini Directive and other Provisions**

The Dini Directive, enacted in November 1994, provided certain fiscal incentives for Italian banking foundations to encourage them to reduce their participation in the banks they controlled (known as *società conferitaria*). The Dini Directive stipulates that in order to benefit from such fiscal incentives, within five years of the directive's enactment, a foundation is required to:

- (i) cover more than 50 per cent. of its expenses with revenues from sources other than the *società conferitaria*; or
- (ii) hold a participation in the *società conferitaria* whose value does not exceed 50 per cent. of the foundation's total assets.

The reduction of the foundation's shareholding must be carried out either through public offerings or sales to banks, companies belonging to banking groups, broker-dealers or insurance companies. Capital gains arising from transfers of shares that enable the foundation to meet the parameters under (ii) above are tax-free.

On 17th May 1999, the Italian Government enacted the Ciampi Law that includes additional fiscal and other incentives to encourage Italian banking foundations still controlling their co-founded banks to reduce their shareholdings in such banks. The law also establishes fiscal incentives to encourage consolidation of the Italian banking system.

The effects of the Amato Law and the Dini Directive and the implementation of the EC Directives have included a significant increase in the competition in the Italian banking industry in virtually all banks and bank-related services.

### **Italian Banking Regulatory Bodies**

Italian banks, including the Bank, are regulated by the *Comitato Interministeriale per il Credito e il Risparmio* (the Interministerial Committee for Credit and Savings or the "CICR"), the Treasury and the Bank of Italy. In addition, CONSOB regulates the securities activities of the Bank.

#### **The CICR**

The CICR is composed of the Minister of the Treasury, which acts as chairman, and certain other ministers of the Italian Government. The Governor of the Bank of Italy, although not a member of the CICR, attends all meetings of the CICR but does not have the right to vote at such meetings. The CICR establishes the general guidelines that the Bank of Italy follows when adopting regulations applicable to banks.

#### **The Treasury Ministry**

The Treasury has broad powers in relation to banking and financial activities. The Treasury, in consultation with the Italian Ministry of Foreign Affairs, authorizes the establishment in Italy of the first branch of non-EU banks and sets eligibility standards to be met by holders of significant equity interests in the share capital of a bank. Such holders must also maintain the level of professional experience and requirements of good moral standing which must be met by directors and executives of banks and other financial intermediaries. The Treasury may, in case of urgency, adopt measures which are generally within the sphere of CICR's powers and may also impose administrative sanctions against banks and their managers and place banks in involuntary liquidation ("*liquidazione coatta amministrativa*") or extraordinary management ("*amministrazione straordinaria*").

#### **The Bank of Italy**

The Bank of Italy implements the general guidelines laid down by the CICR by adopting regulations applicable to banks, including regulations governing capital adequacy, risk exposure, equity participations and administrative and accounting organisation and internal controls. The Bank of Italy also issues regulations in other fields (such as transparency in banking and financial operations of credit institutions).

The Bank of Italy supervises banks through its own auditing body, by granting authorisations for, among other things, the acquisition of significant equity interests in the share capital of a bank, banks' mergers, significant investments by banks, and examining the reports that banks are required to file with the Bank of Italy on a regular basis or with respect to specific transactions. The main supervisory powers of the Bank of Italy include review of bank financial statements and other statistical data, prior review of by-law amendments, bank inspections and the verification of capital ratios, reserve requirements and exposure limits for individual banks.

Audits may be ordinary or special (which are directed toward specific aspects of banking activity). Matters covered by an audit include the accuracy of reported data, compliance with banking laws and regulations, conformity with a bank's own by-laws and compliance with exposure limits.

The Bank of Italy requires all banks to report monthly information related to all financial components of their non-consolidated balance sheet.

In addition to its supervisory and regulatory role, the Bank of Italy is the lender of last resort for Italian banks, and is banker to the Italian Treasury. It also operates services for the banking industry as a whole, most notably the Centrale dei rischi, a central information database on credit risk.

The Bank of Italy retains some responsibility for monitoring Italian money supply. In order to control the money supply, the Bank of Italy principally uses open-market operations in Italian Government securities, currency and securities repurchase agreements, and its power to fix the rate on fixed term advances. The Bank of Italy may increase or decrease liquidity in the banking system injecting or absorbing funds through the purchase and sale of Italian Government securities, and also by providing Italian banks with ordinary and extraordinary advances and setting the rates at which such advances are made available.

The Bank of Italy also utilises compulsory reserves to control the money supply. See “–Italian Banking Regulation–Reserve Requirements” below. Following the introduction of the euro, from 1st January 1999, the European System of Central Banks is responsible for the monetary policy in the EMU participating Member States and, in particular, for monitoring interest rates.

## **CONSOB**

CONSOB is the government entity which monitors and regulates the securities markets and public offerings of securities in Italy.

## **Italian Banking Regulation**

### *Reserve Requirements*

The reserve requirement is one of the instruments of monetary policy. As from 1st January 1999, as a result of the introduction of the euro, the European System of Central Banks (“ESCB”) is responsible for the monetary policy of the participating Member States. The ESCB consists of the European Central Bank (“ECB”) and the central banks of the EU Member States and its decisions are implemented by the central banks of the Member States. The compulsory reserve requirement allows the ESCB to stabilise interest rates on the monetary market and to monitor the liquidity needs of the entire system. The amount of the compulsory reserve is determined by applying the ratio determined by the ECB.

Each Italian bank must deposit, in a compulsory reserve account with the Bank of Italy, an interest-bearing reserve in respect of the aggregate of its liabilities (other than liabilities to the ECB, the central banks of EMU participating Member States and other banks subject to the compulsory reserve requirement) represented by (i) overnight deposits, (ii) fixed term deposits with a stated maturity of less than two years, (iii) deposits refundable upon notice, (iv) fixed term debt securities with stated maturity not exceeding two years and (v) money market instruments, denominated both in Euro and in foreign currency (the “Aggregate Reserve Amount”). The reserve ratio is currently 2 per cent. of the Aggregate Reserve Amount. On the amount so calculated a fixed deduction of euro 100,000 is allowed. The reserve is adjusted monthly (on the basis of the same ratio) as a result of increases or decreases in the Aggregate Reserve Amount. A bank may withdraw, in whole or in part, from the compulsory reserve account, provided that the monthly average of the reserves is 100 per cent. This requirement is met if during the period commencing on the 24th day of the month immediately following the reference month and ending on the 23rd day of the following month, the average amount of daily balances in the reserve account is not lower than the amount of the compulsory reserve calculated as per the foregoing. Italian banks may also, subject

to authorisation by the Bank of Italy, fulfil their compulsory reserve duties through an intermediary bank, which is jointly and severally liable for compliance. If the compulsory reserve requirements are not complied with, the ECB may impose a sanction on the defaulting bank.

The compulsory reserve earns an annual rate of interest equal to the average rate of the main refinancing transactions carried on by the ESCB, as calculated during the relevant maintenance period. Any excess amount held in a reserve account does not bear interest.

#### *Risk Based Capital Requirements and Solvency Ratios*

Capital adequacy requirements are regulated principally by EC Directive No. 89/299 (as amended), the EC Second Banking Directive No. 89/647, the Basle Committee's Risk Based Capital Guidelines, the Consolidated Banking Law, CICR Regulation of 12th January 1994 and by the regulations issued by the Bank of Italy. According to such regulations, at least half of the required total capital must consist of Tier I capital ("core capital") and the rest may consist of Tier II capital ("supplementary capital" and together with core capital the "total capital" "*patrimonio di vigilanza*"). Core capital includes paid-in share capital, capital reserves, retained earning reserves and a special reserve denominated "*fondo per rischi bancari generali*" innovative capital instruments, less treasury shares, goodwill and intangible assets and losses carried forward and incurred in the fiscal year. Supplementary capital includes asset revaluation reserves, subordinated debt, hybrid instruments of deposit (such as non redeemable loans), general allowance for loan losses and other positive items, less net losses on securities and other negative items, and the positive difference between market value and book value of shareholdings. There are limitations on the maximum amount of subordinated debt that may be counted as supplementary capital; for example, subordinated debt may not exceed 50 per cent. of core capital.

