

# Santander

SANTANDER FINANCE PREFERRED, S.A. UNIPERSONAL  
*(incorporated with limited liability under the laws of Spain)*

**GBP 679,400,000 Series 8  
Fixed/Floating Rate Non-cumulative Perpetual Guaranteed  
Preferred Securities**

**EUR 125,700,000 Series 9  
Fixed/Floating Rate Non-cumulative Perpetual Guaranteed  
Preferred Securities**

irrevocably and unconditionally guaranteed to the extent set forth herein by

**BANCO SANTANDER, S.A.**  
*(incorporated with limited liability under the laws of Spain)*

Issue price: 100.00 per cent.

Banco Santander S.A. and Santander Financial Exchanges Limited have made an offer to the holders of certain capital securities issued by members of the Santander Group and the Issuer (as defined below) to exchange such securities for the Preferred Securities (as defined below) to be issued by Santander Finance Preferred, S.A. Unipersonal (the **Issuer**).

This Prospectus relates to the Preferred Securities (as defined below) to be issued by the Issuer. The Preferred Securities comprise: (i) GBP 679,400,000 Series 8 Fixed/Floating Rate Non-cumulative Perpetual Guaranteed Preferred Securities (the **Series 8 Preferred Securities**) and (ii) EUR 125,700,000 Series 9 Fixed/Floating Rate Non-cumulative Perpetual Guaranteed Preferred Securities (the **Series 9 Preferred Securities**). The Series 8 Preferred Securities together with the Series 9 Preferred Securities are denominated the **Preferred Securities**.

The Series 8 Preferred Securities of GBP 50,000 Liquidation Preference (as defined in the "Conditions of the Preferred Securities - Definitions") are being issued by the Issuer on or around 27 July 2009 (the **Closing Date**).

Each Series 8 Preferred Security will entitle its holder to receive (subject to the limitations described under "Conditions of the Series 8 Preferred Securities") non-cumulative cash distributions (**Distributions**). From (and including) the Closing Date to (but excluding) 27 July 2014 Distributions will accrue at a rate of 11.3 per cent. per annum and, subject as aforesaid, will, when payable, be payable on 27 July each year commencing on 27 July 2010. From (and including) 27 July 2014, Distributions will accrue at a rate of 7.66 per cent. per annum above Three Month LIBOR (as defined in "Conditions of the Series 8 Preferred Securities - Distributions") and, subject as aforesaid, will, when payable, be payable on 27 October, 27 January, 27 April and 27 July in each year commencing on 27 October 2014. In each case Distributions are calculated in proportion to the Liquidation Preference per Preferred Security. The Series 8 Preferred Securities are redeemable, at the option of the Issuer (subject to the prior consent, where required, of the Bank of Spain), in whole but not in part, on any Distribution Payment Date (as defined in "Conditions of the Preferred Securities - Definitions") falling on or after 27 July 2014 (**First Call Date**), at the Redemption Price (as defined in "Conditions of the Preferred Securities - Definitions") applicable per Series 8 Preferred Security.

The payment of Distributions and payments upon liquidation or redemption with respect to the Series 8 Preferred Securities are irrevocably and unconditionally guaranteed by Banco Santander, S.A. (the **Bank** or the **Guarantor**) to the extent described under "The Series 8 Guarantee".

The Series 9 Preferred Securities of EUR 50,000 Liquidation Preference (as defined in the "Conditions of the Preferred Securities - Definitions") are being issued by the Issuer on the Closing Date.

Each Series 9 Preferred Security will entitle its holder to receive (subject to the limitations described under "Conditions of the Series 9 Preferred Securities") Distributions (as defined above). From (and including) the Closing Date to (but excluding) 27 July 2014 Distributions will accrue at a rate of 10.5 per cent. per annum and, subject as aforesaid, will, when payable, be payable on 27 July each year commencing on 27 July 2010. From (and including) 27 July 2014, Distributions will accrue at a rate of 7.64 per cent. per annum above Three Month EURIBOR (as defined in "Conditions of the Series 9 Preferred Securities - Distributions") and, subject as aforesaid, will, when payable, be payable on 27 October, 27 January, 27 April and 27 July in each year commencing on 27 October 2014. In each case Distributions are calculated in proportion to the Liquidation Preference per Preferred Security. The Series 9 Preferred Securities are redeemable, at the option of the Issuer (subject to the prior consent, where required, of the Bank of Spain), in whole but not in part, on any Distribution Payment Date (as defined in "Conditions of the Preferred Securities - Definitions") falling on or after the First Call Date, at the Redemption Price (as defined in "Conditions of the Preferred Securities - Definitions") applicable per Series 9 Preferred Security.

The payment of Distributions and payments upon liquidation or redemption with respect to the Series 9 Preferred Securities are irrevocably and unconditionally guaranteed by the Guarantor to the extent described under "The Series 9 Guarantee".

The terms and conditions of the Preferred Securities are more fully set out in "Conditions of the Series 8 Preferred Securities" and "Conditions of the Series 9 Preferred Securities" (together denominated the **Conditions of the Preferred Securities**).

The Preferred Securities are expected, upon issue, to be assigned an Aa3 under review for possible downgrade rating by Moody's Investors Services, Inc. (**Moody's**), an A+ rating by Fitch Ratings Limited (**Fitch**) and an A- rating by Standard & Poor's Ratings Services, a division of the McGraw Hill Companies, Inc. (**Standard & Poor's**). 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.

An investment in the Preferred Securities involves certain risks. For a discussion of these risks see "Risk Factors".

Potential holders are alerted to the information in "Taxation" regarding the tax treatment in Spain of income in respect of Preferred Securities and to the disclosure requirements currently imposed on the Guarantor relating to the identity of all holders of Preferred Securities. Income in respect of the Preferred Securities will be subject to withholding tax if holders fail to provide tax certificates on time as described herein and neither the Issuer nor the Guarantor will gross up payments in respect of such withholding tax.

Application has been made to the Financial Services Authority in its capacity as competent authority under the Financial Services and Markets Act 2000 (the **UK Listing Authority**) for the Preferred Securities to be admitted to the official list of the UK Listing Authority (the **Official List**) and to the London Stock Exchange plc (the **London Stock Exchange**) for such Preferred Securities to be admitted to trading on the London Stock Exchange's regulated market.

References in this Prospectus to the Preferred Securities being "listed" (and all related references) shall mean that such Preferred Securities have been admitted to trading on the London Stock Exchange's regulated market and have been admitted to the Official List. The London Stock Exchange's regulated market is a regulated market for the purposes of Directive 2004/39/EC (the Markets in Financial Instruments Directive)

This Prospectus constitutes a prospectus for the purposes of Directive 2003/71/EC (the **Prospectus Directive**) and contains certain financial information incorporated by reference.

The Preferred Securities have not been, and will not be, registered under the United States Securities Act of 1933 (the **Securities Act**) and are subject to United States tax law requirements. The Preferred Securities are being offered outside the United States in accordance with Regulation S under the Securities Act (**Regulation S**), and may not be offered, sold or delivered within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

The Preferred Securities will be issued in bearer form and will be represented by a global Preferred Security deposited on or about the Closing Date with a common depository for Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, société anonyme (**Clearstream, Luxembourg**). Clearstream, Luxembourg together with Euroclear will be referred to as the **Clearing Systems**.

## TABLE OF CONTENTS

RESPONSIBILITY STATEMENT .....	4
DOCUMENTS INCORPORATED BY REFERENCE.....	5
KEY FEATURES .....	6
RISK FACTORS.....	11
CONDITIONS OF THE PREFERRED SECURITIES.....	22
THE GUARANTEES .....	44
THE ISSUER .....	56
BANCO SANTANDER S.A. AS GUARANTOR .....	58
LITIGATION AND GENERAL INFORMATION .....	85
RECENT DEVELOPMENTS .....	90
USE OF PROCEEDS.....	98
SELECTED CONSOLIDATED FINANCIAL INFORMATION .....	99
TAXATION .....	103
GENERAL INFORMATION.....	113

## RESPONSIBILITY STATEMENT

Each of the Issuer and the Guarantor accepts responsibility for the information herein contained and declares that, having taken all reasonable care to ensure that such is the case, the information herein contained to the best of its knowledge is in accordance with the facts and contains no omission likely to affect its import.

Each of the Issuer and the Guarantor confirms that any information contained in this Prospectus and sourced from a third party has been accurately reproduced and, as far as the Issuer is aware and is able to ascertain from information published by those third parties, no facts have been omitted which would render the reproduced information inaccurate or misleading.

Neither the Issuer nor the Guarantor has authorised the making or provision of any representation or information regarding the Issuer, the Guarantor or the Preferred Securities other than as contained in this Prospectus or as approved for such purpose by the Issuer and the Guarantor. Any such representation or information should not be relied upon as having been authorised by the Issuer or the Guarantor.

Neither the delivery of this Prospectus nor the offering, sale or delivery of any Preferred Security shall in any circumstances create any implication that there has been no adverse change, or any event reasonably likely to involve any adverse change, in the condition (financial or otherwise) of the Issuer or the Guarantor since the date of this Prospectus.

This Prospectus does not constitute an offer of, or an invitation to subscribe for or purchase, any Preferred Securities.

The distribution of this Prospectus and the offering, sale and delivery of Preferred Securities in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus comes are required by the Issuer or the Guarantor to inform themselves about and to observe any such restrictions.

In particular, the Preferred Securities have not been and will not be registered under the Securities Act and are subject to United States tax law requirements. Subject to certain exceptions, Preferred Securities may not be offered, sold or delivered in the United States or to U.S. persons.

In this Prospectus, unless otherwise specified, references to “**£**”, “**GBP**” or “**Pounds Sterling**” are to the lawful currency of United Kingdom for the time being and references to “**€**”, “**EUR**” or “**Euro**” are to the single 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.

In this Prospectus, the words “Santander”, “Banco Santander”, “Guarantor”, “Bank”, “we”, “our”, “ours” and “us” refer to Banco Santander, S.A. The words “Group” and “Santander Group” refer to Banco Santander, S.A. and its other banking and financial subsidiaries. The word “Issuer” refers to Santander Finance Preferred, S.A. Unipersonal.

## DOCUMENTS INCORPORATED BY REFERENCE

Direct and accurate English translations of the following documents shall be deemed to be incorporated in, and to form part of, the Prospectus:

- the Guarantor's 2008 Annual Report for the year ended 31 December 2008 (the **2008 Annual Report**) and the Guarantor's Auditors Report and Consolidated Accounts for the year ended 31 December 2008 (the **2008 Auditors Report**) which includes the consolidated financial statements, as well as the management report and the auditor's report on the consolidated financial statements thereon; and the Guarantor's 2007 Annual Report for the year ended 31 December 2007 (the **2007 Annual Report**), which includes the consolidated financial statements, as well as the management report and the auditor's report on the consolidated financial statements thereon;
- the Guarantor's 2008 stand alone financial statements and the auditor's report on the 2008 Guarantor's stand alone financial statements and the Guarantor's 2007 stand alone financial statements and the auditor's report on the Guarantor's 2007 stand alone financial statements;
- the unaudited summarised consolidated financial data of the Group for the 3 month period ended 31 March 2009 (the **March 2009 Summarised Consolidated Financial Data**).
- the stand alone financial statements, management report and auditor's report of the Issuer for the year ended 31 December 2007 (the **Issuer's 2007 Financial Statements**) and the stand alone financial statements, management report and auditor's report of the Issuer for the year ended 31 December 2008 (the **Issuer's 2008 Financial Statements**);

provided that any statement contained herein or in a document which is incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Prospectus to the extent that a statement contained in any subsequent document all or the relative portion of which is also incorporated by reference herein by way of a supplement prepared in accordance with the Prospectus Directive modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not, except as so modified or superseded, constitute part of this Prospectus.

All documents incorporated by reference to the documents listed above which are incorporated by reference in this Prospectus do not form part of this Prospectus.

From the date hereof and throughout the period that the Preferred Securities remain listed on the London Stock Exchange's regulated market, the Issuer and the Guarantor will, at the specified offices of the Paying Agent (as defined below) provide, free of charge, upon oral or written request, a copy of this Prospectus (and any documents incorporated by reference in this Prospectus). Written or oral requests for such documents should be directed to the specified office of the Guarantor or to the Paying Agent (as defined below).

## KEY FEATURES

The following key information has been extracted without material adjustment from, and is qualified in its entirety by the more detailed information included elsewhere in this Prospectus with which it should be read in conjunction.

Where applicable, capitalised terms herein shall have the meaning given to them in “Conditions of the Preferred Securities”.

<b>Issuer:</b>	Santander Finance Preferred, S.A. Unipersonal
<b>Guarantor:</b>	Banco Santander, S.A.
<b>Issue Size:</b>	GBP 679,400,000 of Series 8 Preferred Securities EUR 125,700,000 of Series 9 Preferred Securities
<b>Issue Details:</b>	GBP 679,400,000 Series 8 Fixed/Floating Rate Non-Cumulative Perpetual Guaranteed Preferred Securities ( <i>participaciones preferentes</i> ) (the <b>Series 8 Preferred Securities</b> ). EUR 125,700,000 Series 9 Fixed/Floating Rate Non-Cumulative Perpetual Guaranteed Preferred Securities ( <i>participaciones preferentes</i> ) (the <b>Series 9 Preferred Securities</b> ).
<b>Capital Treatment:</b>	The Bank will apply for the Preferred Securities to qualify as Tier 1 capital of the Bank and its consolidated Subsidiaries (the <b>Group</b> ) pursuant to Spanish banking capital regulations.
<b>Liquidation Preference:</b>	GBP 50,000 per Series 8 Preferred Security. EUR 50,000 per Series 9 Preferred Security.
<b>Ranking of the Preferred Securities:</b>	The Preferred Securities will rank (a) junior to all liabilities of the Issuer including subordinated liabilities, (b) <i>pari passu</i> with each other and with any Parity Securities of the Issuer and (c) senior to the Issuer's ordinary shares.
<b>Use of Proceeds:</b>	General corporate purposes and to improve the efficiency of the capital base of the Group.
<b>Distributions:</b>	The Preferred Securities will entitle holders to receive non-cumulative cash distributions ( <b>Distributions</b> ), subject to the Limitations on Distributions described below, out of the Issuer's own legally available resources and distributable items.  Distributions of the Series 8 Preferred Securities will accrue from the Closing Date at the fixed non-cumulative Distribution rate of 11.3 per cent. per annum for the period from (and including) the Closing Date to (but excluding) 27 July 2014 (the <b>First Call Date</b> ) and thereafter in respect of each Distribution Period (Floating) at a rate of Three Month LIBOR for the relevant Distribution Period (Floating) plus a margin equal to 7.66 per cent. per annum.  Distributions of the Series 9 Preferred Securities will accrue from the Closing Date at the fixed non-cumulative Distribution rate of 10.5 per cent. per annum for the period from (and including) the Closing Date to (but excluding) 27 July 2014 (the <b>First Call Date</b> ) and thereafter in respect of each Distribution Period (Floating) at a rate of

Three Month EURIBOR for the relevant Distribution Period (Floating) plus a margin equal to 7.64 per cent. per annum.