If the bank is part of a banking group, the required total capital must also be calculated on a consolidated basis. This required total capital will be the sum of the required total capital on a stand-alone basis of each bank that is part of the group plus other components that typically arise out of the consolidation (e.g., negative or positive consolidation differences).

Italian banking groups are required to have a ratio of total capital to Risk-Weighted Assets of at least 8 per cent. on a consolidated basis and Italian banks belonging to a banking group are required to have a ratio of total capital as calculated for the Bank of Italy's regulatory purposes to Risk-Weighted Assets of at least 7 per cent. on an unconsolidated basis. Italian banks not belonging to a banking group are required to have a ratio of total capital to Risk-Weighted Assets of at least 8 per cent.

To calculate Risk Weighted Assets, assets and off-balance sheet items are weighted in relation to the nature of the debtors, the country risk and the guarantees and securities collateral received and are assigned one of five risk-weightings: 0 per cent., 20 per cent., 50 per cent., 100 per cent. and 200 per cent.

The aggregate capital requirements for banks are determined by reference to credit risk (i.e., the solvency ratio) and market risk (i.e., market risk on the trading securities and exchange risk on the total assets).

#### *Loan Exposure Limitations*

The EC Directive No. 92/121 on the monitoring and control of large exposures of credit institutions (the "Large Exposures Directive") is intended to spread credit risks throughout the banking system and to limit a bank's exposure to any single borrower. In compliance with the criteria specified by the Treasury, the Bank of Italy issued supervisory regulations on the concentration of risk, which implement the provisions of the Large Exposures Directive.

These regulations require banks to limit the aggregate loans to any single customer or group of related customers to 25 per cent. of a bank's total capital, and the aggregate of their large exposures (loans exceeding 10 per cent. of their total capital) to not more than 800 per cent. of the bank's total capital. A lower limit (20 per cent. of total capital) applies to all persons or entities affiliated with the bank, which is defined to include (i) shareholders that control, directly or indirectly, the bank, or shareholders that own at least 15 per cent. of the share capital of the bank or of its parent company and (ii) companies controlled by the bank or companies owned by the bank own at least 20 per cent. per cent. of the share capital, excluding consolidated subsidiaries of the same banking group.

Banks belonging to banking groups are not required to conform to certain of these limits on an individual basis, but only on a consolidated basis at the parent level. On an individual basis, banks belonging to banking groups must limit their loan exposures to any single customer or group of related customers to 40 per cent. of the bank's total capital and 25 per cent. of the bank's total capital by 31st December 2002.

#### *Provisions for Credit Risks and Write-offs*

Until the end of 1994, the Italian banking system was subject to severe restrictions on the amount of net adjustments to loans and other provisions for possible credit losses that could be deducted from taxable income. Provisions for credit risks relating to loans to customers were only deductible from taxable income up to an amount per year equal to 0.5 per cent. of total loans to customers at year-end subject to a maximum on the total cumulative loan loss allowance equal to 5 per cent. of customer loans. These restrictions proved to be a fiscal disincentive to prudent adjustment and provisions. In 1995, Italian tax law was changed to permit any net adjustments in excess of 0.5 per cent. of loans to customers to be deducted from taxable income on a straight-line basis over seven years. In addition, write-offs not previously included in net adjustments relating to borrowers subject to administration, insolvency or similar proceedings became fully deductible from taxable income, provided such amounts do not exceed amounts relating to loans to such borrowers already deducted in previous years. As a result of these reforms, the fiscal disincentive to make adjustments has been reduced.

#### *Equity Participations by Banks*

Since 1993, Italian banks have been permitted to make equity investments in all types of companies, subject to certain restrictions.

Prior approval by the Bank of Italy is required for any equity investment by a bank in other banks or financial or insurance companies (i) exceeding 10 per cent. of consolidated total capital of the acquiring bank, (ii) exceeding 10 per cent. or 20 per cent. of the share capital of the bank or financial or insurance company, respectively, being acquired or (iii) resulting in the control of the share capital of the bank or financial or insurance company being acquired. The aggregate of investments by banks in insurance companies cannot exceed 40 per cent. of the acquiring bank's consolidated total capital. In relation to banks belonging to banking groups, the aggregate investments in insurance companies may not exceed 60 per cent. of the total capital of the acquiring bank and may not exceed 40 per cent. of the acquiring bank's consolidated total capital.

As a general limit, equity investment by a bank in all types of companies may not in the aggregate exceed, together with real estate investments, 100 per cent. of a bank's required capital as defined by the Bank of Italy. Equity investments in industrial or commercial companies (other than banks or financial or insurance companies) by banks authorised by the Bank of Italy that have at least Euro 1 billion in total capital and satisfy the solvency ratios (*banca abilitata*) are permitted within the following limits:

- (i) the aggregate amount of a bank's equity participation may not exceed 50 per cent. (on a consolidated and unconsolidated basis) of the bank's total capital (25 per cent. as to investments in unlisted companies);
- (ii) equity investments in a single non-financial company or in a group of non-financial companies may not exceed 6 per cent. of the bank's total capital; and
- (iii) generally banks may not acquire more than 15 per cent. of the voting shares of any non-financial company. Such 15 per cent. limit may be exceeded, however provided that:
  - (a) the amount of the equity investment does not exceed 2 per cent. of the acquiring bank's total capital; and
  - (b) the aggregate amount of the part of the equity investments made by the bank in excess of the above limit of 15 per cent. does not exceed 2 per cent. of the acquiring bank's total capital.

The Bank of Italy has established lower limits for banks with total capital lower than Euro 1 billion (*banca ordinaria*) and higher limits for banks that meet the above-mentioned requirements, collect medium- and long-term funds and take no demand deposits (*banca specializzata*).

Finally, prior approval by the Bank of Italy is required for any acquisition by banks of control of companies, that conduct banking related activities, such as bank information processing activities.

#### *Real Estate Holdings by Banks*

Banks may purchase real estate provided that such property is instrumental to the exercise of their banking and financial activities. No real estate may be acquired for speculative purposes.

The aggregate amount of a bank's investments in real estate and shareholdings may not exceed the total capital (*patrimonio di vigilanza*) unless the acquisition of the real estate is necessary for the protection of the bank's rights as a creditor.

#### *Accounting and Reporting Requirements*

The Bank of Italy requires all banks to periodically report financial information relating to all components of their balance sheet, as well as their off-balance sheet operations and their liquidity.

Italian companies, including banks, are required to employ statutory auditors. The statutory auditors are elected at the general shareholders' meeting and are separate from the internal and external auditors. The statutory auditors are required to verify matters relating to corporate governance and compliance with law, as well as the company's accounts. The statutory auditors are required to transmit to the Bank of Italy copies of the minutes of its meetings and any reports of irregularities in the bank's management or any violations of law. Moreover, at least quarterly, the statutory auditors shall be informed by the board of directors of any material transaction carried out by the company and of any potential conflict of interest that may arise from such transaction.

#### *Insurance on Deposits*

Depositors are primarily protected against the risk of insolvency of their bank or credit institution and the loss of their deposited funds by the Interbank Deposit Guarantee Fund (the "Interbank Fund"), established in 1987 by a group of Italian banks.

The Interbank Fund, of which all Italian banks (including Italian branches of foreign banks) are members, intervenes when a credit institution is in compulsory administrative liquidation. In the event of controlled management, the Interbank Fund may make payments to support the business of a credit institution, which may take various forms (debt financing, the taking of equity stakes in the banks, etc.).

According to its new terms, the Interbank Fund is obliged to compensate depositors in the event of a compulsory administrative liquidation of a bank. The maximum coverage per depositor may not be less than euro 20,000 of which must be repaid within three months of a decree for bank's compulsory administrative liquidation. Deposits by other banks in their own name and for their own account, customer, deposits and other customer funds in bearer form are, inter alia, excluded from coverage.

#### *Restrictions on Investments in Banks*

Italian banking legislation requires previous authorisation by the Bank of Italy if any purchase of shares of a bank or a bank group's holding company (alone or combined with previous purchases) causes the purchaser's shareholding in the bank or the bank group's holding company to exceed 5 per cent. (or the further thresholds of 10 per cent., 15 per cent., 20 per cent., 33 per cent. and 50 per cent.) of the voting capital of the Bank or the holding company or if, regardless of such limit, such purchase or variation in shareholding entails the change of control of the Bank or the banking group. Similarly, the acquisition of a controlling interest in a company which holds shares representing more than 5 per cent. of a bank's voting capital or which otherwise has a controlling interest in a bank is subject to prior authorisation by the Bank of Italy. These provisions apply also to public purchase and exchange offers. Where the acquisition in question is made by a non-EU party whose country of origin does not offer reciprocal conditions for the acquisition of interests in banking institutions by an Italian party in that country, the Bank of Italy will notify the Treasury and the President of the Council of Ministers; the latter, at the proposal of the Treasury, may refuse the authorisation. Notification must be made prior to the transfer of the shares, conditional on the granting of authorisation by the Bank of Italy.

The authorisation must be requested from the Bank of Italy prior to the acquisition becoming effective. No public purchase or exchange offer may be launched until the Bank of Italy's authorisation has been obtained.

In addition and without prejudice to the foregoing, the Bank of Italy must be notified of any intention to acquire a controlling stake in a bank or in a banking group at the time of the first contact with the seller. Such notice must contain information with respect to (i) the existing relationships that the prospective purchaser has with the target bank or group holding company as well as with other banks and financial intermediaries, (ii) the target bank or group holding company's shareholders, and (iii) the method for the financing of the proposed acquisition.

Similarly, the Bank of Italy must be notified of any intention to dispose of a controlling participation in a bank or banking group's holding company, specifying the terms and conditions of the proposed transaction and the possible counterparties.

The Bank of Italy must respond within 60 days from receipt of the request for authorisation. Such term is suspended when further information is required. Authorisation is granted when the proposed purchaser meets the integrity requirements set out by law and the acquisition does not impair the sound management of the bank. Any authorisation so granted may be suspended or revoked. Where the person intending to acquire a controlling participation in a bank or a bank group's holding company is an EU bank or its controlling shareholder, the authorisation is given after consultation with the supervisory authority of the purchasing bank's home Member State.

Any party that, either directly or indirectly through its subsidiaries, is primarily engaged in a non-banking or non-financial sector, will not be authorised to acquire shares in a bank that causes its aggregate holding to exceed 15 per cent. of such bank's voting capital, or gives such party a controlling interest in the bank, subject to certain exceptions. Authorisation from the Bank of Italy will be denied or revoked when any such party exercises, on a consistent basis, the power to appoint or remove the majority of the members of the board of directors of the bank through any form of arrangement that may impair the sound management of the bank. Shares held by any such party in excess of the 15 per cent. threshold or results in such party exercising control over the bank, must be sold within periods determined by the Bank of Italy. In the absence of any such disposal, the Bank of Italy may apply to a court to order the sale of the shares in question.

The acquisition of a shareholding in a bank exceeding certain thresholds (5 per cent., 10 per cent., 15 per cent., 20 per cent., and 33 per cent. of the share capital of the bank and in any event the control of the bank), any subsequent variation of shareholding that brings such shareholding below these thresholds as well as any increase in the shareholding that results in the thresholds of 25 per cent., 40 per cent., 45 per cent. or 55 per cent. of the bank's share capital or any threshold above 55 per cent. by multiples of 5 per cent. (i.e., 60 per cent., 65 per cent., and so on up to 95 per cent.) being exceeded or the 100 per cent. of share capital to be acquired, must also be reported to the Bank of Italy and the bank within ten days of the date upon which such participation was acquired. The Bank of Italy retains the right to decrease the thresholds with respect to banks characterised as having a widely disbursed membership. Shares held through subsidiaries, fiduciaries or intermediaries are taken into account for the purpose of calculating such ownership thresholds. In addition, the Bank of Italy may require fiduciaries to disclose the identities of the beneficial owner of the shares of a bank held in trust. If the requisite authorisations have not been granted or have otherwise been suspended or revoked, or if the required notification to the Bank of Italy has not been made, such shares may not be voted, although they will count for quorum purposes. Any shareholders' resolution adopted in breach of the foregoing may be subject to legal challenge, if the resolution would not have been passed in the absence of votes attributable to such shares, by members of the Board of Directors, members of the Board of Statutory Auditors, or absent or dissenting shareholders within three months from the date of the resolution or, if the resolution is subject to filing with the Registro delle Imprese, within three months from the date of registration. The resolution may also be challenged, or annulled on the request of the Bank of Italy within six months from the date of the resolution or, if the resolution is subject to filing with the Registro delle Imprese, within six months from the date of registration.

Pursuant to the Treasury regulations, parties that hold, directly or indirectly, more than 5 per cent. of the bank's share capital must satisfy certain integrity requirements. If such requirements are not satisfied any shares that are held in excess of the 5 per cent. limit may not be voted although they will count for quorum purposes. Shareholders' resolutions adopted in breach of the foregoing may be annulled if such resolutions would not have been passed in the absence of votes attributable to such shares.

Where the acquisition of shares in a banks triggers Italian anti-trust legislation, the prospective purchaser must send the Bank of Italy a separate and specific notice. In accordance with Italian antitrust laws and regulations, the Bank of Italy, upon consultation with the Italian antitrust authority, is required to prohibit such acquisitions of sole or joint control over a bank that would create or strengthen a dominant position in the domestic banking market or a significant part thereof, that would result in an elimination or a substantial reduction, on a lasting basis, of competition, provided that certain revenue thresholds are exceeded. However, if the acquiring party and the party to be acquired surpass certain turnover thresholds, the antitrust approval of the acquisition falls within the exclusive jurisdiction of the EU Commission.

#### *Issue of debt instruments*

Pursuant to Article 12 of the Consolidated Banking Act, Italian banks are allowed to issue notes (including convertible notes) or other debt instruments. The issue of notes is approved by the Board of Directors of the bank.

Pursuant to the regulation issued by the Bank of Italy, the notes issued by a bank must have a minimum duration of 36 months, or a lower duration if the average duration is not lower than 24 months. The early redemption of the notes by the bank is not allowed prior to 18 months from the date of subscription of the notes.

The notes, if not dematerialised, must indicate: (i) the name, corporate object, registered office and registered number with the Companies' Register of the bank; (ii) the existing and paid-in share capital of the bank at the time of the issue; (iii) the aggregate principal amount of the notes, the denomination of each note, the rate of interest and the redemption terms; and (iv) the guarantees assisting the notes.