Distributions on the Preferred Securities are, when payable, payable on 27 July of each year up to and including 27 July 2014 (each, a **Distribution Payment Date (Fixed)**) commencing on 27 July 2010 and, thereafter, on 27 October, 27 January, 27 April and 27 July of each year falling after the First Call Date (each, a **Distribution Payment Date (Floating)**) commencing on 27 October 2014. For further information, see “Conditions of the Preferred Securities - Distributions”.

**Limitations on Distributions:**

Distributions shall not be payable, in the relevant amount, to the extent that:

(a) the aggregate of such Distributions, together with (i) any other distributions previously paid during the then-current Fiscal Year (as defined herein) and (ii) any distributions proposed to be paid during the then current Distribution Period, in each case on or in respect of Parity Securities (including the Preferred Securities) would exceed the Distributable Profits (as defined herein) of the immediately preceding Fiscal Year; or

(b) even if Distributable Profits are sufficient, if under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company only basis or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or on Parity Securities issued by the Bank.

If Distributions are not paid or are paid partially on a Distribution Payment Date, as a consequence of the above Limitations on Distributions, the right of the holders of the Preferred Securities to receive a Distribution or an unpaid part thereof, in respect of the relevant Distribution Period will be lost.

If a Distribution is not paid in full on the Preferred Securities, all distributions on the Preferred Securities and all other Parity Securities will be paid *pro rata* among the Preferred Securities and all such other Parity Securities, so that the amount of the distribution payment per security will have the same relationship to each other that the nominal or par value per security of the Preferred Securities and all other Parity Securities bear to each other.

If Distributions are not paid in full or in part on or prior to a Distribution Payment Date in respect of the relevant Distribution Period as a consequence of the above limitations, then neither the Issuer nor the Bank shall pay dividends or any other distributions on its ordinary shares or on any other class of share capital or securities issued by it and expressed to rank junior to the Preferred Securities or to the Bank's obligations under the Guarantees, as the case may be, until such time as the Issuer or the Bank shall have resumed the payment in full of Distributions on the Preferred Securities for two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods (Floating) (or, if applicable, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)).

**Guarantees:**

The payment under each of the Series 8 Preferred Securities and the Series 9 Preferred Securities of accrued but unpaid Distributions for the most recent Distribution Period, the Liquidation Distribution and the Redemption Price shall be respectively irrevocably and unconditionally guaranteed by the Guarantor.

The Bank will not be obliged to make payment of any Distribution (including accrued and unpaid Distributions relating to the Redemption Price, or the Liquidation Distribution) on the Preferred Securities to the extent that:

- (a) the aggregate of such Distributions, together with any distributions previously paid during the then current Fiscal Year and any distributions proposed to be paid during the then current Distribution Period, in each case on or in respect of Parity Securities (including Preferred Securities) would exceed the Distributable Profits of the immediately preceding Fiscal Year; or
- (b) even if Distributable Profits are sufficient, to the extent that under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their capital ratios, the Bank would be prevented at such time from making payments on its ordinary shares or Parity Securities issued by it.

For a full description of the Guarantees, see “The Guarantees”.

**Ranking of the Guarantees:**

The Bank's obligations under the Guarantees will rank (a) junior to all liabilities of the Bank (including subordinated liabilities); (b) *pari passu* with any Parity Securities issued by the Bank and any obligation assumed by the Bank under any guarantee of any Parity Securities of any Subsidiary; and (c) senior to the Bank's ordinary shares.

**Optional Redemption:**

The Preferred Securities may be redeemed at the option of the Issuer subject to the prior consent, where required, of the Bank of Spain, in whole but not in part, at the Redemption Price (as defined herein) applicable per Preferred Security on any Distribution Payment Date falling on or after the First Call Date.

For further information, see “Conditions of the Preferred Securities - Optional Redemption”.

**Liquidation Distribution:**

The Liquidation Distribution payable in relation to each Preferred Security shall be its Liquidation Preference per Preferred Security plus, if applicable, an amount equal to accrued and unpaid Distributions for the then current Distribution Period to the date of payment of the Liquidation Distribution.

**Liquidation Rights:**

Except as described under “Conditions of the Preferred Securities - Distributions” and “Liquidation Distribution” the Preferred Securities will confer no right to participate in the profits or surplus assets of the Issuer.

In the event that proceedings for the liquidation, dissolution or winding up of the Bank are commenced or there is a reduction in the shareholder's equity of the Bank pursuant to Article 169 of the Spanish Corporations Law (*Ley de Sociedades Anonimas*), the Issuer shall be liquidated by the Bank and the holders of Preferred Securities at the time outstanding will be entitled to receive only the Liquidation Distribution in respect of each Preferred Security held by them. In

such an event, the Liquidation Distribution per Preferred Security shall not exceed that which would have been paid from the assets of the Bank had the Preferred Securities and all Parity Securities been issued by the Bank. See “The Guarantees - Limitations to the Guarantees Payments in relation to the Liquidation Distributions”.

Except as described in the previous paragraph, the Bank will undertake not to cause a liquidation of the Issuer.

**Acquisitions:**

Any acquisition by the Issuer, the Bank or any of its respective subsidiaries of Preferred Securities shall be made in accordance with applicable laws and regulations.

**Pre-emptive rights:**

The Preferred Securities do not grant their holders preferential subscription rights in respect of any possible future issues of preferred securities.

**Special General Meetings:**

Holders of Preferred Securities of the Issuer shall be entitled to attend and vote at Special General Meetings as described in “Conditions of the Preferred Securities -Special General Meetings”.

**Withholding Tax:**

Save as set out below, the payment of Distributions and other amounts in respect of the Preferred Securities and payments under the Guarantees will be made without deduction for or on account of Spanish withholding taxes, unless such taxes are required by law to be withheld. In such case, the Issuer or the Bank, as the case may be, will, save as described below, gross-up for such withheld amounts.

The payment of Distributions and other amounts in respect of the Preferred Securities and payments under the Guarantees will be subject to Spanish withholding tax as described in the next paragraph. In such circumstances, neither the Issuer nor the Bank will pay additional amounts in respect of such withholding tax.

Under Spanish law, income in respect of the Preferred Securities will be subject to withholding tax in Spain, currently at the rate of 18 per cent. in the case of (a) individual holders who are resident in Spain; and (b) holders who fail to provide information regarding their identity and tax residence.

For further information, see “Conditions of the Preferred Securities - Taxation”.

**Disclosure of identity of holders:**

Under Law 13/1985, as amended by Law 4/2008, the Bank is obliged to disclose to the Spanish Tax and Supervisory Authorities the identity of certain holders of the Preferred Securities who are Spanish resident holders (individuals and corporates) and non-Spanish resident holders operating through a permanent establishment in Spain. The implementation of the changes contemplated by Law 4/2008 is subject to the adoption of the relevant secondary legislation, which has not been adopted at the date of this Prospectus.

The Clearing Systems are expected to follow certain procedures to facilitate to the Paying Agent the collection of the details referred to above from holders of the Preferred Securities. If the Clearing Systems are, in the future, unable to facilitate the collection of such information they may decline to allow the Preferred Securities to be cleared through the relevant Clearing System and this may affect the liquidity of the Preferred Securities. Provisions have been made for the Preferred Securities, in such a case, to be represented by definitive Preferred Securities.

Pending the enactment of such secondary legislation, and in accordance with the consultation from the General Directorate for Taxation dated 20 January 2009, the current procedures relating to the identity of the holders, as laid down in section 44 of Royal Decree 1065/2007, remain applicable irrespective of whether or not the holders are resident in Spain, and the Clearing Systems continue to require the compliance with such obligations.

For further information see “Taxation - Disclosure of holder information in connection with payments on Distribution”.

- Form:** The Preferred Securities will be issued in bearer form and will be represented by a single global Preferred Security deposited with a common depository for the Clearing Systems.
- Ratings:** The Preferred Securities are expected, on issue, to be assigned an Aa3 under review for possible downgrade rating by Moody's, an A- rating by Standard & Poor's and an A+ rating by Fitch. 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.
- Governing Law:** The Preferred Securities and the Guarantees will be governed by the laws of Spain.
- Listing and Admission to Trading:** Application has been made to the UK Listing Authority for the Preferred Securities to be admitted to the Official List and to the London Stock Exchange for such Notes to be admitted to trading on the London Stock Exchange's regulated market.
- Clearing Systems:** Euroclear and Clearstream, Luxembourg.

## **RISK FACTORS**

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

*In addition, factors which are material for the purpose of assessing the market risks associated with the Preferred Securities are also described below. Each of the Issuer and the Guarantor believes that the factors described below represent the principal risks inherent in investing in the Preferred Securities, but the inability of the Issuer to pay any amounts due on or in connection with any Preferred Securities, or of the Guarantor to pay any amounts due on or in connection with the Guarantees, may occur for other reasons and neither the Issuer nor the Guarantor represents that the statements below regarding the risks of holding any Preferred Securities are exhaustive. Prospective investors should also read the information set out elsewhere in this Prospectus and reach their own view prior to making any investment decision in the Preferred Securities.*

### **Risk factors**

#### **Risks relating to the Issuer**

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

#### **Risks relating to the Issuer and the Guarantor**

The risk factors set out below also relate to the Issuer, as a member of the Group.

#### **Risks Relating to the Group's Operations**

*Since the Group's loan portfolio is concentrated in Continental Europe, the United Kingdom and Latin America, adverse changes affecting the Continental European, the United Kingdom or certain Latin American economies could adversely affect the Group's financial condition.*

The Group's loan portfolio is concentrated in Continental Europe (in particular, Spain), the United Kingdom and Latin America. At December 31, 2008, Continental Europe accounted for approximately 52% of the Group's total loan portfolio (Spain accounted for 38% of the Group's total loan portfolio), while the United Kingdom and Latin America accounted for 33% and 15%, respectively. Therefore, adverse changes affecting the economies of Continental Europe (in particular, Spain), the United Kingdom or the Latin American countries where the Group operates would likely have a significant adverse impact on the Group's loan portfolio and, as a result, on the Group's financial condition, cash flows and results of operations.

*Some of the Group's business is cyclical and the Group's income may decrease when demand for certain products or services is in a down cycle.*

The level of income the Group derives from certain of the Group's products and services depends on the strength of the economies in the regions where the Group operates and certain market trends prevailing in those areas. Therefore, negative cycles may adversely affect the Group's income in the future.

*A sudden shortage of funds could increase the Group's cost of funding and have an adverse effect on the Group's liquidity and funding.*

Historically, the Group's principal source of funds has been customer deposits (demand, time and notice deposits). At December 31, 2008, 20.6% of these customer deposits were time deposits in amounts greater than \$100,000. Time deposits represented 48.8%, 48.9% and 44.2% of total customer deposits at the end of 2008, 2007 and 2006, respectively. Large-denomination time deposits may be a less stable source of deposits than other type of deposits. The loss of market liquidity, triggered by the deterioration of the US sub-prime credit market, continues to affect the supply and cost of liquidity and funding. The effects of the downturn have spread to the global economy, in particular to issuances in wholesale markets (principally asset-backed securities) and to availability of liquid resources via the interbank markets. In this context, there can be no assurance that the Group will not incur materially higher funding costs or be required to liquidate certain assets.

***The Group is vulnerable to the current disruptions and volatility in the global financial markets as well as to government action intended to alleviate the effects of the current financial crisis.***

Since August 2007, the global financial system has experienced difficult credit and liquidity conditions and disruptions leading to less liquidity, greater volatility, general widening of spreads and, in some cases, lack of price transparency on interbank lending rates. In September 2008, global financial markets deteriorated sharply following the bankruptcy filing by Lehman Brothers Holdings Inc. In the days that followed, it became apparent that a number of other major financial institutions, including some of the largest global commercial banks, investment banks, mortgage lenders, mortgage guarantors and insurance companies, were experiencing significant difficulties.

Following the bankruptcy filing by Lehman Brothers Holdings Inc., there were runs on deposits at several financial institutions and numerous institutions sought additional capital. Central banks around the world have coordinated efforts to increase liquidity in the financial markets by taking measures such as increasing the amounts they lend directly to financial institutions, lowering interest rates and significantly increasing temporary reciprocal currency arrangements (or "swap lines").

In an attempt to prevent the failure of the financial system, the United States and European governments have intervened on an unprecedented scale. In the United States, the federal government has taken equity stakes in several financial institutions, has implemented a program to guarantee the short-term and certain medium-term debt of financial institutions, has increased consumer deposit guarantees, and has brokered the acquisitions of certain struggling financial institutions, among other measures. In the United Kingdom, the government has effectively nationalized some of the country's largest banks, has provided a preferred equity program open to all financial institutions and a program to guarantee short-term and certain medium-term debt of financial institutions, among other measures. In Spain, the government has increased consumer deposit guarantees, has made available a program to guarantee the debt of certain financial institutions, has created a fund to purchase assets from financial institutions and the Spanish Ministry of Economy and Finance has been authorized, on an exceptional basis and until December 31, 2009, to acquire, at the request of credit institutions resident in Spain, shares and other capital instruments (including preferred shares) issued by such institutions. There is no assurance that these measures will successfully alleviate the current financial crisis. In addition, some of these measures could lead to increased government ownership and control over financial institutions and further consolidation in the financial industry, all of which could adversely affect the Group's business, financial condition and results of operations.

Despite the extent of the aforementioned intervention, global investor confidence remains low and credit remains relatively scarce. In addition, the world's largest developed economies, including the United States and United Kingdom, are in the midst of economic recessions. Continued or worsening disruption and volatility in the global financial markets could have a material adverse effect on the Group's ability to access capital and liquidity on financial terms acceptable to it, if at all. If capital markets financing ceases to become available, or becomes excessively expensive, the Group may be forced to raise the rates the Group pays on deposits to attract more customers. Any such increase in capital markets funding costs or deposit rates would entail a repricing of loans, which would result in a reduction of volumes, and may also have an adverse effect on the Group's interest margins. A further economic downturn, especially in Spain, the United Kingdom, the United States and certain Latin American countries, could also result in a further reduction in business activity and a consequent loss of income for Santander.

***Risks concerning borrower credit quality and general economic conditions are inherent in the Group's business.***

Risks arising from changes in credit quality and the recoverability of loans and amounts due from counterparties are inherent in a wide range of the Group's businesses. Adverse changes in the credit quality of the Group's borrowers and counterparties or a general deterioration in Spanish, United Kingdom, Latin American, United States or global economic conditions, or arising from systemic risks in the financial systems, could reduce the recoverability and value of the Group's assets and require an increase in the Group's level of allowances for credit losses. Deterioration in the economies in which the Group operates could reduce the profit margins for the Group's banking and financial services businesses.

***The financial problems faced by the Group's customers could adversely affect the Group.***

Market turmoil and economic recession, especially in Spain, the United Kingdom, the United States and certain Latin American countries, could materially and adversely affect the liquidity, businesses and/or financial conditions of the Group's borrowers, which could in turn further increase the Group's non-performing loan ratios, impair the Group's loan and other financial assets and result in decreased demand for borrowings in general. In the context of continued market turmoil, economic recession and increasing unemployment coupled with declining consumer spending, the value of assets collateralizing the Group's secured loans, including homes and other real estate, could decline significantly, which could result in the impairment of the value of the Group's loan assets. Moreover, in 2008 the Group experienced an increase in the Group's non-performing ratios, a deterioration in asset quality and a slowdown in business volumes, as compared to 2007. In addition, the Group's customers may further significantly decrease their risk tolerance to non-deposit investments such as stocks, bonds and mutual funds, which would adversely affect the Group's fee and commission income. Any of the conditions described above could have a material adverse effect on the Group's business, financial condition and results of operations.

***The Group is exposed to risks faced by other financial institutions.***

The Group routinely transacts with counterparties in the financial services industry, including brokers and dealers, commercial banks, investment banks, mutual and hedge funds, and other institutional clients. Defaults by, and even rumors or questions about the solvency of, certain financial institutions and the financial services industry generally have led to market-wide liquidity problems and could lead to losses or defaults by other institutions. These liquidity concerns have had, and may continue to have, a chilling effect on inter-institutional financial transactions in general. Many of the routine transactions the Group enters into expose the Group to significant credit risk in the event of default by one of the Group's significant counterparties. A default by a significant financial counterparty, or liquidity problems in the financial services industry in general, could have a material adverse effect on the Group's business, financial condition and results of operations.

***The Group's exposure to Spanish, UK and US real estate markets makes the Group more vulnerable to adverse developments in these markets.***

As mortgage loans are one of the Group's principal assets, comprising 49% of the Group's loan portfolio as of December 31, 2008, the Group is currently highly exposed to developments in real estate markets, especially in Spain, the United Kingdom and the US. In addition, the Group currently has exposure to certain real estate developers in Spain. From 2002 to 2007, demand for housing and mortgage financing in Spain increased significantly driven by, among other things, economic growth, declining unemployment rates, demographic and social trends, the desirability of Spain as a vacation destination and historically low interest rates in the Eurozone. The United Kingdom experienced a similar increase in housing and mortgage demand, driven by, among other things, economic growth, declining unemployment rates, demographic trends and the increasing prominence of London as an international financial center. During late 2007, the housing market began to adjust in Spain and the United Kingdom as a result of excess supply (particularly in Spain) and higher interest rates. In 2008, as economic growth came to a halt in Spain and the economy began to contract in the United Kingdom, retail interest rates continued to increase, housing oversupply persisted, unemployment continued to increase and demand continued to decrease in both countries, home prices declined while mortgage delinquencies increased. As a result, the Group's non-performing loan ratio increased from 0.78% at December 31, 2006 to 0.94% at December 31, 2007 to 2.02% at December 31, 2008. These trends, especially higher interest and unemployment rates coupled with declining real estate prices, could have a material adverse impact on the Group's mortgage payment delinquency rates, which in turn could have a material adverse effect on the Group's business, financial condition and results of operations.

***The Group may generate lower revenues from brokerage and other commission-and fee-based businesses.***

Market downturns are likely to lead to declines in the volume of transactions that the Group executes for the Group's customers and, therefore, to declines in the Group's non-interest revenues. In addition, because the fees that the Group charges for managing the Group's clients' portfolios are in many cases based on the value or performance of those portfolios, a market downturn that reduces the value of the the Group's clients' portfolios or increases the amount of withdrawals would reduce the revenues the Group receives from the Group's asset management and private banking and custody businesses.

Even in the absence of a market downturn, below-market performance by the Group's mutual funds may result in increased withdrawals and reduced inflows, which would reduce the revenue the Group receives from the Group's asset management business.

***Market risks associated with fluctuations in bond and equity prices and other market factors are inherent in the Group's business. Protracted market declines can reduce liquidity in the markets, making it harder to sell assets and leading to material losses.***

The performance of financial markets may cause changes in the value of the Group's investment and trading portfolios. In some of the Group's business, protracted adverse market movements, particularly asset price decline, can reduce the level of activity in the market or reduce market liquidity. These developments can lead to material losses if the Group cannot close out deteriorating positions in a timely way. This may especially be the case for assets of the Group for which there are less liquid markets to begin with. Assets that are not traded on stock exchanges or other public trading markets, such as derivative contracts between banks, may have values that the Group calculates using models other than publicly quoted prices. Monitoring the deterioration of prices of assets like these is difficult and could lead to losses that the Group does not anticipate.

The increasing volatility of world equity markets due to the current credit crisis is having a particular impact on the financial sector. This may affect the value of the Group's investments in entities in this sector and, depending on their fair value and future recovery expectations, could become a permanent impairment which would be subject to write-offs against the Group's results.

***Volatility in interest rates may negatively affect the Group's net interest income and increase the Group's non-performing loan portfolio.***

Changes in market interest rates could affect the interest rates charged on interest-earning assets differently than the interest rates paid on interest-bearing liabilities. This difference could result in an increase in interest expense relative to interest income leading to a reduction in the Group's net interest income. Income from treasury operations is particularly vulnerable to interest rate volatility. Since the majority of the Group's loan portfolio reprices in less than one year, rising interest rates may also bring about an increasing non-performing loan portfolio. Interest rates are highly sensitive to many factors beyond the Group's control, including deregulation of the financial sector, monetary policies, domestic and international economic and political conditions and other factors.

As of December 31, 2008, the Group's interest rate risk measured in daily Value at Risk (**VaRD**) terms amounted to €157.7 million. €

***Foreign exchange rate fluctuations may negatively affect the Group's earnings and the value of the Group's assets and shares.***

Fluctuations in the exchange rate between the euro and the US dollar will affect the US dollar equivalent of the price of the Group's securities on the stock exchanges in which the Group's shares and ADSs are traded. These fluctuations will also affect the conversion to US dollars of cash dividends paid in euros on the Group's ADSs.

In the ordinary course of the Group's business, the Group has a percentage of the Group's assets and liabilities denominated in currencies other than the euro. Fluctuations in the value of the euro against other currencies may adversely affect the Group's profitability. For example, the appreciation of the euro against some Latin American

currencies and the US dollar will depress earnings from the Group's Latin American and US operations, and the appreciation of the euro against the sterling will depress earnings from the Group's UK operations. Additionally, while most of the governments of the countries in which the Group operates have not imposed prohibitions on the repatriation of dividends, capital investment or other distributions, no assurance can be given that these governments will not institute restrictive exchange control policies in the future. Moreover, fluctuations among the currencies in which the Group's shares and ADSs trade could reduce the value of your investment.

As of December 31, 2008, the Group's largest exposures on temporary positions (with a potential impact on the income statement) were concentrated, in descending order, on the pound sterling and the Brazilian real. On that day, the Group's largest exposures on permanent positions (with a potential impact on equity) were concentrated, in descending order, on the Brazilian real, the pound sterling, the Mexican peso and the Chilean peso.

***Despite the Group's risk management policies, procedures and methods, the Group may nonetheless be exposed to unidentified or unanticipated risks.***

The Group's risk management techniques and strategies may not be fully effective in mitigating the Group's risk exposure in all economic market environments or against all types of risk, including risks that the Group fails to identify or anticipate. Some of the Group's qualitative tools and metrics for managing risk are based upon the Group's use of observed historical market behavior. The Group applies statistical and other tools to these observations to arrive at quantifications of the Group's risk exposures. These qualitative tools and metrics may fail to predict future risk exposures. These risk exposures could, for example, arise from factors the Group did not anticipate or correctly evaluate in the Group's statistical models. This would limit the Group's ability to manage the Group's risks. The Group's losses thus could be significantly greater than the historical measures indicate. In addition, the Group's quantified modeling does not take all risks into account. The Group's more qualitative approach to managing those risks could prove insufficient, exposing the Group to material unanticipated losses. If existing or potential customers believe the Group's risk management is inadequate, they could take their business elsewhere. This could harm the Group's reputation as well as the Group's revenues and profits.

***The Group's recent and future acquisitions may not be successful and may be disruptive to the Group's business.***

The Group has recently acquired certain financial institutions, including Sovereign Bancorp and Alliance & Leicester plc. The Group has also recently acquired the retail deposits, branch network and related employees of Bradford & Bingley plc. The Group's assessment of these acquisitions, especially Alliance and Leicester plc and Bradford & Bingley plc, is based on limited and potentially inexact information and on assumptions with respect to operations, profitability, asset quality and other matters that may prove to be incorrect. The aforementioned financial institutions have been adversely affected by the current financial crisis and in some cases, principally Alliance & Leicester plc, have material portfolios of securities that have suffered losses and could decline meaningfully in value. There can be no assurances that these institutions will not incur substantial further losses or that the Group will not be exposed to currently unknown liabilities resulting from these acquisitions. Any such losses or liabilities could have a material adverse effect on the Group's business, financial condition and results of operations.

The Group can give no assurance that the Group's recent and any future acquisition and partnership activities will perform in accordance with the Group's expectations. The Group bases its assessment of potential acquisitions and partnerships on limited and potentially inexact information and on assumptions with respect to operations, profitability and other matters that may prove to be incorrect. The Group can give no assurances that the Group's expectations with regards to integration and synergies will materialize.

***The Group may fail to realize the anticipated benefits of the Group's recent acquisitions.***

The success of the Group's recent acquisitions will depend, in part, on the Group's ability to realize the anticipated benefits from combining the Group's business with the businesses of Sovereign Bancorp, Alliance & Leicester plc and Bradford & Bingley plc. It is possible that the integration process could take longer or be more costly than anticipated or could result in the loss of key employees, the disruption of each company's ongoing businesses or inconsistencies in standards, controls, procedures and policies that adversely affect the ability of each company to maintain relationships with clients, customers or employees. The Group's efforts to integrate these companies are also likely to divert

management attention and resources. If the Group takes longer than anticipated or is not able to integrate the aforementioned businesses, the anticipated benefits of the Group's recent acquisitions may not be realized fully or at all, or may take longer to realize than expected.

***Proposals for the restructuring of the businesses the Group acquired from ABN AMRO are complex and may not realize the anticipated benefits for the Group.***

The restructuring plan in place for the separation and integration of ABN AMRO into and among the businesses and operations of the Group is complex and involves substantial reorganization of ABN AMRO's operations and legal structure. In addition, it contemplates activities taking place simultaneously in a number of businesses and jurisdictions. Implementation of the reorganization and the realization of the forecast benefits within the planned timetable may be challenging. Execution of the restructuring requires management resources previously devoted to the Group's businesses and the retention of appropriately skilled ABN AMRO staff. The Group may not realize the benefits of the acquisition or the restructuring when expected or to the extent projected.

***Increased competition in the countries where the Group operates may adversely affect the Group's growth prospects and operations.***

Most of the financial systems in which the Group operates are highly competitive. Financial sector reforms in the markets in which the Group operates have increased competition among both local and foreign financial institutions, and the Group believes that this trend will continue. In particular, price competition in Europe, Latin America and the US has increased recently. The Group's success in the European, Latin American and US markets will depend on the Group's ability to remain competitive with other financial institutions. In addition, there has been a trend towards consolidation in the banking industry, which has created larger and stronger banks with which the Group must now compete. There can be no assurance that this increased competition will not adversely affect the Group's growth prospects, and therefore the Group's operations. The Group also faces competition from non-bank competitors, such as brokerage companies, department stores (for some credit products), leasing and factoring companies, mutual fund and pension fund management companies and insurance companies.

***Changes in the regulatory framework in the jurisdictions where the Group operates could adversely affect the Group's business.***

As a result of the current financial crisis and ensuing government intervention, it is widely anticipated that there will be a substantial increase in government regulation of the financial services industry, including the imposition of higher capital requirements, heightened disclosure standards and restrictions on certain types of transaction structures. In addition, novel proposals for new regulatory initiatives, abound in the current environment. If enacted, new regulations could require the Group to inject further capital into the Group's business as well as in businesses the Group acquires, restrict the type or volume of transactions the Group enters into, or set limits on or require the modification of rates or fees that the Group charges on certain loan or other products, any of which could lower the return on the Group's investments, assets and equity. The Group may also face increased compliance costs and limitations on the Group's ability to pursue certain business opportunities. Changes in regulations, which are beyond the Group's control, may have a material effect on the Group's business and operations. As some of the banking laws and regulations have been recently adopted, the manner in which those laws and related regulations are applied to the operations of financial institutions is still evolving. Moreover, no assurance can be given generally that laws or regulations will be adopted, enforced or interpreted in a manner that will not have material adverse affect on the Group's business.

***Operational risks are inherent in the Group's business.***

The Group's businesses depend on the ability to process a large number of transactions efficiently and accurately. Losses can result from inadequate personnel, inadequate or failed internal control processes and systems, or from external events that interrupt normal business operations. The Group also faces the risk that the design of the Group's controls and procedures prove to be inadequate or are circumvented. The Group has suffered losses from operational risk in the past and there can be no assurance that the Group will not suffer material losses from operational risk in the future.

Notwithstanding anything in this risk factor, this risk factor should not be taken as implying that neither the Issuer nor the Group will be unable to comply with their obligations deriving from the Issuer being a company with securities admitted to the official list of the UK Listing Authority or a supervised firm regulated by the Financial Services Authority.

***The Group is exposed to risk of loss from legal and regulatory proceedings.***

The Group faces various issues that may give rise to risk of loss from legal and regulatory proceedings. These issues include appropriately dealing with potential conflicts of interest, legal and regulatory requirements, ethical issues, and conduct by companies in which the Group holds strategic investments or joint venture partners, could increase the number of litigation claims and the amount of damages asserted against the Group or subject the Group to regulatory enforcement actions, fines and penalties. Currently, the Bank and its subsidiaries are the subject of a number of legal proceedings and regulatory actions. An adverse result in one or more of these proceedings could have a material adverse effect on the Group's operating results for any particular period. For information relating to the legal proceedings involving the Group's businesses, see "Litigation and General Information".

***Credit, market and liquidity risks may have an adverse effect on the Group's credit ratings and the Group's cost of funds. Any reduction in the Group's credit rating could increase the Group's cost of funding and adversely affect the Group's interest margins.***

Credit ratings affect the cost and other terms upon which the Group is able to obtain funding. Rating agencies regularly evaluate the Group and their ratings of the Group's long-term debt are based on a number of factors, including the Group's financial strength as well as conditions affecting the financial services industry generally.

Any downgrade in the Group's ratings could increase the Group's borrowing costs, limit the Group's access to capital markets and adversely affect the ability of the Group's business to sell or market their products, engage in business transactions—particularly longer-term and derivatives transactions—and retain the Group's customers. This, in turn, could reduce the Group's liquidity and have an adverse effect on the Group's operating results and financial condition.

While the Group's long-term debt is currently rated investment grade by the major rating agencies (Aa1 by Moody's Investors Service España, S.A. and AA by each of Standard & Poor's Ratings Services and Fitch Ratings Ltd., respectively), following the Group's announcement of its proposed acquisition of Sovereign, Fitch Ratings Ltd. lowered the Group's outlook to negative until all the necessary approvals relating to this acquisition have been received and they can better assess the scope of the risks of integration. In March 2009, Standard & Poor's Ratings Services revised the outlook of the Group to negative based on lower expectation for economic growth in the countries in which the Group operates. In light of the difficulties in the financial services industry and the financial markets, there can be no assurance that the rating agencies will maintain their current ratings or outlooks, or with regard to those rating agencies who have a negative outlook on the Group, there can be no assurances that such agencies will revise such outlooks upward. The Group's failure to maintain favourable ratings and outlooks could increase the cost of its funding and adversely affect the Group's interest margins.