#### *Anti-Usury Law*

Italy has modified its anti-usury law to provide criminal penalties for any entities or individuals found guilty of usury. In 1996, a law was passed (Law No. 108 of 7th March 1996) providing for the maximum rate of interest that can legally be charged on a loan (the "Usury Rate"). The limit beyond which interest payments may be considered usurious is determined quarterly by the Treasury on the basis of the average market interest rate of the immediately preceding quarter, which is published in the Official Gazette.

Recent case law held that the provisions of such anti-usury law (the "Anti-Usury Law") also apply to loan agreements entered into before such law came into force. Therefore, the Anti-Usury Law would apply to all interest payment obligations falling due on or after the coming into force of the Anti-Usury Law, regardless of the execution date of the relevant agreement. This conclusion could have impaired the stability of the Italian credit system since it could mean that all usurious interest paid by the borrower to the lender should be reimbursed to the former. In light of this, the Italian Government enacted Law Decree No. 394/2000 which was enacted as law by Parliament on 27th February 2000 (the "Usury Interpretation Law").

Pursuant to the Usury Interpretation Law, interest payments are deemed to be usurious if they exceed the limit applied by law as at the date of execution of the relevant agreement regardless of the date of the effective payment of such interest. Some scholars, however, have expressed concerns *vis-à-vis* the conformity of the law to the law to the Italian Constitution since a borrower cannot exercise its right to sue if, after the execution of the loan agreement, the interest due has become usurious.

## TAXATION

*The following is a general description of certain tax considerations relating to the Notes. It does not purport to be a complete analysis of all tax considerations relating to the Notes. Prospective purchaser Notes should consult their tax advisers as to the consequences under the tax laws of the country of which they are resident for tax purposes and the tax laws of the Republic of Italy of acquiring, holding and disposing of Notes and receiving payments of interest, principal and/or other amounts under the Notes. This summary is based upon the law as in effect on the date of this Offering Circular and is subject to any change in law that may take effect after such date.*

### Republic of Italy

#### 1. TAX TREATMENT OF NOTES

Legislative Decree No.239 of 1st April 1996 (“Decree 239”), as amended, regulates the tax treatment of interest, premium and other income (including the difference between the redemption amount and the issue price) from notes issued, *inter alia*, by Italian banks, provided that the Notes are issued for an original duration of not less than 18 months.

The provisions of Decree 239 only apply to those Notes issued by the Issuer with a maturity of eighteen months or more which qualify as *obbligazioni or titoli similari alle obbligazioni* (“typical securities”) pursuant to Article 41, paragraph 2(c) of Presidential Decree n. 917 of 22nd December 1986, as amended.

#### *Italian Resident Noteholders*

Where an Italian resident Noteholder is (i) an individual not engaged in an entrepreneurial activity to which the Notes are connected, (ii) a non-commercial partnership, (iii) a non-commercial private or public institution, (iv) a real estate investment fund (see however below), or (v) an investor exempt from Italian corporate income taxation, interest payments relating to the Notes are subject to a tax, referred to as *imposta sostitutiva*, levied at the rate of 12.5 per cent. If the Noteholders described under (i) to (iii) above are engaged in an entrepreneurial activity to which the Notes are connected, the *imposta sostitutiva* applies as a provisional tax.

Where an Italian resident Noteholder is a corporation or similar commercial entity and the Notes are deposited with an authorised intermediary, payments of interest will not be subject to *imposta sostitutiva*, but must be included in the relevant Noteholder’s annual income tax return and are therefore subject to general Italian corporate taxation (and, in certain circumstances, depending on the “status” of the Noteholder, also to IRAP – the regional tax on productive activities).

Pursuant to Art. 6 of Law Decree No. 351 of 25th September 2001, as converted with amendments into Law No. 410 of 23rd November 2001 (“**Decree 351**”), effective as of 26th September 2001, Italian real estate funds are subject to substitute tax at the rate of 1 per cent levied on the annual net value of the fund. The interest will contribute to determine such net value. As to funds existing as of 26th September 2001, however, the new regime applies only to the extent that the company managing the fund (*società di gestione del risparmio*) so request by 25th November 2001.

The *imposta sostitutiva* regime described herein does not apply in cases where the Notes are held either (i) in a discretionary investment portfolio managed by an authorised intermediary pursuant to the, so-called discretionary investment portfolio regime (“*Risparmio Gestito*” regime as described below under “Capital Gains”) or (ii) in Italian investment fund (which includes *Fondo Comune d’Investimento*, or SICAV) or (iii) in an investment fund regulated by article 11-bis of Law Decree of 30th September 1983, No. 512 (collectively referred as “**Funds**”). In such cases, Interest will not be subject to *imposta sostitutiva* of 12.5 per cent, but will contribute to determine the annual accrued net result of the portfolio or of the Funds, as the case may be, which is subject to a tax (also referred to as “*imposta sostitutiva*”) of 12.5 per cent.

Pursuant to Legislative Decree No.47 of 18th February 2000 Italian pension funds (subject to the regime provided for by articles 14, 14ter and 14quater, paragraph 1 of Legislative Decree No. 124 of 21st April, 1993) are subject to a 11 per cent tax (*imposta sostitutiva*) on the increase in value of managed assets accrued at the end of the tax year. Interest on the Notes will be included in the calculation of the increase in the value of managed assets.

Pursuant to Decree 239, *imposta sostitutiva*, is applied by banks, SIMs, fiduciary companies, SGRs, stockbrokers and other entities identified by a decree of the Ministry of Economy and Finance (each an “Intermediary”).

An Intermediary must (i) be resident in Italy or be a permanent establishment in Italy of a non-Italian resident financial intermediary and (ii) intervene, in any way, in the collection of interest or in the transfer of the Notes. For the purpose of the application of the *imposta sostitutiva*, a transfer of Notes includes any assignment or other act, either with or without consideration, which results in a change of the ownership of the relevant Notes or in a change of the Intermediary with which the Notes are deposited.

Where the Notes are not deposited with an Intermediary, the *imposta sostitutiva* is applied and withheld by any entity paying interest to a Noteholder.

#### *Non-Italian Resident Noteholder*

Where the Noteholder is a non-resident of Italy, an exemptive regime applies to any beneficial owner of an interest payment relating to the Notes who is resident, for fiscal purposes, in a country which recognises the Italian tax authorities’ right to an adequate exchange of information and which does not benefit from a privileged tax regime.

For the purpose of the application of the exemption such tax privileged countries (so called tax havens) are listed in Ministerial Decree of 23rd January 2002 (as amended from time to time). In this respect Ministerial Decree of 21st November 2001 recognises the Italian tax authorities’ right to an adequate exchange of information, with *inter alia*, all members of the European Union, Australia, Brazil, Canada, Japan and the United States of America, but excludes, *inter alia*, Switzerland and Cyprus.

Furthermore, the 12.5 per cent *imposta sostitutiva* will not apply to payments of interest under the Notes made to (a) international entities and organisations incorporated pursuant to international agreements enforceable in Italy; (b) foreign institutional investors resident in a country which meets the above requirements on the exchange on information and tax treatment even if they do not possess the status of taxpayer in their own country of residence; and (c) central banks or the entities that manage, *inter alia*, the official reserves of a foreign state.

In order to ensure gross payment, investor must be the beneficial owners of payments of interest or other proceeds and (i) deposit the Notes, the Receipts and the Coupons with a bank or an SIM or a permanent establishment in Italy of a bank or a non-resident SIM or with a non-resident operator of a clearing system having appointed as its agent in Italy for the purposes of Decree No. 239 a resident bank or SIM which is in contact via computer with the Ministry of Economy and Finance and (ii) provide the relevant depository, prior to or concurrently with the deposit of the Notes with an appropriate declaration valid until revocation required by Decree No. 239, such declaration not being required in case of non-Italian resident Noteholders falling within the definitions of (b) and (c) above.