**Risks relating to Latin America**

***The Group's Latin American subsidiaries' growth, asset quality and profitability may be adversely affected by volatile macroeconomic and political conditions.***

The economies of the nine Latin American countries where the Group operates have experienced significant volatility in recent decades, characterized, in some cases, by slow or regressive growth, declining investment and hyperinflation. This volatility has resulted in fluctuations in the levels of deposits and in the relative economic strength of various segments of the economies to which the Group lends. Latin American banking activities (including Retail Banking, Global Wholesale Banking, Asset Management and Private Banking) accounted for € 2,945 million of the Group's profit attributed to the Group for the year ended December 31, 2008 (an increase of 10% from € 2,666 million for the year ended December 31, 2007). Negative and fluctuating economic conditions, such as a changing interest rate environment, impact the Group's profitability by causing lending margins to decrease and leading to decreased demand for higher margin products and services. Negative and fluctuating economic conditions in some Latin American

countries could also result in government defaults on public debt. This could affect the Group in two ways: directly, through portfolio losses, and indirectly, through instabilities that a default in public debt could cause to the banking system as a whole, particularly since commercial banks' exposure to government debt is high in several Latin American countries in which the Group operates.

In addition, revenues from the Group's Latin American subsidiaries are subject to risk of loss from unfavourable political and diplomatic developments, social instability, and changes in governmental policies, including expropriation, nationalization, international ownership legislation, interest-rate caps and tax policies.

No assurance can be given that the Group's growth, asset quality and profitability will not be affected by volatile macroeconomic and political conditions in the Latin American countries in which the Group operates.

***Recent events concerning the Group's Venezuelan subsidiary.***

In August 2008 the Group announced that it was considering the sale of Banco de Venezuela to a Venezuelan private investor group, with whom certain undertakings were entered into; however, no agreement was reached and the sale did not occur.

The Group has subsequently become aware of the interest of the Government of Venezuela in Banco de Venezuela. On May 22, 2009, the Group announced that it had reached a preliminary agreement for the sale of the Group's stake in this bank to the Republic of Venezuela for \$1,050 million.

On 6 July 2009 Banco Santander, S.A. announced that it had closed the sale of its stake in Banco de Venezuela to Bank for Economic and Social Development of Venezuela (*Banco de Desarrollo Económico y Social de Venezuela*), a public institution of the Bolivarian Republic of Venezuela for \$1,050 million, of which \$630 million have been paid on this date and the remainder will be payable in October and December 2009.

The profit attributed to the Group obtained from Banco de Venezuela in 2008 amounted to € 352 million, which accounted for 3.97% of the Group's results in that fiscal year.

***Latin American economies can be directly and negatively affected by adverse developments in other countries.***

Financial and securities markets in the Latin American countries where the Group operates are, to varying degrees, influenced by economic and market conditions in other countries in Latin America and beyond. Negative developments in the economy or securities markets in one country, particularly in an emerging market, may have a negative impact on other emerging market economies. These developments may adversely affect the business, financial condition and operating results of the Group's subsidiaries in Latin America.

**Risks Relating to the Preferred Securities**

*Spanish Tax Rules*

Under Spanish law, Distributions in respect of the Preferred Securities will be subject to withholding tax in Spain (at the date of this Prospectus, 18 per cent.) in the case of:

- (a) individual holders who are resident in Spain; and
- (b) holders who fail to provide information regarding their identity and tax residence. The Bank is required pursuant to Spanish law to submit to the Spanish tax authorities certain details relating to holders of the Preferred Securities. Holders in respect of whom such information is not provided in accordance with procedures described herein to the Bank will receive payments subject to Spanish withholding (at the date of this Prospectus, 18 per cent.).

The Bank will not gross up payments in respect of any such withholding tax in any of the above cases (see Condition 5 (*Taxation*) and "Taxation - Taxation in the Kingdom of Spain - Disclosure of Holder Information in Connection with Payments of Distributions").

Law 4/2008 of 23 December, abolishing the Wealth Tax levy, generalising the Value Added Tax monthly refund

system and introducing other amendments to the tax legal system (Law 4/2008) amends, among other things, Additional Provision Two of Law 13/1985 (as defined below) which was the source of the obligation on Spanish issuers or their parent companies to report to the Spanish tax authorities on the identity and residence of holders of their debt securities.

Law 4/2008 removes the obligation on Spanish issuers or their parent companies to provide to the Spanish tax authorities the relevant information concerning holders who are not resident in Spain. The amended wording of Additional Provision Two of Law 13/1985 (as defined below) continues to apply the obligation on the Issuer or Guarantor to disclose to the Spanish tax authorities the identity of certain holders of the Preferred Securities who are Spanish resident holders (individual and corporate) and non-resident holders operating through a permanent establishment in Spain.

The implementation of the changes contemplated by Law 4/2008 is subject to the adoption of relevant secondary legislation. At the date of this Prospectus, such secondary legislation had not yet been adopted. Until such time as the relevant secondary legislation is adopted there will be uncertainty as to what, if any, reporting obligations will apply to non-resident holders as a result of Law 4/2008, or whether additional procedures will be developed in respect of resident holders and non-resident holders operating through a permanent establishment in Spain.

Pending the enactment of such secondary legislation, and in accordance with the consultations from the General Directorate for Taxation dated 20 January 2009, the current procedures relating to the identity of the holders of the Preferred Securities remains applicable, irrespective of whether or not the holders of the Preferred Securities are resident in Spain.

Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, societe anonyme (**Clearstream, Luxembourg**) (Clearstream, Luxembourg together with Euroclear will be referred to as the **Clearing Systems**) are expected to follow certain procedures to facilitate to the Bank and the Paying Agent the collection of the details referred to above from holders of the Preferred Securities. If any Clearing System is, in the future, unable to facilitate the collection of such information, it may decline to allow any or all of the Preferred Securities to be cleared through such Clearing System and this may affect the liquidity of such Preferred Securities.

The procedures agreed and described in the Agency Agreement may, in the future, be amended to comply with Spanish law and regulations and operational procedures of the Clearing Systems. The procedure described in this Prospectus for the provision of information required by Spanish laws and regulations is a summary only and is subject to review and amendment by the Clearing Systems as well as to further clarification from the Spanish tax authorities regarding such laws and regulations. **Holders of Preferred Securities must seek their own advice to ensure that they comply with all procedures to ensure correct tax treatment of their Preferred Securities.** None of the Issuer, the Bank, the Paying Agent or the Clearing Systems assume any responsibility therefore.

The Issuer and the Guarantor, as applicable, may, in the future, withhold amounts from payments for the benefit of beneficial owners who are subject to Corporate Income Tax in Spain if the Spanish tax authorities determine that the preferred securities do not comply with exemption requirements specified in the Reply to a Consultation of the Directorate General for Taxation (*Dirección General de Tributos*) dated July 27, 2004 or otherwise require such withholding to be made. If this were to occur, neither the Issuer nor the Guarantor will pay additional amounts in respect of such withholding. See "Taxation—Taxation in the Kingdom of Spain—Legal Entities with Tax Residency in Spain—Corporate Income Tax (*Impuesto sobre Sociedades*)."

*The transferability of the Preferred Securities may be limited by the absence of an active trading market.*

There is currently no market for the Preferred Securities. There can be no assurance that any active trading market will develop for the Preferred Securities, nor about the liquidity of any such market, the ability of holders to sell the Preferred Securities or the prices at which the Preferred Securities could be sold. If a market for the Preferred Securities were to develop, the Preferred Securities could trade at prices that may be higher or lower than their initial offering prices depending on many factors, including the Group's results of operations, the markets for similar securities and other factors beyond its control, including general economic and market conditions.

*Distributions on the Preferred Securities are not cumulative.*

Distributions on the Preferred Securities are not cumulative. Distributions may not be paid in full, or at all, if the Bank does not have sufficient Distributable Profits or if the Bank is limited in making payments on its ordinary shares or on other Preferred Securities issued by the Bank in accordance with limitations contemplated in the Spanish banking

capital adequacy regulations. If Distributions for any distribution period are not paid by reason of the above limitations, investors will not be entitled to receive such Distributions (or any payment under the Guarantees in respect of such Distributions) whether or not funds are or subsequently become available.

*The Preferred Securities have no fixed redemption date and investors have no rights to call for redemption of the Preferred Securities.*

The Preferred Securities have no fixed final redemption date and holders have no rights to call for the redemption of the Preferred Securities. Although the Preferred Securities may be redeemed at the option of the Issuer on or after the First Call Date, there are limitations on redemption of the Preferred Securities, including Bank of Spain consent and the availability of sufficient funds to effect redemption.

*The Bank's obligations under the Guarantees are limited to the amounts of the payments due under the Preferred Securities.*

The Bank's obligation to make payments under the Guarantees is limited to the extent of the amounts due under the Preferred Securities. A distribution will not be paid under the Preferred Securities if the aggregate of such distribution, together with any other distributions previously paid during the then-current fiscal year and proposed to be paid during the then-current distribution period, in each case on or in respect of the Preferred Securities, any Parity Securities of the Bank, or any other Parity Securities issued by the Issuer or by any other subsidiary of the Bank with the benefit of a guarantee of the Bank, in each case ranking equally as to participation in profits with the Bank's obligations under the Guarantees, would exceed the Bank's Distributable Profits of the immediately preceding fiscal year. Even if Distributable Profits are sufficient, the Bank will not be obligated to make any payment under the Guarantees if under the applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company basis only or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or on Parity Securities issued by the Bank. In the event of the liquidation, dissolution or winding -up of the Bank or a reduction in the shareholder's equity of the Bank pursuant to article 169 of the Spanish Corporations Law, the Issuer shall be liquidated by the Guarantor, and investors will have no right to seek payment of amounts under the Guarantees that would exceed the amount investors would have been able to receive had investors been investors in directly issued Parity Securities of the Bank and had all other Parity Securities of the Issuer or of any other subsidiary of the Bank been issued by the Bank. Under no circumstances does the Guarantees provide for acceleration of any payments on, or repayment of, the Preferred Securities.

*The Bank is not required to pay investors under the Guarantees unless it first makes other required payments.*

The Bank's obligations under the Guarantees will rank junior to all of its liabilities to creditors and claims of holders of senior and subordinated ranking securities. In the event of the winding-up, liquidation or dissolution of the Bank, its assets would be available to pay obligations under the Guarantees only after the Bank has made all payments on such liabilities and claims.

*Your right to receive distributions under the Preferred Securities and the Guarantees is junior to certain other obligations of the Issuer and the Guarantor.*

The Preferred Securities and the Guarantees will be, respectively, the Issuer's and the Guarantor's unsecured obligations, and will rank junior to any of the Issuer's and the Guarantor's present and future senior and subordinated indebtedness.

As of 31 May 2009, the Guarantor had approximately EUR 84,579 million of outstanding unconsolidated indebtedness (including guarantees of subsidiary indebtedness) to which its obligations under the Guarantees of the Preferred Securities will rank junior, and EUR 5,587 million of preferred securities issued by subsidiaries guaranteed by the Guarantor or issued by the Guarantor, with which its obligations under the Guarantees of the Preferred Securities will rank *pari passu*. In addition, the Guarantees are structurally subordinated to all indebtedness of subsidiaries of the Guarantor insofar as any right of the Guarantor, as a shareholder of such subsidiaries, to receive any assets of any of its subsidiaries upon the insolvency, liquidation, dissolution or winding-up or other similar proceeding of any of them will, subject to applicable law, be effectively subordinated to the claims of any such subsidiary's creditors (including trade creditors and holders of debt or guarantees issued by such subsidiary). As of 31 May 2009, subsidiaries of the Guarantor had an aggregate total of EUR 165,039 million of outstanding indebtedness and EUR 2,123 million of preferred shares and preferred securities not guaranteed by the Guarantor and EUR 55,170 million outstanding indebtedness and EUR 5,582 million of preferred securities guaranteed by the Guarantor.

As of the date of this Prospectus, the Issuer did not have any senior or subordinated indebtedness and has issued and outstanding \$190 million Series 1 Preferred Securities, EUR300 million Series 2 Preferred Securities, EUR200 million Series 3 Preferred Securities, \$500 million Series 4 Preferred Securities, \$600 million Series 5 Preferred Securities, \$350 million Series 6 Preferred Securities and GBP 250 million Series 7 Preferred Securities which will rank *pari passu* to the Issuer's obligations under the Preferred Securities.

*Non-payment of distributions may adversely affect the trading price of the Preferred Securities.*

If in the future, payments are limited on the Preferred Securities because the Bank has insufficient Distributable Profits, the Preferred Securities may trade at a lower price. If investors sell the Preferred Securities during such a period, investors may not receive the same price as an investor who does not sell its Preferred Securities until sufficient Distributable Profits are available to resume distribution payments. In addition, because the Bank's obligation to make payments under the Guarantees is limited to the extent of the underlying payment obligations on the Preferred Securities which may be limited due to insufficient Distributable Profits, the market price for the Preferred Securities may be more volatile than other securities that do not reflect these limitations.

## CONDITIONS OF THE PREFERRED SECURITIES

The Preferred Securities are issued by virtue of (i) the sole shareholder's resolution of the Issuer dated 7 July 2009 as amended, in relation to the Series 8 Preferred Securities, by the sole shareholder's resolution of the Issuer dated 20 July 2009 and the resolution of the meeting of the Board of Directors (*Consejo de Administración*) of the Issuer dated 7 July 2009 as amended, in relation to the Series 8 Preferred Securities, by the resolution of the meeting of the Board of Directors of the Issuer dated 20 July 2009 (together, the **Corporate Resolutions**) and (ii) in accordance with Law 13/1985, of 25 May, on investment ratios, capital adequacy and information requirements for financial intermediaries (*Ley 13/1985, de 25 de mayo, de coeficientes de inversion, recursos propios y obligaciones de information de los intermediarios financieros*) as amended (**Law 13/1985**).

Each of the Series 8 Preferred Securities and the Series 9 Preferred Securities will be created by virtue of a public deed to be registered with the Mercantile Registry of Madrid on or before the Closing Date (the **Public Deed of Issuance**).

In this Prospectus, references to “Conditions of the Preferred Securities”, “Conditions” and “Condition”, refer to the “Conditions of the Preferred Securities” and to the “Conditions of the Series 8 Preferred Securities” and the “Conditions of the Series 9 Preferred Securities” as applicable.

*Paragraphs in italics are a summary of certain procedures of Euroclear and Clearstream, Luxembourg and certain other information applicable to the Preferred Securities and do not form part of the Conditions of the Preferred Securities. Euroclear and Clearstream, Luxembourg may, from time to time, change their procedures.*

### Definitions

For the purposes of these Conditions, the following expressions shall have the following meanings and apply *mutatis mutandis* to each of the Series 8 Preferred Securities and the Series 9 Preferred Securities respectively:

<b>Agent Bank</b>	means The Bank of New York Mellon and includes any successor agent bank appointed in accordance with the Paying Agency Agreement;
<b>Bank</b>	means Banco Santander, S.A.
<b>Business Day</b>	means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London and a day on which the TARGET 2 System is open other than a Saturday or Sunday.
<b>Closing Date</b>	means on or around 27 July 2009;
<b>Distributions</b>	means the non-cumulative cash distributions determined in accordance with Condition 1 below;
<b>Distribution Payment Date</b>	means each Distribution Payment Date (Fixed) (as defined in Condition 1.1) and each Distribution Payment Date (Floating) (as defined in Condition 1.2);
<b>Distribution Period</b>	means the period from and including one Distribution Payment Date (or, in the case of the first Distribution Period, the Closing Date) to but excluding the next Distribution Payment Date (Fixed) (each a <b>Distribution Period (Fixed)</b> ) and each Distribution Period (Floating) (as defined in Condition 1.2);
<b>Distributable Profits</b>	means, for any Fiscal Year, the reported net profit (calculated in compliance with the regulations of the Bank of Spain) of the Bank, determined after tax and extraordinary items for such year, as derived from the non-consolidated audited profit and loss account of the Bank, irrespective of whether shareholders' meeting approval is still pending, prepared in accordance with generally applicable accounting standards

in Spain and Bank of Spain requirements and guidelines, each as in effect at the time of such preparation. In the event that on any Distribution Payment Date (as defined below), the audit of the non-consolidated profit and loss account has not been completed, the reference to be used to calculate the Distributable Profits will be the balance of the unaudited non-consolidated profit and loss account of the Bank as reported in the financial statements delivered to the Bank of Spain in respect of 31 December of the preceding Fiscal Year.

The reserved financial statements of the Bank and the Group, respectively, are prepared for, and delivered to, the Bank of Spain purely for supervisory reasons as required under applicable Spanish law

<b>Fiscal Year</b>	means the accounting year of the Bank as set out in its bylaws;
<b>First Call Date</b>	means for each of the Series 8 preferred Securities and the Series 9 Preferred Securities 27 July 2014;
<b>Group</b>	means the Bank together with its consolidated subsidiaries in accordance with article 8.3 of Law 13/1985, of 25 May, article 1(f) of Royal Decree 216/ 2008, of 15 February, and Rule 2° of Bank of Spain Circular 3/2008 of 22 May regarding capital adequacy requirements;
<b>Guarantees</b>	means the guarantees dated 23 July 2009 and given by the Bank in respect of the Issuer's obligations under each series of the Preferred Securities for the benefit of holders of the relevant series of Preferred Securities;
<b>Liquidation Distribution</b>	means, subject to the limitation set out in Condition 1.8, the Liquidation Preference per Preferred Security plus any accrued and unpaid Distributions for the then current Distribution Period to (but excluding) the date of payment of the Liquidation Distribution;
<b>Liquidation Preference</b>	means GBP 50,000 per Series 8 Preferred Security and EUR 50,000 per Series 9 Preferred Security;
<b>Parity Securities</b>	means (as the case may be) any preferred securities ( <i>participaciones preferentes</i> ) issued under Law 13/1985, or other securities or instruments equivalent to preferred securities issued by the Issuer or by any other subsidiary of the Bank which are guaranteed by the Bank and entitled to the benefit of a guarantee ranking <i>pari passu</i> with the Bank's obligations under the Guarantees, or any such securities or instruments issued by the Bank and ranking <i>pari passu</i> with the Bank's obligations under the Guarantees;
<b>Paying Agency Agreement</b>	means the paying agency agreement dated 27 July 2009 relating to the Preferred Securities;
<b>Paying Agents</b>	means the Principal Paying Agent and the other agents named therein and includes any successors thereto appointed from time to time in accordance with the Paying Agency Agreement;
<b>Preferred Securities</b>	means the: (i) GBP 679,400,000 Series 8 Fixed/Floating Rate Non-cumulative Perpetual Guaranteed Preferred Securities; and the (ii) EUR 125,700,000 Series 9 Fixed/Floating Rate Non-cumulative Perpetual Guaranteed Preferred Securities.
<b>Principal Paying Agent</b>	means The Bank of New York Mellon (or any successor Principal Paying Agent appointed by the Issuer from time to time and notice of whose appointment is published in the manner specified in Condition 7 below);

<b>Prospectus</b>	means the prospectus relating to the Preferred Securities; and
<b>Redemption Price</b>	means the Liquidation Preference plus any accrued and unpaid Distributions for the then current Distribution Period to the date fixed for redemption per Preferred Security.

## CONDITIONS OF THE SERIES 8 PREFERRED SECURITIES

### 1. Distributions

- 1.1 Subject to Conditions 1.8 and 1.12, the Series 8 Preferred Securities bear Distributions from (and including) the Closing Date to (but excluding) 27 July 2014 at the rate of 11.3 per cent. per annum (the **Distribution Rate (Fixed)**) payable in arrear on 27 July in each year falling on or before 27 July 2014 (each, a **Distribution Payment Date (Fixed)**).

If a Distribution is required to be paid in respect of a Series 8 Preferred Security on any Distribution Payment Date (Fixed), it shall be calculated by the Agent Bank by applying the Distribution Rate (Fixed) to the Liquidation Preference in respect of each Series 8 Preferred Security, multiplying the product by the Day Count Fraction (Fixed) and rounding the resulting figure to the nearest penny (half a penny being rounded upwards). For this purpose, **Day Count Fraction (Fixed)** means, in respect of any period, the number of days in the relevant period, from (and including) the first day in such period to (but excluding) the last day in such period, divided by the number of days in the Regular Period in which the relevant period falls; and **Regular Period** means each period from (and including) a Distribution Payment Date (Fixed) (or, in the case of the first period, the Closing Date) to (but excluding) the next Distribution Payment Date (Fixed).

- 1.2 Subject to Conditions 1.8 and 1.12, the Series 8 Preferred Securities bear Distributions from (and including) 27 July 2014, payable on 27 October, 27 January, 27 April and 27 July in each year falling after 27 July 2014 (each, a **Distribution Payment Date (Floating)**); provided, however, that if any Distribution Payment Date (Floating) would otherwise fall on a date which is not a Business Day, it will be postponed to the next Business Day unless it would thereby fall into the next calendar month, in which case it will be brought forward to the preceding Business Day. Each period beginning on (and including) a Distribution Payment Date (Floating) (or, in the case of the first period, the Closing Date) to (but excluding) the next Distribution Payment Date (Floating) is a **Distribution Period (Floating)**.

The rate of Distributions applicable to the Series 8 Preferred Securities (the **Distribution Rate (Floating)**) for each Distribution Period (Floating) will be determined by the Agent Bank by applying the rate equal to Three Month LIBOR plus 7.66 per cent. per annum to the Liquidation Preference in respect of each Series 8 Preferred Security multiplying the product by the Day Count Fraction (Floating) and rounding the resulting figure to the nearest penny (half a penny being rounded upwards). For this purpose, the **Day Count Fraction (Floating)** means the number of days in the period from and including the date from which the relevant Distribution begins to accrue for the relevant period of calculation to but excluding the date on which it falls due, divided by 365 (or, if the Distribution Payment Date (Floating) falls in a leap year, the sum of (A) the actual number of days in that portion of the Distribution Period (Floating) falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Distribution Period (Floating) falling in a non-leap year divided by 365).

- 1.3 *Distribution Rate:* **Three Month LIBOR** for each Distribution Period (Floating) will be determined by the Agent Bank on the following basis:
- (i) the Agent Bank will determine the rate for deposits in Sterling for a period equal to the relevant Distribution Period (Floating) which appears on the display page designated LIBOR01 on Reuters (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying comparable rates) as of 11:00 a.m., (London time), on the first day of the relevant Distribution Period (Floating) (the **Distribution Determination Date**);
  - (ii) if such rate does not appear on that page, the Agent Bank will:

- (A) request the principal London office of each of four major banks in the London interbank market (as selected by the Agent Bank (after consultation with the Issuer)) to provide a quotation of the rate at which deposits in Sterling are offered by it at approximately 11:00 a.m. (London time) on the Distribution Determination Date to prime banks in the London interbank market for a period equal to the relevant Distribution Period (Floating) and in an amount that is representative for a single transaction in that market at that time; and
  - (B) disregarding the highest and the lowest quotations received (or, in the case of repeated highest and/or lowest quotations, only one of such repeated highest and/or lowest quotations) determine the arithmetic mean (rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, 0.000005 being rounded upwards and all Sterling amounts used in or resulting from such calculations will be rounded to the nearest penny (with a half penny being rounded upwards)) of such quotations;
- (iii) if at least two such quotations are provided, LIBOR will be the arithmetic mean of such quotations; and
  - (iv) if fewer than two such quotations are provided as requested, LIBOR will be the arithmetic mean (rounded, if necessary, as aforesaid) of the rates quoted by three major banks in the London market selected by the Agent Bank (after consultation with the Issuer) at approximately 11:00 a.m. (London time) on the first day of the relevant Distribution Period (Floating) for loans in Sterling to leading London banks for a period equal to the relevant Distribution Period (Floating) and in an amount that is representative for a single transaction in that market at that time, provided, however, that if fewer than three banks so selected by the Agent Bank are providing such quotations, Three Month LIBOR for such Distribution Period (Floating) shall be either (i) Three Month LIBOR in effect for the last preceding Distribution Period (Floating) to which one of the preceding paragraphs of this definition of Three Month LIBOR shall have applied, or (ii) if none, the Distribution Rate (Fixed).

- 1.4 Calculation of Distribution Amount: The Agent Bank will, as soon as practicable after the Distribution Determination Date in relation to each Distribution Period (Floating), calculate the amount of Distribution (the **Distribution Amount**) payable in respect of each Series 8 Preferred Security for such Distribution Period (Floating).
- 1.5 The Agent Bank will cause each Distribution Rate (Floating) and Distribution Amount determined by it, together with the relevant Distribution Payment Date (Floating), to be notified to the Paying Agents and each listing authority, stock exchange and/or quotation system (if any) on which the Series 8 Preferred Securities have been admitted to listing, trading and/or quotation as soon as practicable after such determination.
- 1.6 All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 1 by the Agent Bank will (in the absence of manifest error) be binding on the Issuer, the Bank, the Paying Agents and the holders of Series 8 Preferred Securities.
- 1.7 Subject to any applicable fiscal or other laws and regulations, each such payment in respect of the Series 8 Preferred Securities will be made in Sterling by transfer to an account capable of receiving Sterling payments, as directed by the person(s) having physical custody of the relevant Series 8 Preferred Securities.

If the due date for payment of any amount in respect of any Series 8 Preferred Security is not a Business Day in the place of presentation, the holder shall not be entitled to payment in such place of the amount due until the next succeeding business day in such place and shall not be entitled to any further interest or other payment in respect of any such delay.

*It is intended that the Series 8 Preferred Securities will be represented by a global Preferred Security in bearer form for the total number of the Series 8 Preferred Securities. Such global Series 8 Preferred Security will be delivered into the physical custody of a common depositary for Euroclear and Clearstream, Luxembourg on or about the Closing Date. Euroclear and Clearstream, Luxembourg will make payment of any amounts received by them to their accountholders in accordance with their published rules and regulations.*

- 1.8 Distributions shall not be payable, in the relevant amount, to the extent that:
  - 1.8.1 the aggregate of such Distributions, together with (a) any other distributions previously paid during

the then-current Fiscal Year and (b) any distributions proposed to be paid during the then-current Distribution Period, in each case on or in respect of Parity Securities (including the Preferred Securities) would exceed the Distributable Profits of the immediately preceding Fiscal Year; or

- 1.8.2 even if Distributable Profits are sufficient, if under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company only basis or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or on Parity Securities issued by the Bank.

Except for the above limitations, Distributions will be payable on each Distribution Payment Date out of the Issuer's own legally available resources and distributable items.

- 1.9 If the Issuer does not pay a Distribution with respect to a Distribution Period (as contemplated herein) other than as a result of the limitations set out in Condition 1.8 above, the Issuer's payment obligation in respect thereof will be satisfied if and to the extent that the Bank pays such Distribution pursuant to the Series 8 Guarantee.
- 1.10 Distributions on the Series 8 Preferred Securities will be non-cumulative. Accordingly, if Distributions are not paid or are paid partially on a Distribution Payment Date in respect of the Series 8 Preferred Securities as a result of the limitations set out in Condition 1.8 above, then the right of the holders of the Series 8 Preferred Securities to receive a Distribution or an unpaid part thereof in respect of the relevant Distribution Period will be lost and neither the Issuer nor the Bank will have any obligation to pay the Distribution accrued or part thereof for such Distribution Period or to pay any interest thereon, whether or not Distributions on the Series 8 Preferred Securities are paid in respect of any future Distribution Period.
- 1.11 If as a result of the limitations described in Condition 1.8 above, a Distribution is not paid in full on the Series 8 Preferred Securities, all distributions on the Series 8 Preferred Securities and all other Parity Securities will be paid *pro rata* among the Series 8 Preferred Securities and all such other Parity Securities, so that the amount of the distribution payment per security will have the same relationship to each other that the nominal or par value per security of the Series 8 Preferred Securities and all other Parity Securities bear to each other.
- 1.12 If Distributions are not paid in full or in part on or prior to a Distribution Payment Date in respect of the relevant Distribution Period as a consequence of the limitations of Condition 1.8, then neither the Issuer nor the Bank shall pay dividends or any other distributions on its ordinary shares or on any other class of share capital or securities issued by it and expressed to rank junior to the Series 8 Preferred Securities or to the Bank's obligations under the Series 8 Guarantee, as the case may be, until such time as the Issuer or the Bank shall have resumed the payment of, or set aside payment with respect to, full Distributions on the Series 8 Preferred Securities for two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods (Floating) (or, if applicable, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)).
- 1.13 Save as described in this Condition 1, the Series 8 Preferred Securities will confer no right to participate in the profits of the Issuer.

## **2. Liquidation Distribution**

- 2.1 Subject as provided below, in the event of a voluntary or involuntary liquidation, dissolution or winding - up of the Issuer, holders of the Series 8 Preferred Securities shall be entitled to receive out of the assets of the Issuer available for distribution to holders of preferred securities, the Liquidation Distribution. Such entitlement will arise rateably among the Series 8 Preferred Securities and any Parity Securities issued by the Issuer (subject, if applicable, to the different entitlement of each series of Parity Securities of the Issuer to liquidating distributions) before any distribution of assets to holders of ordinary shares or any other class of shares of the Issuer ranking junior to the Series 8 Preferred Securities. Payment of the Liquidation Distribution is guaranteed by the Bank under the Series 8 Guarantee.
- 2.2 Notwithstanding the availability of sufficient assets of the Issuer to pay full liquidating distributions in respect of the Series 8 Preferred Securities or any Parity Securities, if, at the time such liquidating distributions are to be paid, proceedings are or have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Bank or for a reduction in the Bank's shareholders' equity pursuant to Article 169 of the Spanish Corporation Law (*Ley de Sociedades Anonimas*), the liquidating distributions in respect of the Series 8 Preferred Securities and all Parity Securities shall not exceed the liquidating distributions that would have been

paid from the assets of the Bank (after payment in full, in accordance with Spanish law, of all creditors of the Bank, including holders of its subordinated debt, but excluding holders of any guarantee or other contractual right expressed to rank *pari passu* with or junior to the Series 8 Guarantee) had the Series 8 Preferred Securities and all Parity Securities been issued by the Bank and ranked (A) junior to all liabilities of the Bank, (B) *pari passu* with the Parity Securities, if any, of the Bank, and (C) senior to the Bank's ordinary shares. The Issuer shall be released from its obligation to pay such liquidating distributions by payment to each person in physical custody of the relevant Series 8 Preferred Securities against surrender of such Series 8 Preferred Securities.