#### *Early Redemption*

Without prejudice to the above provisions, in the event that Notes with an original duration of not less than 18 months are redeemed prior to 18 months from the issue date, the Issuer will be required to pay an amount equal to 20 per cent. of the interest and other amounts accrued up to the time of early redemption. This payment will be made by the Issuer and will not affect the amounts to be received by the Noteholder by way of interest or other amounts, if any, under the Notes.

#### *Notes with a duration of less than 18 months*

Interest payments relating to Notes issued with a duration of less than 18 months are subject to a withholding tax, levied at the rate of 27 per cent., when such interest payments are made to non-Italian resident Noteholders or to certain Italian Noteholders.

#### *Atypical securities*

Interest payments relating to Notes that are not deemed to fall within the category of bonds (*obbligazioni*) or debentures similar to bonds (*titoli similari alle obbligazioni*) (“atypical securities”) may be subject to a

withholding tax, levied at the rate of 27 per cent., when such interest payments are made to non-Italian resident Noteholders or to Italian resident Noteholders. For this purpose, debentures similar to bonds are securities that incorporate the unconditional obligation to pay, at maturity, an amount not lower than their nominal value.

#### *Capital gains tax*

Pursuant to Legislative Decree No. 461 of 21st November 1997, a 12.5 per cent. capital gains tax (referred to as *imposta sostitutiva*) will be applicable to capital gains realised by Italian resident individuals not engaged in entrepreneurial activities to which the Notes are connected on any sale or transfer of the Notes for consideration or redemption thereof.

Under the tax declaration regime, which is the standard regime for taxation of capital gains realised by Italian resident individuals not engaged in entrepreneurial activities to which the Notes are connected, the 12.5 per cent. *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all capital gains net of any incurred capital losses realised by Italian resident individuals not engaged in entrepreneurial activities to which the Notes are connected pursuant to all investment transactions carried out during any given fiscal year. The amount so calculated of capital gains realised in a year must be detailed in the annual tax declaration to be filed with the Italian tax authorities, and *imposta sostitutiva* must be paid on such capital gains by Italian resident individuals not engaged in entrepreneurial activities together with any income tax due for the relevant tax year. Where losses exceed gains they may be carried forward against capital gains realised in any of the following four fiscal years.

As an alternative to the tax declaration regime, Noteholders who are Italian resident individuals not engaged in entrepreneurial activities to which the Notes are connected, may elect to pay *imposta sostitutiva* separately on capital gains realised on each sale or transfer or redemption of the Notes (“*Risparmio Amministrato*” regime). Such separate taxation of capital gains is allowed subject to (i) the Notes being deposited with banks, SIMs or other intermediaries to be determined by means of ministerial decree and (ii) an express election of separate taxation being timely made in writing by the relevant Noteholder. Such separate taxation election lasts for the entire fiscal year and unless revoked prior to the end of such year will be deemed valid also for the subsequent one. The intermediary is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or transfer or redemption of the Notes, as well as on capital gains realised as at revocation of its mandate, net of any incurred capital losses, and is required to pay the relevant amount to the Italian fiscal authorities, deducting a corresponding amount from proceeds to be credited to the Noteholder or using funds provided by the Noteholder for this purpose. Where a particular sale or transfer or redemption of the Notes results in a net loss, the intermediary is entitled to deduct such loss from gains subsequently realised on assets held with the same intermediary in the same tax year or in the following years up to the fourth. Under the *Risparmio Amministrato* regime the Noteholder remains anonymous in respect of the Italian tax authorities.

Different rules apply if the Notes are held in a portfolio managed upon selection by the tax payer by an Italian assets management company or certain authorised intermediaries in a regime of “*Risparmio Gestito*”. Under such a regime, capital gains realised upon sale, transfer or redemption of the Notes will not be subject to 12.5 per cent. *imposta sostitutiva* but will contribute to determine the annual accrued appreciation of the portfolio. The annual accrued, even if not realised, appreciation of the portfolio is subject to *imposta sostitutiva* applied on behalf of the tax payer by the managing intermediary. Under the *Risparmio Gestito* regime any depreciation of the investment portfolio accrued at year-end may be carried forward against appreciation accrued in each of the following years up to the fourth. Under the *Risparmio Gestito* regime the Noteholders remain anonymous in respect of the Italian tax authorities.

#### **Italian Corporate Investors**

Any capital gains realised upon sale, transfer or redemption of the Notes by Italian resident corporations or similar commercial entities shall be treated as part of their taxable business income in Italy (and, in certain circumstances, depending on the “status” of the Noteholder, also as part of the net value of production for IRAP purposes).

## Italian Pension Funds

Capital gains realised by Italian pension funds (subject to the regime provided for by articles 14, 14<sup>ter</sup> and 14<sup>quater</sup>, paragraph 1 of Legislative Decree No. 124 of 21st April 1993) in respect of the sale, transfer or redemption of the Notes will be included in the calculation of the increase in value of managed assets of the pension funds accrued at the end of each year, subject to a substitute tax at a rate of 11 per cent.

## Non-Italian Resident

Any capital gains realised by non-Italian residents without a permanent establishment in Italy to which the Notes are effectively connected, through the sale, transfer or redemption of the Notes, is exempt from taxation in Italy to the extent that the Notes are listed on a regulated market, in Italy or abroad, even if the Notes are held in Italy.

Capital gains realised by non-Italian resident Noteholders from the sale, transfer or redemption of the Notes not listed on regulated markets are not subject to the *imposta sostitutiva*, provided that the effective beneficiary: (i) is resident, for fiscal purposes, in a country which recognises the Italian tax authorities' right to an adequate exchange of information and which does not benefit from a privileged tax regime (see under "*Non-Italian Resident Noteholder*" above); or (ii) is an international entity or organisation incorporated pursuant to international agreements enforceable in Italy; or (iii) is a central bank or an entity which manages, *inter alia*, the official reserves of a foreign State; or (iv) is an institutional investor resident in a country which meets the requirements set out under (i) above even if it does not possess the status of a taxpayer in its own country of residence.

If none of the conditions described above is met, capital gains realised by non-Italian resident Noteholders from the sale, transfer or redemption of the Notes not listed on regulated markets are subject to the *imposta sostitutiva* at the current rate of 12.5 per cent.

In any event, non-Italian resident individuals or entities without a permanent establishment in Italy to which the Notes are connected that may benefit from a double taxation treaty with Italy providing that capital gains realised upon the sale or redemption of notes are to be taxed only in the country of tax residence of the recipient, will not be subject to *imposta sostitutiva* in Italy on any capital gains realised upon the sale, transfer or redemption of the Notes.

## Inheritance and Gift Tax

According to Law No. 383 of 18th October 2001, starting from gifts made or succession proceedings opened after 25th October, 2001, Italian inheritance and gift tax, previously payable on the transfer of the Notes as a result of a death or donation, has been abolished. However, for donees other than spouses, siblings, ascendants and descendants and relatives within the fourth degree, if and to the extent that the value of the gift attributable to each donee exceeds Euro 180,759.91, the gift is subject to the ordinary transfer tax provided for the relevant transfer for consideration.