All references to the liquidating distribution in respect of the Series 8 Preferred Securities shall be understood to mean the Liquidation Distribution.

- 2.3 If liquidating distributions amounts are limited as described in Condition 2.2, such distributions will be payable *pro rata* among holders of Parity Securities in the proportion that the amounts available for payment bears to the full amounts that would have been payable but for such limitation. After payment of the full or limited Liquidation Distribution in respect of a Series 8 Preferred Security as described in Conditions 2.1 and 2.2, such Series 8 Preferred Security will confer no further right or claim on holders to any remaining assets of the Issuer.

References herein to liquidating distributions in respect of the Series 8 Preferred Securities shall mean the Liquidation Distributions.

Except as provided in paragraph 2.2 above, the Bank undertakes not to permit, or take any action to cause, the liquidation, dissolution or winding-up of the Issuer.

### **3. Optional Redemption**

- 3.1 The Series 8 Preferred Securities shall not be redeemable prior to 27 July 2014 (the **First Call Date**). The Series 8 Preferred Securities may be redeemed at the option of the Issuer, subject to the prior consent, where required of the Bank of Spain, in whole but not in part, on any Distribution Payment Date falling on or after the First Call Date, at the Redemption Price per Series 8 Preferred Security by giving notice (not less than 30 nor more than 60 days prior to the date fixed for redemption) to the holders of Series 8 Preferred Securities in accordance with Condition 7 (which notice shall be irrevocable).

- 3.2 If the Issuer gives a notice of redemption in respect of Series 8 Preferred Securities, pursuant to Condition 3.1 then, by 12:00 hours (London time) on the relevant redemption date, the Issuer will irrevocably deposit with the Principal Paying Agent immediately available funds sufficient to pay the Redemption Price and will give the Principal Paying Agent irrevocable instructions and authority to pay the Redemption Price to each person in physical custody of the relevant Series 8 Preferred Security against surrender of the relevant Series 8 Preferred Security. If notice of redemption shall have been given and funds deposited as required, then, upon the date of such deposit, Distributions on the Series 8 Preferred Securities called for redemption shall cease and all rights in respect of the relevant Series 8 Preferred Securities will cease, except the right to receive the Redemption Price and, subject as provided below, the Series 8 Preferred Securities so deposited (upon payment of the Redemption Price) will be cancelled. Subject to any applicable fiscal or other laws and regulations, payment of the Redemption Price will be made by the Principal Paying Agent in the manner specified in Condition 1.7 above. If payment of the Redemption Price in respect of any Series 8 Preferred Securities is improperly withheld or refused by the Issuer (or by the Bank pursuant to the Series 8 Guarantee) Distributions on such Series 8 Preferred Securities will continue to accrue from the redemption date to the date of payment of the Redemption Price.

### **4. Acquisitions**

Any acquisition by the Issuer, the Bank or any of its respective subsidiaries of Series 8 Preferred Securities shall be made in accordance with applicable laws and regulations.

### **5. Exercise of Rights by Holders**

#### **5.1 Voting Rights**

The holders of the Series 8 Preferred Securities will have no voting rights. Notwithstanding the foregoing, the holders of the Series 8 Preferred Securities will, in the circumstances set out in Conditions 5.1.1, 5.1.2, 5.1.3

below, have the right to participate in the adoption by the Issuer of certain decisions in the Special General Meetings as described below.

5.1.1 Failure to pay Distributions for two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods (Floating) (or, as the case may be, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)):

- (a) In the event that neither the Issuer nor the Bank (by virtue of the Series 8 Guarantee) pays full Distributions in respect of the Series 8 Preferred Securities for two consecutive Distribution Periods (Fixed) or on four consecutive Distribution Periods (Floating) (or, as the case may be, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)), the holders of the Series 8 Preferred Securities may, through the Special General Meeting resolve to appoint two further members to the board of directors of the Issuer and may also remove or replace such directors.

These rights will be enjoyed not only by the holders of Series 8 Preferred Securities, but shall be exercised together with all other holders of preferred securities of the Issuer and in respect of which the Issuer and the Bank have also failed to make payments.

There have been issues of the Series 9 Preferred Securities and of series 1 to series 7 preferred securities by the Issuer with similar terms and conditions to the Series 8 Preferred Securities. Therefore if the circumstances in this paragraph arise, the holders of such preferred securities together with the holders of the Series 8 Preferred Securities must act together as a single class in making any resolution referred to in paragraph (b) below. In the event that the Issuer issues further preferred securities the holders of all preferred securities in respect of which the Issuer and Bank have failed to meet their payment obligations in accordance with their respective terms must act together as a single class in the adoption of any resolution referred to in paragraph (b) below.

- (b) Any resolution appointing, removing or replacing any directors of the board of directors of the Issuer shall be made by a majority (at least 51%) of the aggregate liquidation preference of the preferred securities of the Issuer in respect of which the Issuer or the Bank has failed to pay distributions in accordance with their respective terms.

*It should be noted that liquidation preferences may be different for different series of preferred securities.*

- (c) The board of directors of the Issuer, or an authorised committee, will call a Special General Meeting of holders of Series 8 Preferred Securities within thirty business days following the relevant consecutive non-payment Distribution Period as set out in paragraph (a) above. If the Board of Directors or the authorised committee, as the case may be, does not call the Special General Meeting within thirty days, the holders of the preferred securities representing at least 10% of the aggregate liquidation preference of the preferred securities may convene such meeting.
- (d) The rules governing the convening and holding of Special General Meetings are set out in Condition 5.2 below.
- (e) Immediately following a resolution for the appointment or the removal of additional members to the board of directors of the Issuer, a Special General Meeting shall give notice of such appointment or removal to:
- (i) the board of directors of the Issuer so that it may, where necessary, call a general meeting of the shareholders of the Issuer; and
  - (ii) the shareholders of the Issuer, so that they may hold a universal meeting of shareholders.

The shareholder of the Issuer has undertaken to vote in favour of the appointment or removal of the directors so named by a Special General Meeting and to take all necessary measures to approve such appointment or removal. *Under the articles of the Issuer, the board of directors must have a minimum of three members and a maximum of 11 As at the date of the Prospectus the board of directors has four directors.*

- (f) The foregoing shall apply, in respect of the Preferred Securities, provided that, where the Issuer has failed to fulfil its obligation to make Distributions in respect of the Series 8 Preferred Securities, the Bank has not discharged such obligations pursuant to the Series 8 Guarantee.

- (g) Any member of the board of directors named pursuant to the foregoing shall vacate his position if, subsequent to the circumstances giving rise to his appointment, the Issuer or the Bank makes Distributions, in respect of the Series 8 Preferred Securities for the relevant two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods or, as the case may be, one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating), and any other preferred securities in circulation, in respect of the number of such distribution periods set out in their own terms and conditions.
- (h) Both the appointment and the dismissal of directors shall be notified by the Issuer in accordance with Condition 7 below.

#### 5.1.2 Amendment to the Terms and Conditions of the Series 8 Preferred Securities and further issuances

- (a) Any amendment to the terms and conditions of the Series 8 Preferred Securities shall be approved by the holders of the Series 8 Preferred Securities. Such amendments will be approved with the written consent of holders of at least two-thirds of all outstanding Series 8 Preferred Securities or by a resolution of at least two-thirds of the holders of all outstanding Series 8 Preferred Securities.
- (b) If the Issuer, or the Bank under any guarantee, has paid in full the most recent distribution payable on each series of the Issuer's preferred securities, the Issuer may without the consent or sanction of the holders of its preferred securities: (i) take any action required to issue additional preferred securities or authorise, create and issue one or more other series of preferred securities of the Issuer ranking equally with the Series 8 Preferred Securities, as to the participation in the profits and assets of the Issuer, without limit as to the amount; or (ii) take any action required to authorise, create and issue one or more other classes or series of shares of the Issuer ranking junior to the Series 8 Preferred Securities, as to the participation in the profits or assets of the Issuer.

However, if the Issuer, or the Bank under any guarantee, has not paid in full the most recent distribution payable on each series of preferred securities, then the prior consent of the holders of at least two thirds in liquidation preference of the outstanding preferred securities of the Issuer will be required to carry out such actions. Such consent may be granted in writing by the holders, or with the sanction of a special resolution passed at a separate Special General Meeting of holders.

A Special General Meeting shall notify the decision so adopted to the shareholders of the Issuer. The shareholder of the Issuer has undertaken to vote in the corresponding general meeting of shareholders in conformity with the result of the vote of the Special General Meeting.

#### 5.1.3 Liquidation, Dissolution or winding-up of the Issuer

If the shareholders of the Issuer propose a resolution providing for the liquidation, dissolution or winding-up of the Issuer, the holders of all the outstanding preferred securities of the Issuer:

- (a) will be entitled to receive notice of and to attend the general meeting of shareholders called to adopt this resolution; and
- (b) will be entitled to hold a separate and previous Special General Meeting and vote together as a single class without regard to series on such resolution, but not on any other resolution.

Such resolution will not be effective unless approved by the holders of a majority in liquidation preference of all outstanding preferred securities of the Issuer.

The result of the above mentioned vote shall be disclosed at the general shareholders meeting as well as the fact that the shareholders of the Issuer have undertaken to vote in the corresponding general shareholders meeting in accordance with the vote of the separate general meeting of holders. Notice, attendance, or approval is not required if the liquidation, dissolution and winding-up of the Issuer is initiated due to (i) the liquidation, dissolution or, winding up of the Bank; or (ii) a reduction in shareholders' equity of the Bank under Article 169 of the Corporations Law of Spain.

The Issuer shall notify any meeting at which the holders of preferred securities are entitled to vote in accordance with Condition 7 below. This notice will include a statement regarding: (i) the date, time and place of the meeting;

and (ii) a description of any resolution to be proposed for adoption at the meeting at which the holders are entitled to vote; and (iii) instructions for the delivery of proxies.

The Bank has undertaken not to permit or take any action to cause the liquidation, dissolution, or winding up of the Issuer, except as provided in Condition 2.2 above.

## **5.2 Special General Meetings**

- 5.2.1 A Special General Meeting, which will be constituted by all holders of preferred securities of the Issuer, will be called by the board of directors of the Issuer.
- 5.2.2 The quorum shall be the holders of preferred securities holding one-quarter of the liquidation preference of all preferred securities of the Issuer issued and outstanding. If the attendance of one-quarter of the holders of preferred securities issued and outstanding cannot be obtained, such Special General Meeting may be re-convened one day after the first meeting and such meeting shall be validly convened irrespective of the number of preferred securities present or represented.
- 5.2.3 In a Special General Meeting all resolutions shall be made by the majority set out in Conditions 5.1.1, 5.1.2 and 5.1.3 above, as applicable, and will be binding on all of the holders of such preferred securities, including those not in attendance and dissenters.
- 5.2.4 All holders of preferred securities who are able to show that they held their securities five days prior to the date of the Special General Meeting shall be entitled to attend with the right to speak and vote. Holders of preferred securities shall prove that they held preferred securities in the manner and subject to the requirements set out in the announcement published when convening such Special General Meeting. Holders of the preferred securities may delegate their representation to another person, by an individual signed letter for each meeting.
- 5.2.5 The convening of a Special General Meeting will be carried out in accordance with the rules governing the calling and holding of meetings of holders of each series of preferred securities.

A Special General Meeting of holders of the Series 8 Preferred Securities will be convened (i) so long as any Series 8 Preferred Security is admitted to the official list of the UK Listing Authority and is admitted to trading on the London Stock Exchange plc's regulated market (the **London Stock Exchange**) and the UK Listing Authority so requires, by publication in an English language newspaper in London (which is expected to be the Financial Times) or, if such publication is not practicable but is required by the rules of the UK Listing Authority, in a leading daily newspaper in English and having general circulation in Europe; and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice, request or communication relates).

## **5.3 Pre-emptive Rights and other provisions**

- 5.3.1 The Series 8 Preferred Securities do not grant their holders pre-emption rights in respect of any possible future issues of preferred securities.
- 5.3.2 Neither the Issuer nor the Bank may issue any preferred securities or securities or other instruments equivalent to preferred securities ranking senior to the Series 8 Preferred Securities, and the Bank will not guarantee the issue of preferred securities of any direct or indirect subsidiary if that guarantee would rank senior to the Series 8 Guarantee, unless the Series 8 Guarantee is amended so as to rank *pari passu* with any such issue of preferred securities or securities equivalent to preferred securities or such other guarantee, and the most recent Distribution to the Series 8 Preferred Securities has been paid.
- 5.3.3 No vote in respect of the Series 8 Preferred Securities will be required for the Issuer to redeem and cancel the Series 8 Preferred Securities.
- 5.3.4 Notwithstanding that the Series 8 Preferred Securities confer an entitlement to vote under any of the circumstances described above, neither the Bank nor any Subsidiary of the Bank, to the extent that it is a holder of preferred securities of the Issuer, shall be so entitled to vote.
- 5.3.5 The Series 8 Preferred Securities may be transferred in accordance with the procedures established therefore with the relevant clearing system.

## **6. Taxation**

- 6.1 All payments of Distributions and other amounts payable in respect of the Series 8 Preferred Securities and the Series 8 Guarantee by the Issuer or the Bank (as the case may be) will be made free and clear of and without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of The Kingdom of Spain or any political subdivision thereof or any authority or agency therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, the Issuer or (as the case may be) the Bank shall pay such additional amounts as would have been received had no such withholding or deduction been required.
- 6.2 Neither the Issuer nor the Bank shall be required to pay any additional amounts as referred to in Condition 6.1 in relation to any payment in respect of Series 8 Preferred Securities:
- 6.2.1 to, or to a third party on behalf of, a holder who is liable for such taxes, duties, assessments or governmental charges in respect of the Series 8 Preferred Securities by reason of his (or the beneficial owner for whose benefit it holds such Series 8 Preferred Security) having some connection with The Kingdom of Spain other than the mere holding of Series 8 Preferred Securities (or such beneficial interest); or
- 6.2.2 to, or to a third party on behalf of, a holder in respect of whom the Issuer or the Bank, or the Paying Agent on its behalf, does not receive such details concerning such holder's identity and tax residence (or the identity and tax residence of the beneficial owner for whose benefit it holds such Series 8 Preferred Security) as it requires in order to comply with applicable Spanish legislation and in particular with Law 13/1985 and developing regulations in force or as may be enacted from time to time; or
- 6.2.3 presented for payment more than thirty days after the Relevant Date, except to the extent that the relevant holder would have been entitled to such additional amounts on presenting the same for payment on the expiry of such period of thirty days; or
- 6.2.4 where the withholding or deduction referred to in Condition 6.1 is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- 6.2.5 presented for payment by or on behalf of a holder of Series 8 Preferred Securities who would have been able to avoid such withholding or deduction by presenting the Series 8 Preferred Securities to another paying agent in a Member State of the European Union; or
- 6.2.6 to, or to a third party on behalf of, a Spanish resident corporate entity if the Spanish tax authorities determine that instruments and/or securities like the Series 8 Preferred Securities do not comply with exemption requirements specified in the Reply to a Consultation of the Directorate General for Taxation (*Direction General de Tributos*) dated 27th July 2004 and require a withholding to be made.
- 6.3 For the purposes of Condition 6, the **Relevant Date** means, in respect of any payment, the date on which such payment first becomes due and payable, but if the full amount of the moneys payable has not been received by the Paying Agent on or prior to such due date, it means the first date on which, the full amount of such moneys having been so received and being available for payment to holders of Series 8 Preferred Securities, notice to that effect shall have been duly given to the holders of Series 8 Preferred Securities in accordance with Condition 7 below.