Moreover, an anti-avoidance rule is provided by the above-mentioned Law for the gift of assets which, if sold for consideration, would give rise to capital gains subject to the *imposta sostitutiva* provided by Legislative Decree No. 401 of 21st November 1997, such as the Notes. In particular, when the donee sells the Notes for consideration within 5 years from the receipt thereof as a gift, the donee is required to pay the relevant *imposta sostitutiva* as if the gift had never taken place.

## 2. TRANSFER TAX

In general, transfer tax is currently payable upon transfer of Notes at a rate between a maximum of Euro 0.0083 and a minimum of Euro 0.00465 per Euro 51.65 (or fraction thereof) of the price at which the Notes are transferred. In the case that transfer tax is applied at a rate of Euro 51.65 (or fraction thereof) of the price at which the Notes are transferred, transfer tax cannot exceed Euro 929.62.

However, transfer tax does not apply, *inter alia*, to: (i) contracts concluded in regulated markets regarding the transfer of securities, including contracts between a financial intermediary and his principal and between qualified intermediaries; (ii) off-market transactions regarding securities listed on regulated markets, provided that

such transactions occurred (a) between banks, SIMS or other investment companies regulated by Legislative Decree No. 415 of 23rd July 1996 as superseded by Legislative Decree No. 58 of 24th February 1998, or stockbrokers; (b) between the subjects mentioned in (a) above, on the one hand, and non-Italian residents, on the other hand; (b) between the subjects mentioned in (a) above, even if non-resident in Italy, on the other hand, and undertakings for collective investments in transferable securities, on the other hand; and (iii) contracts related to sales of securities occurring in the context of a public offering (*offerta pubblica di vendita*) aimed at listing on regulated markets, or involving financial instruments already listed on regulated markets.

### **3. PROPOSED EU WITHHOLDING TAX DIRECTIVE**

On 21st January 2003, the European Council of Economics and Finance Ministers (ECOFIN) provisionally agreed on proposals under which Member States will be required to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a person within its jurisdiction to an individual resident in that other Member State, except that, for a transitional period, Belgium, Luxembourg and Austria will instead be required to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). Additionally, it was agreed by ECOFIN that the adoption of the proposals by the European Union would require certain other non-Member State countries to adopt a similar withholding system in relation to such payments. ECOFIN announced that the proposals were to take effect from 1st January 2004 although it is understood that the proposals may now take effect from 1st January 2005 subject to certain conditions being satisfied before 30th June 2004.

## SUBSCRIPTION AND SALE

The Dealers have, in an amended and restated programme agreement dated 16th April 2002, as supplemented by a First Supplemental Programme Agreement dated 3rd June 2003 (together the “Programme Agreement”), agreed with the Issuer a basis upon which they or any of them may from time to time agree to purchase Notes. Any such agreement will extend to those matters stated under “Form of the Notes” and “Terms and Conditions of the Notes”. In the Programme Agreement, the Issuer has agreed to reimburse the Dealers for certain of their expenses in connection with the establishment of the Programme and the issue of Notes under the Programme and to indemnify the Dealers against certain liabilities incurred by them in connection therewith.

### United States

The Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from the registration requirements of the Securities Act.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and regulations thereunder.

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will not offer, sell or deliver Notes (i) as part of their distribution at any time or (ii) otherwise until 40 days after the completion of the distribution, as determined and certified by the relevant Dealer or, in the case of an issue of Notes on a syndicated basis, the relevant lead manager, of all Notes of the Tranche of which such Notes are a part, within the United States or to, or for the account or benefit of, U.S. persons. Each Dealer has further agreed, and each further Dealer appointed under the Programme will be required to agree, that it will send to each dealer to which it sells any Notes during the distribution compliance period a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

Until 40 days after the commencement of the offering of any Series of Notes, an offer or sale of such Notes within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than in accordance with an available exemption from registration under the Securities Act.

Each issuance of Index Linked Notes or Dual Currency Notes shall be subject to such additional U.S. selling restrictions as the Issuer and the relevant Dealer may agree as a term of the issuance and purchase of such Notes, which additional selling restrictions shall be set out in the applicable Pricing Supplement.

### United Kingdom

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (i) in relation to Notes which have a maturity of one year or more, it has not offered or sold and, prior to the expiry of the period of six months from the issue date of such Notes, will not offer or sell any such Notes 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 (as amended);
- (ii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the “FSMA”)) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of the FSMA would not, if the Issuer was not an authorised person, apply to the Issuer; and

- (iii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## **Japan**

The Notes have not been and will not be registered under the Securities and Exchange Law of Japan (the “Securities and Exchange Law”) and each Dealer has agreed and each further Dealer appointed under the Programme will be required to agree that it will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Securities and Exchange Law and any other applicable laws and regulations of Japan.

## **Republic of Italy**

The offering of the Notes has not been registered pursuant to the Italian securities legislation and, accordingly, each of the Dealers has represented and agreed that it has not offered or sold, and will not offer or sell, any Notes in the Republic of Italy in a solicitation to the public, and that sales of the Notes in the Republic of Italy shall be effected in accordance with all Italian securities, tax, exchange control and other applicable laws and regulations.

Each of the Dealers has represented that it will not offer, sell or deliver any Notes or distribute copies of the Offering Circular or any other document relating to the Notes in the Republic of Italy except:

- (1) to “Professional investors”, as defined in Article 31.2 of CONSOB Regulation No. 11522 of 1st July 1998 (“Regulation No. 11522”), as amended, pursuant to Articles 30.2 and 100 of Legislative Decree No. 58 of 24th February 1998 (“Decree No. 58”), or in any other circumstances where an express exemption from compliance with the solicitation restrictions provided by Decree No. 58 or CONSOB Regulation No. 11971 of 14th May 1999, as amended, applies, provided however, that any such offer, sale or delivery of Notes or distribution of copies of the Offering Circular or any other document relating to the Notes in the Republic of Italy must be:
  - (a) made by investment firms, banks or financial intermediaries permitted to conduct such activities in the Republic of Italy in accordance with Legislative Decree No. 385 of 1st September 1993 (“Decree No. 385”), Decree No. 58, Regulation No. 11522 and any other applicable laws and regulations;
  - (b) in compliance with Article 129 of Decree No. 385 and the implementing instructions of the Bank of Italy, pursuant to which the issue, trading or placement of securities in Italy is subject to prior notification to the Bank of Italy, unless an exemption, depending, *inter alia*, on the amount of the issue and the characteristics of the securities, applies; and
  - (c) in compliance with any other applicable notification requirement or limitation which may be imposed by CONSOB or the Bank of Italy; or
- (2) to Italian residents who submit unsolicited offers to any of the Dealers to purchase the Notes.

## **General**

Each Dealer has agreed and each further Dealer appointed under the Programme will be required to agree that it will comply with all applicable securities laws and regulations in force in any jurisdiction in which it purchases, offers, sells or delivers Notes or possesses or distributes this Offering Circular and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and neither the Issuer nor any of the other Dealers shall have any responsibility therefor.

None of the Issuer and the Dealers represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

With regard to each Tranche, the relevant Dealer will be required to comply with such other restrictions as the Issuer and the relevant Dealer shall agree and as shall be set out in the applicable Pricing Supplement.

## GENERAL INFORMATION

### Authorisation

The establishment of the Programme and the issue of Notes have been duly authorised by a resolution of the Board of Directors of the Issuer dated 18th November 1999, the 2001 update and increase of the Programme has been duly authorised by a resolution of the Board of Directors dated 18th January 2001, the 2002 update of the Programme has been duly authorised by a proposal of the Finance Department of the Bank dated 9th January 2002 as accepted by the Managing Director on 22nd January 2002 and the 2003 update and increase of the Programme has been duly authorised by a resolution of the Board of Directors dated 10th April 2003.