*See "Taxation and Disclosure of Holder Information in connection with Payments of Distributions" for a fuller description of certain tax considerations (particularly in relation to holders which are resident in Spain) relating to the Series 8 Preferred Securities, the formalities which holders must follow in order to claim exemption from withholding tax and for a description of certain disclosure requirements imposed on the Issuer and the Bank relating to the identity and country of tax residence of holders of Series 8 Preferred Securities.*

## 7. Notices

Notices, including notice of any redemption of the Series 8 Preferred Securities will be given by the Issuer (i) so long as any Series 8 Preferred Security is admitted to the official list maintained by the UK Listing Authority and is admitted to trading on the London Stock Exchange plc's regulated market, and the UK Listing Authority so requires, by publication in a leading English language daily newspaper published in London (which is expected to be the Financial Times) or, if such publication is not practicable, in a leading English language

daily newspaper having general circulation in Europe, and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice relates).

Any notice so given will be deemed to have been validly given on the date of such publication (or, if published more than once, on the first date on which publication is made) or, as the case may be, on the date of such delivery to Euroclear and Clearstream, Luxembourg.

In accordance with their published rules and regulations, each of Euroclear and Clearstream, Luxembourg will notify holders of securities accounts with it to which any Series 8 Preferred Securities are credited of any such notices received by it.

## **8. Form and Status**

The Series 8 Preferred Securities will be issued in bearer form.

*It is intended that a global Series 8 Preferred Security representing the Series 8 Preferred Securities will be delivered by the Issuer to a common depositary for Euroclear and Clearstream, Luxembourg. As a result, accountholders should note that they will not themselves receive definitive Series 8 Preferred Securities but instead Series 8 Preferred Securities will be credited to their securities account with the relevant clearing system. It is anticipated that only in exceptional circumstances (such as the closure of Euroclear and Clearstream, Luxembourg, the non-availability of any alternative or successor clearing system, removal of the Series 8 Preferred Securities from Euroclear and Clearstream, Luxembourg and failure to comply with the terms and conditions of the Series 8 Preferred Securities by either the Issuer or the Bank) will definitive Series 8 Preferred Securities be issued directly to such accountholders.*

The Series 8 Preferred Securities rank (a) junior to all liabilities of the Issuer including subordinated liabilities, (b) *pari passu* with each other and with any Parity Securities of the Issuer and (c) senior to the Issuer's ordinary shares.

The holders of the Series 8 Preferred Securities, by subscribing for and acquiring the same, waive their right to any preference they might have other than that set out above which they might have in accordance with applicable legislation from time to time and, specifically that which might apply in accordance with Articles 92 and 158 of the Spanish Insolvency Law.

## **9. Use of Proceeds**

The funds raised from the issue of the Series 8 Preferred Securities amounting to 679,400,000 Pounds Sterling, in accordance with Law 13/1985, will be deposited in their entirety on a permanent basis by way of a deposit with the Bank or with another credit entity (*entidad de credito*) of the Group and will be used for the Group's general corporate purposes and to improve the efficiency of the capital base of the Group. The deposit shall rank equally with the Series 8 Guarantee.

The funds raised from the issue of the Series 8 Preferred Securities and so deposited will be available to absorb losses of the Bank and its Group if and when they occur once there is a reduction in the Shareholders' equity to zero and its reserves have been exhausted.

## **10. Agents**

In acting under the Paying Agency Agreement and in connection with the Series 8 Preferred Securities, the Paying Agents act solely as agents of the Issuer and the Bank and do not assume any obligations towards or relationship of agency or trust for or with any of the holders of the Series 8 Preferred Securities.

The initial Agents and their initial specified offices are listed in the Paying Agency Agreement. The Issuer and the Bank reserve the right at any time to vary or terminate the appointment of any Agent and to appoint a successor principal paying agent, a successor agent bank, a successor calculation agent and additional or successor paying agents; provided, however, that the Issuer and the Bank will maintain (i) a Principal Paying Agent, (ii) to the extent legally possible, a Paying Agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive and (iii) if, and for so long as, the Series 8 Preferred Securities are admitted to the official list maintained by the UK Listing Authority and are admitted to trading on the London Stock Exchange plc's regulated market and the rules of the UK Listing

Authority so require, a Paying Agent having its specified office in London.

Notice of any change in any of the Paying Agents or in their specified offices shall promptly be given to the holders of the Series 8 Preferred Securities.

**11. Prescription**

To the extent that article 950 of the Spanish Commercial Code (*Codigo de Comercio*) applies to the Series 8 Preferred Securities, claims relating to the Series 8 Preferred Securities will become void unless such claims are duly made within three years of the relevant payment date.

**12. Governing Law and Jurisdiction**

12.1 *Governing Law*

The Series 8 Preferred Securities shall be governed by, and construed in accordance with, Spanish law.

12.2 *Jurisdiction*

The Issuer hereby irrevocably agrees for the benefit of the holders of the Series 8 Preferred Securities that the courts of the city of Madrid are to have jurisdiction to settle any disputes which may arise out of or in connection with the Series 8 Preferred Securities and that accordingly any suit, action or proceedings arising out of or in connection with the Preferred Securities (together referred to as **Proceedings**) may be brought in such courts. The Issuer irrevocably waives any objection which it may have now or hereinafter to the laying of the venue of any Proceedings in the courts of the city of Madrid. Nothing contained in this clause 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 competent jurisdictions, whether concurrently or not.

## CONDITIONS OF THE SERIES 9 PREFERRED SECURITIES

### 1. Distributions

- 1.1 Subject to Conditions 1.8 and 1.12, the Series 9 Preferred Securities bear Distributions from (and including) the Closing Date to (but excluding) 27 July 2014 at the rate of 10.5 per cent. per annum (the **Distribution Rate (Fixed)**) payable in arrear on 27 July in each year falling on or before 27 July 2014 (each, a **Distribution Payment Date (Fixed)**).

If a Distribution is required to be paid in respect of a Series 9 Preferred Security on any Distribution Payment Date (Fixed), it shall be calculated by the Agent Bank by applying the Distribution Rate (Fixed) to the Liquidation Preference in respect of each Series 9 Preferred Security, multiplying the product by the Day Count Fraction (Fixed) and rounding the resulting figure to the nearest cent (half a cent being rounded upwards). For this purpose, **Day Count Fraction (Fixed)** means, in respect of any period, the number of days in the relevant period, from (and including) the first day in such period to (but excluding) the last day in such period, divided by the number of days in the Regular Period in which the relevant period falls; and **Regular Period** means each period from (and including) a Distribution Payment Date (Fixed) (or, in the case of the first period, the Closing Date) to (but excluding) the next Distribution Payment Date (Fixed).

- 1.2 Subject to Conditions 1.8 and 1.12, the Series 9 Preferred Securities bear Distributions from (and including) 27 July 2014, payable on 27 October, 27 January, 27 April and 27 July in each year falling after 27 July 2014 (each, a **Distribution Payment Date (Floating)**); provided, however, that if any Distribution Payment Date (Floating) would otherwise fall on a date which is not a Business Day, it will be postponed to the next Business Day unless it would thereby fall into the next calendar month, in which case it will be brought forward to the preceding Business Day. Each period beginning on (and including) a Distribution Payment Date (Floating) (or, in the case of the first period, the Closing Date) to (but excluding) the next Distribution Payment Date (Floating) is a **Distribution Period (Floating)**.

The rate of Distributions applicable to the Series 9 Preferred Securities (the **Distribution Rate (Floating)**) for each Distribution Period (Floating) will be determined by the Agent Bank by applying the rate equal to Three Month EURIBOR plus 7.64 per cent. per annum to the Liquidation Preference in respect of each Series 9 Preferred Security multiplying the product by the Day Count Fraction (Floating) and rounding the resulting figure to the nearest cent (half a cent being rounded upwards). For this purpose, the **Day Count Fraction (Floating)** means the number of days in the period from and including the date from which the relevant Distribution begins to accrue for the relevant period of calculation to but excluding the date on which it falls due, divided by 360.

- 1.3 *Distribution Rate:* **Three Month EURIBOR** for each Distribution Period (Floating) will be determined by the Agent Bank on the following basis:

- (i) the Agent Bank will determine the rate for deposits in Euro for a period equal to the relevant Distribution Period (Floating) which appears on the display page designated 248 on the Moneyline Telerate Service (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying comparable rates) as of 11:00 a.m., (Brussels time), on the second Business Day before the first day of the relevant Distribution Period (Floating) (the **Distribution Determination Date**);
- (ii) if such rate does not appear on that page, the Agent Bank will:
  - (A) request the principal Euro-Zone office of each of four major banks in the Euro-Zone interbank market (as selected by the Agent Bank (after consultation with the Issuer)) to provide a quotation of the rate at which deposits in Euro are offered by it at approximately 11:00 a.m. (Brussels time) on the Distribution Determination Date to prime banks in the Euro-Zone interbank market for a period equal to the relevant Distribution Period (Floating) and in an amount that is representative for a single transaction in that market at that time; and
  - (B) disregarding the highest and the lowest quotations received (or, in the case of repeated highest and/or lowest quotations, only one of such repeated highest and/or lowest

quotations) determine the arithmetic mean (rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, 0.000005 being rounded upwards and all Euro amounts used in or resulting from such calculations will be rounded to the nearest pcent (with a half cent being rounded upwards)) of such quotations;

- (iii) if at least two such quotations are provided, EURIBOR will be the arithmetic mean of such quotations; and
- (iv) if fewer than two such quotations are provided as requested, EURIBOR will be the arithmetic mean (rounded, if necessary, as aforesaid) of the rates quoted by three major banks in the Euro-zone market selected by the Agent Bank (after consultation with the Issuer) at approximately 11:00 a.m. (Brussels time) on the first day of the relevant Distribution Period (Floating) for loans in Euro to leading European banks for a period equal to the relevant Distribution Period (Floating) and in an amount that is representative for a single transaction in that market at that time, provided, however, that if fewer than three banks so selected by the Agent Bank are providing such quotations, Three Month EURIBOR for such Distribution Period (Floating) shall be either (i) Three Month EURIBOR in effect for the last preceding Distribution Period (Floating) to which one of the preceding paragraphs of this definition of Three Month EURIBOR shall have applied, or (ii) if none, the Distribution Rate (Fixed).

- 1.4 Calculation of Distribution Amount: The Agent Bank will, as soon as practicable after the Distribution Determination Date in relation to each Distribution Period (Floating), calculate the amount of Distribution (the **Distribution Amount**) payable in respect of each Series 9 Preferred Security for such Distribution Period (Floating).
- 1.5 The Agent Bank will cause each Distribution Rate (Floating) and Distribution Amount determined by it, together with the relevant Distribution Payment Date (Floating), to be notified to the Paying Agents and each listing authority, stock exchange and/or quotation system (if any) on which the Series 9 Preferred Securities have been admitted to listing, trading and/or quotation as soon as practicable after such determination.
- 1.6 All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 1 by the Agent Bank will (in the absence of manifest error) be binding on the Issuer, the Bank, the Paying Agents and the holders of Series 9 Preferred Securities.
- 1.7 Subject to any applicable fiscal or other laws and regulations, each such payment in respect of the Series 9 Preferred Securities will be made in Euro by transfer to an account capable of receiving Euro payments, as directed by the person(s) having physical custody of the relevant Series 9 Preferred Securities.

If the due date for payment of any amount in respect of any Series 9 Preferred Security is not a Business Day in the place of presentation, the holder shall not be entitled to payment in such place of the amount due until the next succeeding business day in such place and shall not be entitled to any further interest or other payment in respect of any such delay.

*It is intended that the Series 9 Preferred Securities will be represented by a global Preferred Security in bearer form for the total number of the Series 9 Preferred Securities. Such global Series 9 Preferred Security will be delivered into the physical custody of a common depository for Euroclear and Clearstream, Luxembourg on or about the Closing Date. Euroclear and Clearstream, Luxembourg will make payment of any amounts received by them to their accountholders in accordance with their published rules and regulations.*

- 1.8 Distributions shall not be payable, in the relevant amount, to the extent that:
  - 1.8.1 the aggregate of such Distributions, together with (a) any other distributions previously paid during the then-current Fiscal Year and (b) any distributions proposed to be paid during the then-current Distribution Period, in each case on or in respect of Parity Securities (including the Preferred Securities) would exceed the Distributable Profits of the immediately preceding Fiscal Year; or
  - 1.8.2 even if Distributable Profits are sufficient, if under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company only basis or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or on Parity Securities issued by the Bank.

Except for the above limitations, Distributions will be payable on each Distribution Payment Date out of the Issuer's own legally available resources and distributable items.

- 1.9 If the Issuer does not pay a Distribution with respect to a Distribution Period (as contemplated herein) other than as a result of the limitations set out in Condition 1.8 above, the Issuer's payment obligation in respect thereof will be satisfied if and to the extent that the Bank pays such Distribution pursuant to the Series 9 Guarantee.
- 1.10 Distributions on the Series 9 Preferred Securities will be non-cumulative. Accordingly, if Distributions are not paid or are paid partially on a Distribution Payment Date in respect of the Series 9 Preferred Securities as a result of the limitations set out in Condition 1.8 above, then the right of the holders of the Series 9 Preferred Securities to receive a Distribution or an unpaid part thereof in respect of the relevant Distribution Period will be lost and neither the Issuer nor the Bank will have any obligation to pay the Distribution accrued or part thereof for such Distribution Period or to pay any interest thereon, whether or not Distributions on the Series 9 Preferred Securities are paid in respect of any future Distribution Period.
- 1.11 If as a result of the limitations described in Condition 1.8 above, a Distribution is not paid in full on the Series 9 Preferred Securities, all distributions on the Series 9 Preferred Securities and all other Parity Securities will be paid *pro rata* among the Series 9 Preferred Securities and all such other Parity Securities, so that the amount of the distribution payment per security will have the same relationship to each other that the nominal or par value per security of the Series 9 Preferred Securities and all other Parity Securities bear to each other.
- 1.12 If Distributions are not paid in full or in part on or prior to a Distribution Payment Date in respect of the relevant Distribution Period as a consequence of the limitations of Condition 1.8, then neither the Issuer nor the Bank shall pay dividends or any other distributions on its ordinary shares or on any other class of share capital or securities issued by it and expressed to rank junior to the Series 9 Preferred Securities or to the Bank's obligations under the Series 9 Guarantee, as the case may be, until such time as the Issuer or the Bank shall have resumed the payment of, or set aside payment with respect to, full Distributions on the Series 9 Preferred Securities for two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods (Floating) (or, if applicable, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)).
- 1.13 Save as described in this Condition 1, the Series 9 Preferred Securities will confer no right to participate in the profits of the Issuer.