### Listing of Notes on the Luxembourg Stock Exchange

Application has been made to list Notes issued under the Programme on the Luxembourg Stock Exchange. A legal notice relating to the Programme and the constitutional documents of the Issuer are being lodged with the Registrar of the District Court in Luxembourg (Régistre de Commerce et des Sociétés à Luxembourg) where such documents may be examined and copies obtained. The Luxembourg Stock Exchange has allocated the number 12344 to the Programme for listing purposes.

### Documents Available

So long as Notes are capable of being issued under the Programme, copies of the following documents will, when published, be available from the registered office of the Issuer and from the specified office of the Paying Agent for the time being in Luxembourg:

- (i) the constitutional documents (with an English translation thereof) of the Issuer;
- (ii) the consolidated and non-consolidated audited financial statements of the Issuer in respect of the financial years ended 31st December 2001 and 31st December 2002 (with an English translation thereof). The Issuer currently prepares audited consolidated and non-consolidated accounts on an annual basis;
- (iii) the most recently published consolidated and non-consolidated annual (audited) and semi-annual and quarterly (unaudited) (if any) financial statements of the Issuer with an English translation thereof. The Issuer currently prepares unaudited consolidated and non-consolidated interim accounts on a semi-annual basis and unaudited consolidated interim accounts on a quarterly basis;
- (iv) the Programme Agreement, the Agency Agreement, the Deed of Covenant and the forms of the Global Notes, the Notes in definitive form, the Receipts, the Coupons and the Talons;
- (v) a copy of this Offering Circular;
- (vi) any future offering circulars, prospectuses, information memoranda and supplements including Pricing Supplements (save that a Pricing Supplement relating to an unlisted Note will only be available for inspection by a holder of such Note and such holder must produce evidence satisfactory to the Issuer and the relevant Paying Agent as to its holding of Notes and identity) to this Offering Circular and any other documents incorporated herein or therein by reference; and
- (vii) in the case of each issue of listed Notes subscribed pursuant to a subscription agreement, the subscription agreement (or equivalent document).

### Clearing Systems

The Notes have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The appropriate Common Code and ISIN for each Tranche of Notes allocated by Euroclear and Clearstream, Luxembourg will be specified in the applicable Pricing Supplement. If the Notes are to clear through an additional or alternative clearing system (including Euroclear France) the appropriate information will be specified in the applicable Pricing Supplement.

**Significant or Material Change**

Save as disclosed in the Offering Circular, there has been no significant change in the financial or trading position of the Issuer since 31st December 2002 and there has been no material adverse change in the financial position or prospects of the Issuer since 31st December 2002.

**Litigation**

The Issuer is not nor has been involved in any legal or arbitration proceedings (including any proceedings which are pending or threatened of which the Issuer is aware) which may have or have had in the 12 months preceding the date of this document a significant effect on the financial position of the Issuer.

**Auditors**

The auditors of the Issuer are KPMG S.p.A., independent accountants, who have audited the Issuer's accounts, without qualification, in accordance with Italian GAAP for each of the three financial years ended on 31st December 2002.

**ANNEXE**

**FORM OF SCHULDSCHEIN**

**Schuldschein**

**(“Certificate of Indebtedness”)**

Dated [specify date]

**BANCA MONTE DEI PASCHI DI SIENA S.P.A.**

(incorporated under the laws of Italy with limited liability and having its statutory domicile in Siena)

(the **“Borrower”**)

Hereby acknowledges to have received from

**[NAME OF LENDER]**

(the **“Lender”**, which term shall also include any successor to the rights and claims under this Certificate of Indebtedness)

a loan (the **“Loan”**) in the amount of

[*currency symbol*] [*amount in figures*]

[*amount in words*] [*currency*]

(the **“Principal Amount”**)

subject to the following Terms and Conditions:

## 1. Disbursement

The Loan shall be disbursed on [*specify date*] (the “Disbursement Date”). Details of the disbursement are set out in a separate confirmation between the Borrower and the Lender.

## 2. Interest

*EITHER*

[The Loan shall bear interest from [*specify date*] (inclusive) at a fixed rate of interest. Interest shall be payable on [*specify dates for payment of interest*] of each year (each an “Interest Payment Date”), commencing on [*specify date*], with the last payment due on the Repayment Date (as defined in Clause 3).

The rate of interest will be [*specify rate of interest*] per cent. per annum.]

*OR*

[(1) The Loan shall bear interest from [*specify date*] (inclusive) at a floating rate of interest. Interest shall be payable on [*specify dates for payment of interest*] of each year (each an “Interest Payment Date”), commencing on [*specify date*], with the last payment due on the Repayment Date (as defined in Clause 3). The period commencing on an Interest Payment Date and ending the day preceding the next Interest Payment Date is herein referred to as an “Interest Period”. If any Interest Payment Date falls on a day which is not a Business Day (as defined in Clause 3), the Interest Payment Date shall be the immediately succeeding Business Day, unless it would thereby fall into the next calendar month, in which event the Interest Payment Date shall be the immediately preceding Business Day.

(2) The rate of interest for each Interest Period will, subject as provided below, be either:

(i) the offered quotation; or

(ii) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum), for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at the Specified Time on the Interest Determination Date in question [[plus/minus] the Margin (as defined below)], all as determined by [*specify*] (the “Interest Determination Agent”). If five or more such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Interest Determination Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

(3) If the Relevant Screen Page is not available or if no such offered quotation appears or fewer than three such offered quotations appear, in each case as at the Specified Time the Interest Determination Agent shall request each of the Reference Banks to provide the Interest Determination Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately the Specified Time on the Interest Determination Date in question. If two or more of the Reference Banks provide the Interest Determination Agent with such offered quotations, the rate of interest for such Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0.000005 being rounded upwards) of such offered quotations [[plus/minus] the Margin], all as determined by the Interest Determination Agent.

(4) If on any Interest Determination Date one only or none of the Reference Banks provides the Interest Determination Agent with such offered quotations as provided in the preceding paragraph, the rate of interest for the relevant Interest Period shall be the rate per annum which the Interest Determination Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Interest Determination Agent by the Reference Banks or any two or more of them, at which such banks were offered, at approximately the Specified Time on the relevant Interest Determination Date, deposits in [*currency*] for a period equal to that which would have been used for the reference rate by leading banks in the [London/Euro-zone] inter-bank market [[plus/minus] the Margin] or, if fewer than two of the Reference Banks provide the Interest Determination Agent with such offered rates, the offered rate for deposits in

[*currency*] for a period equal to that which would have been used for the reference rate, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in [*currency*] for a period equal to that which would have been used for the reference rate, at which, at approximately the Specified Time on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Interest Determination Agent suitable for such purpose) informs the Interest Determination Agent it is quoting to leading banks in the [London/Euro-zone] inter-bank market [[plus/minus] the Margin], provided that, if the rate of interest cannot be determined in accordance with the foregoing provisions of this paragraph, the rate of interest shall be determined as at the last preceding Interest Determination Date.

- (5) Interest on the Loan shall be calculated by applying the rate of interest applicable for the respective Interest Period to the Principal Amount of the Loan, multiplying the resulting amount by the actual number of days in the respective Interest Period divided by [360] [365] days. [*Note: If the currency is sterling, this provision may be modified appropriately.*]
- (6) The Interest Determination Agent will notify the Lender on the Interest Determination Date of the rate of interest determined with respect to the relevant subsequent Interest Period, the amount of interest payable and the Interest Payment Date. The Lender or its successor will be responsible for informing the Interest Determination Agent of its payment instructions.

In this Clause 2,

“Interest Determination Date” means the second London Business Day prior to the commencement of each Interest Period and “London Business Day” means a day (other than a Saturday or Sunday) on which banks in London are generally open for banking business; [*Note: If the currency is euro or sterling, this provision may be modified appropriately.*]

[“Margin” means [plus/minus][*specify*] per cent.];

“Reference Banks” means [the principal London office of four major banks in the London inter-bank market] [the principal Euro-zone office of four major banks in the Euro-zone inter-bank market], selected by the Interest Determination Agent;

“Reference Rate” means [*specify period and rate; e.g. three months U.S. dollar LIBOR or six months EURIBOR*];

“Relevant Screen Page” means [*specify*]; and

“Specified Time” means 11.00 a.m. ([London/Brussels] time).]

### **3. Repayment**

The Loan shall be repaid at its full Principal Amount on [*specify*] (the “Repayment Date”) provided, however, that if such day is not a Business Day, payment will be due the next following business day. “Business Day” shall mean a day (other than a Saturday or Sunday) on which banks in [*country of currency*] are generally open for banking business. [*Note: If Modified Following Business Day Convention is not to be used, this paragraph may be amended appropriately. If the currency is euro, “Business Day” shall be defined as “a day on which the Trans-European Automated Real-Time Gross Settlement (TARGET) System is open”.*]

Upon full repayment, this Certificate of Indebtedness shall, without the need for any request or demand, be surrendered to the Borrower.

### **4. Payments**

- (1) The Borrower irrevocably undertakes to pay, as and when due, any sum of principal or interest owed under the Loan in freely convertible and transferable [*specify currency*].
- (2) Payments in a currency that is not [*specify currency*] which the Borrower pays as the result of a judgment or other legal proceedings, shall release the Borrower only to the extent of the amount in [*specify currency*] which the Lender could have bought on a recognised foreign exchange market directly after receipt of such payment in such other currency. If such amount in [*specify currency*] is less than the amount due under the

Loan, the Borrower shall be obliged to pay the amount of the difference. This covenant of the Borrower is independent of its original obligation and represents a separate claim against the Borrower.

- (3) If any sum of principal is not paid when due, the Loan shall continue to bear interest from (and including) the Repayment Date up to (but excluding) the date of payment of the sum overdue at the rate determined in accordance with Clause 2.

## **5. Status**

The Loan constitutes a direct, unsecured, unsubordinated and unsecured obligation of the Borrower and ranks, and will rank, *pari passu* with all other unsecured and unsubordinated obligations of the Borrower from time to time outstanding, save for certain obligations required to be preferred by law.

## **6. Taxation**

All payments of principal and interest on the Loan by the Borrower will be made without withholding or deduction for or on account of any present or future taxes or duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the Republic of Italy or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In such event, the Borrower will, subject as provided in the last sentence of this paragraph, pay such additional amounts of principal and interest as shall be necessary so that the Lender shall receive the same amounts that it would have received in the absence of such withholding or deduction. The Borrower shall also pay such amounts as are to be withheld to the agency responsible for the collection thereof. No additional amounts shall be payable on account of any taxes or duties which are imposed, levied or collected solely by reason of the Lender having a permanent establishment in the Republic of Italy.

The Borrower shall promptly notify the Lender if it shall become legally obliged at any time to deduct or withhold payments which would otherwise be due under the Loan (or if the amounts or method of determination for such deductions or withholdings should be changed).

## **7. Early Termination**

If, in relation to the Loan and as the result of any change in or amendment to applicable law (which change or amendment occurs after the Disbursement Date), the Borrower determines that it would, on the occasion of the next payment in respect of the Loan, be required to pay additional amounts as provided or referred to under Clause 6 above, then the Loan may be repaid at the option of the Borrower in whole, but not in part, upon not less than one month's notice in writing to the Lender.

## **8. Events of Default**

The Lender may, by written notice to the Borrower, declare the Loan to be forthwith due and payable whereupon it shall become forthwith due and repayable at its full principal amount plus accrued interest to the date of repayment if:

- (i) there is default for more than 7 days in the payment of any principal or 15 days in the case of any interest due in respect of the Loan; or
- (ii) the Borrower shall be adjudicated or found bankrupt or insolvent or shall stop or threaten to stop payment or shall be found unable to pay its debts, or any order shall be made by any competent court or administrative agency for, or any resolution shall be passed by the Borrower for, judicial composition proceedings with its creditors or for the appointment of a receiver or trustee or other similar official in insolvency proceedings in relation to the Borrower; or
- (iii) the Borrower becomes subject to an order for "*Amministrazione straordinaria*", "*Gestione provvisoria*" or "*Liquidazione coatta amministrativa*" (within the meanings ascribed to those expressions by the Italian Banking Act and the other laws of Italy); or
- (iv) the Borrower fails to pay a final judgment of a court of competent jurisdiction within 30 days from the entering thereof or an execution is levied on or enforced upon or sued out pursuant to any such judgment against any substantial part of the assets or property of the Borrower; or

- (v) the Borrower shall be wound up, liquidated or dissolved (otherwise than for the purposes of an amalgamation, merger, reconstruction or reorganisation on terms approved by the Lender); or
- (vi) the Borrower shall cease to carry on business or threaten to cease to carry on all or a substantial part of its business (otherwise than for the purposes of an amalgamation, merger, reconstruction or reorganisation on terms approved by the Lender); or
- (vii) the security for any debenture, mortgage or charge of the Borrower shall become enforceable and the holder or holders thereof shall take any legal proceedings to enforce the same; or
- (viii) any indebtedness for borrowed money of the Borrower either (i) shall become, or become capable of being declared, due and payable prior to its stated maturity or (ii) shall not be repaid at maturity as extended by any applicable grace period therefor and, in either case, steps shall have been taken to obtain repayment; or
- (ix) any guarantee (other than a guarantee given in the ordinary course of its banking business or in respect of which the Borrower is restrained by an order of any court of competent jurisdiction from discharging its liability in respect thereof) given by the Borrower of any indebtedness for borrowed money shall not be honoured when due and called; or
- (x) default is made by the Borrower in the performance or observance of any obligation, condition or provision binding on it under the Loan (other than any obligation for payment of any principal moneys or interest in respect of the Loan) and such default continues for 30 days after written notice thereof by the Lender to the Borrower requiring the same to be remedied.

## **9. Assignment**

The Lender may freely assign in full or in partial amounts of at least [*currency and amount*] its rights and claims hereunder. In order to ensure that the Borrower be made aware of the assignment, the Lender shall inform the Borrower in writing in the event of an assignment, pursuant to section 407 German Civil Code (Bürgerliches Gesetzbuch; BGB).

## **10. Information**

Upon the request of the Lender, the Borrower shall, for so long as any principal or interest in respect of the Loan remains outstanding, deliver to the Lender copies of its audited consolidated and non-consolidated annual financial statements as soon as the same become available at the end of the Borrower's financial year.

The Borrower shall furthermore promptly notify the Lender in writing of all matters which could have a materially adverse effect on the contractual relationship between the parties under this Certificate of Indebtedness.

## **11. Miscellaneous**

- (1) This Certificate of Indebtedness is governed by, and shall be construed in accordance with, the laws of the Federal Republic of Germany.

(2) Place of performance and place of jurisdiction shall be Frankfurt am Main, Federal Republic of Germany.

Dated:

**BANCA MONTE DEI PASCHI DI SIENA S.P.A.**

By:

Acknowledged by:

[LENDER]

By:

## **THE ISSUER**

**Banca Monte dei Paschi di Siena S.p.A.**

Piazza Salimbeni 3

53100 Siena

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