## **2. Liquidation Distribution**

- 2.1 Subject as provided below, in the event of a voluntary or involuntary liquidation, dissolution or winding - up of the Issuer, holders of the Series 9 Preferred Securities shall be entitled to receive out of the assets of the Issuer available for distribution to holders of preferred securities, the Liquidation Distribution. Such entitlement will arise rateably among the Series 9 Preferred Securities and any Parity Securities issued by the Issuer (subject, if applicable, to the different entitlement of each series of Parity Securities of the Issuer to liquidating distributions) before any distribution of assets to holders of ordinary shares or any other class of shares of the Issuer ranking junior to the Series 9 Preferred Securities. Payment of the Liquidation Distribution is guaranteed by the Bank under the Series 9 Guarantee.
- 2.2 Notwithstanding the availability of sufficient assets of the Issuer to pay full liquidating distributions in respect of the Series 9 Preferred Securities or any Parity Securities, if, at the time such liquidating distributions are to be paid, proceedings are or have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Bank or for a reduction in the Bank's shareholders' equity pursuant to Article 169 of the Spanish Corporation Law (*Ley de Sociedades Anonimas*), the liquidating distributions in respect of the Series 9 Preferred Securities and all Parity Securities shall not exceed the liquidating distributions that would have been paid from the assets of the Bank (after payment in full, in accordance with Spanish law, of all creditors of the Bank, including holders of its subordinated debt, but excluding holders of any guarantee or other contractual right expressed to rank *pari passu* with or junior to the Series 9 Guarantee) had the Series 9 Preferred Securities and all Parity Securities been issued by the Bank and ranked (A) junior to all liabilities of the Bank, (B) *pari passu* with the Parity Securities, if any, of the Bank, and (C) senior to the Bank's ordinary shares. The Issuer shall be released from its obligation to pay such liquidating distributions by payment to each person in physical custody of the relevant Series 9 Preferred Securities against surrender of such Series 9 Preferred Securities.

All references to the liquidating distribution in respect of the Series 9 Preferred Securities shall be understood to mean the Liquidation Distribution.

- 2.3 If liquidating distributions amounts are limited as described in Condition 2.2, such distributions will be payable *pro rata* among holders of Parity Securities in the proportion that the amounts available for payment bears to the full amounts that would have been payable but for such limitation. After payment of the full or limited Liquidation Distribution in respect of a Series 9 Preferred Security as described in Conditions 2.1 and 2.2, such Series 9 Preferred Security will confer no further right or claim on holders to any remaining assets of the Issuer.

References herein to liquidating distributions in respect of the Series 9 Preferred Securities shall mean the Liquidation Distributions.

Except as provided in paragraph 2.2 above, the Bank undertakes not to permit, or take any action to cause, the liquidation, dissolution or winding-up of the Issuer.

### **3. Optional Redemption**

- 3.1 The Series 9 Preferred Securities shall not be redeemable prior to 27 July 2014 (the **First Call Date**). The Series 9 Preferred Securities may be redeemed at the option of the Issuer, subject to the prior consent, where required, of the Bank of Spain, in whole but not in part, on any Distribution Payment Date falling on or after the First Call Date, at the Redemption Price per Series 9 Preferred Security by giving notice (not less than 30 nor more than 60 days prior to the date fixed for redemption) to the holders of Series 9 Preferred Securities in accordance with Condition 7 (which notice shall be irrevocable).
- 3.2 If the Issuer gives a notice of redemption in respect of Series 9 Preferred Securities, pursuant to Condition 3.1 then, by 12:00 hours (London time) on the relevant redemption date, the Issuer will irrevocably deposit with the Principal Paying Agent immediately available funds sufficient to pay the Redemption Price and will give the Principal Paying Agent irrevocable instructions and authority to pay the Redemption Price to each person in physical custody of the relevant Series 9 Preferred Security against surrender of the relevant Series 9 Preferred Security. If notice of redemption shall have been given and funds deposited as required, then, upon the date of such deposit, Distributions on the Series 9 Preferred Securities called for redemption shall cease and all rights in respect of the relevant Series 9 Preferred Securities will cease, except the right to receive the Redemption Price and, subject as provided below, the Series 9 Preferred Securities so deposited (upon payment of the Redemption Price) will be cancelled. Subject to any applicable fiscal or other laws and regulations, payment of the Redemption Price will be made by the Principal Paying Agent in the manner specified in Condition 1.7 above. If payment of the Redemption Price in respect of any Series 9 Preferred Securities is improperly withheld or refused by the Issuer (or by the Bank pursuant to the Series 9 Guarantee) Distributions on such Series 9 Preferred Securities will continue to accrue from the redemption date to the date of payment of the Redemption Price.

### **4. Acquisitions**

Any acquisition by the Issuer, the Bank or any of its respective subsidiaries of Series 9 Preferred Securities shall be made in accordance with applicable laws and regulations.

### **5. Exercise of Rights by Holders**

#### **5.1 Voting Rights**

The holders of the Series 9 Preferred Securities will have no voting rights. Notwithstanding the foregoing, the holders of the Series 9 Preferred Securities will, in the circumstances set out in Conditions 5.1.1, 5.1.2, 5.1.3 below, have the right to participate in the adoption by the Issuer of certain decisions in the Special General Meetings as described below.

- 5.1.1 Failure to pay Distributions for two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods (Floating) (or, as the case may be, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)):
- (a) In the event that neither the Issuer nor the Bank (by virtue of the Series 9 Guarantee) pays full Distributions

in respect of the Series 9 Preferred Securities for two consecutive Distribution Periods (Fixed) or on four consecutive Distribution Periods (Floating) (or, as the case may be, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)), the holders of the Series 9 Preferred Securities may, through the Special General Meeting resolve to appoint two further members to the board of directors of the Issuer and may also remove or replace such directors.

These rights will be enjoyed not only by the holders of Series 9 Preferred Securities, but shall be exercised together with all other holders of preferred securities of the Issuer and in respect of which the Issuer and the Bank have also failed to make payments.

There have been issues of the Series 8 Preferred Securities and of series 1 to series 7 preferred securities by the Issuer with similar terms and conditions to the Series 9 Preferred Securities. Therefore if the circumstances in this paragraph arise, the holders of such preferred securities together with the holders of the Series 9 Preferred Securities must act together as a single class in making any resolution referred to in paragraph (b) below. In the event that the Issuer issues further preferred securities the holders of all preferred securities in respect of which the Issuer and Bank have failed to meet their payment obligations in accordance with their respective terms must act together as a single class in the adoption of any resolution referred to in paragraph (b) below.

- (b) Any resolution appointing, removing or replacing any directors of the board of directors of the Issuer shall be made by a majority (at least 51%) of the aggregate liquidation preference of the preferred securities of the Issuer in respect of which the Issuer or the Bank has failed to pay distributions in accordance with their respective terms.

*It should be noted that liquidation preferences may be different for different series of preferred securities.*

- (c) The board of directors of the Issuer, or an authorised committee, will call a Special General Meeting of holders of Series 9 Preferred Securities within thirty business days following the relevant consecutive non-payment Distribution Period as set out in paragraph (a) above. If the Board of Directors or the authorised committee, as the case may be, does not call the Special General Meeting within thirty days, the holders of the preferred securities representing at least 10% of the aggregate liquidation preference of the preferred securities may convene such meeting.
- (d) The rules governing the convening and holding of Special General Meetings are set out in Condition 5.2 below.
- (e) Immediately following a resolution for the appointment or the removal of additional members to the board of directors of the Issuer, a Special General Meeting shall give notice of such appointment or removal to:
  - (i) the board of directors of the Issuer so that it may, where necessary, call a general meeting of the shareholders of the Issuer; and
  - (ii) the shareholders of the Issuer, so that they may hold a universal meeting of shareholders.

The shareholder of the Issuer has undertaken to vote in favour of the appointment or removal of the directors so named by a Special General Meeting and to take all necessary measures to approve such appointment or removal. *Under the articles of the Issuer, the board of directors must have a minimum of three members and a maximum of 11. As at the date of the Prospectus the board of directors has four directors.*

- (f) The foregoing shall apply, in respect of the Preferred Securities, provided that, where the Issuer has failed to fulfil its obligation to make Distributions in respect of the Series 9 Preferred Securities, the Bank has not discharged such obligations pursuant to the Series 9 Guarantee.
- (g) Any member of the board of directors named pursuant to the foregoing shall vacate his position if, subsequent to the circumstances giving rise to his appointment, the Issuer or the Bank makes Distributions, in respect of the Series 9 Preferred Securities for the relevant two consecutive Distribution Periods (Fixed) or for four consecutive Distribution Periods or, as the case may be, one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating), and any other preferred securities in circulation, in respect of the number of such distribution periods set out in their own terms and conditions.

- (h) Both the appointment and the dismissal of directors shall be notified by the Issuer in accordance with Condition 7 below.

#### 5.1.2 Amendment to the Terms and Conditions of the Series 9 Preferred Securities and further issuances

- (a) Any amendment to the terms and conditions of the Series 9 Preferred Securities shall be approved by the holders of the Series 9 Preferred Securities. Such amendments will be approved with the written consent of holders of at least two-thirds of all outstanding Series 9 Preferred Securities or by a resolution of at least two-thirds of the holders of all outstanding Series 9 Preferred Securities.
- (b) If the Issuer, or the Bank under any guarantee, has paid in full the most recent distribution payable on each series of the Issuer's preferred securities, the Issuer may without the consent or sanction of the holders of its preferred securities: (i) take any action required to issue additional preferred securities or authorise, create and issue one or more other series of preferred securities of the Issuer ranking equally with the Series 9 Preferred Securities, as to the participation in the profits and assets of the Issuer, without limit as to the amount; or (ii) take any action required to authorise, create and issue one or more other classes or series of shares of the Issuer ranking junior to the Series 9 Preferred Securities, as to the participation in the profits or assets of the Issuer.

However, if the Issuer, or the Bank under any guarantee, has not paid in full the most recent distribution payable on each series of preferred securities, then the prior consent of the holders of at least two thirds in liquidation preference of the outstanding preferred securities of the Issuer will be required to carry out such actions. Such consent may be granted in writing by the holders, or with the sanction of a special resolution passed at a separate Special General Meeting of holders.

A Special General Meeting shall notify the decision so adopted to the shareholders of the Issuer. The shareholder of the Issuer has undertaken to vote in the corresponding general meeting of shareholders in conformity with the result of the vote of the Special General Meeting.

#### 5.1.3 Liquidation, Dissolution or winding-up of the Issuer

If the shareholders of the Issuer propose a resolution providing for the liquidation, dissolution or winding-up of the Issuer, the holders of all the outstanding preferred securities of the Issuer:

- (a) will be entitled to receive notice of and to attend the general meeting of shareholders called to adopt this resolution; and
- (b) will be entitled to hold a separate and previous Special General Meeting and vote together as a single class without regard to series on such resolution, but not on any other resolution.

Such resolution will not be effective unless approved by the holders of a majority in liquidation preference of all outstanding preferred securities of the Issuer.

The result of the above mentioned vote shall be disclosed at the general shareholders meeting as well as the fact that the shareholders of the Issuer have undertaken to vote in the corresponding general shareholders meeting in accordance with the vote of the separate general meeting of holders. Notice, attendance, or approval is not required if the liquidation, dissolution and winding-up of the Issuer is initiated due to (i) the liquidation, dissolution or, winding up of the Bank; or (ii) a reduction in shareholders' equity of the Bank under Article 169 of the Corporations Law of Spain.

The Issuer shall notify any meeting at which the holders of preferred securities are entitled to vote in accordance with Condition 7 below. This notice will include a statement regarding: (i) the date, time and place of the meeting; and (ii) a description of any resolution to be proposed for adoption at the meeting at which the holders are entitled to vote; and (iii) instructions for the delivery of proxies.

The Bank has undertaken not to permit or take any action to cause the liquidation, dissolution, or winding up of the Issuer, except as provided in Condition 2.2 above.

## 5.2 Special General Meetings

5.2.1 A Special General Meeting, which will be constituted by all holders of preferred securities of the Issuer, will be

called by the board of directors of the Issuer.

- 5.2.2 The quorum shall be the holders of preferred securities holding one-quarter of the liquidation preference of all preferred securities of the Issuer issued and outstanding. If the attendance of one-quarter of the holders of preferred securities issued and outstanding cannot be obtained, such Special General Meeting may be re-convened one day after the first meeting and such meeting shall be validly convened irrespective of the number of preferred securities present or represented.
- 5.2.3 In a Special General Meeting all resolutions shall be made by the majority set out in Conditions 5.1.1, 5.1.2 and 5.1.3 above, as applicable, and will be binding on all of the holders of such preferred securities, including those not in attendance and dissenters.
- 5.2.4 All holders of preferred securities who are able to show that they held their securities five days prior to the date of the Special General Meeting shall be entitled to attend with the right to speak and vote. Holders of preferred securities shall prove that they held preferred securities in the manner and subject to the requirements set out in the announcement published when convening such Special General Meeting. Holders of the preferred securities may delegate their representation to another person, by an individual signed letter for each meeting.
- 5.2.5 The convening of a Special General Meeting will be carried out in accordance with the rules governing the calling and holding of meetings of holders of each series of preferred securities.

A Special General Meeting of holders of the Series 9 Preferred Securities will be convened (i) so long as any Series 9 Preferred Security is admitted to the official list of the UK Listing Authority and is admitted to trading on the London Stock Exchange plc's regulated market (the **London Stock Exchange**) and the UK Listing Authority so requires, by publication in an English language newspaper in London (which is expected to be the Financial Times) or, if such publication is not practicable but is required by the rules of the UK Listing Authority, in a leading daily newspaper in English and having general circulation in Europe; and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice, request or communication relates).

### **5.3 Pre-emptive Rights and other provisions**

- 5.3.1 The Series 9 Preferred Securities do not grant their holders pre-emption rights in respect of any possible future issues of preferred securities.
- 5.3.2 Neither the Issuer nor the Bank may issue any preferred securities or securities or other instruments equivalent to preferred securities ranking senior to the Series 9 Preferred Securities, and the Bank will not guarantee the issue of preferred securities of any direct or indirect subsidiary if that guarantee would rank senior to the Series 9 Guarantee, unless the Series 9 Guarantee is amended so as to rank *pari passu* with any such issue of preferred securities or securities equivalent to preferred securities or such other guarantee, and the most recent Distribution to the Series 9 Preferred Securities has been paid.
- 5.3.3 No vote in respect of the Series 9 Preferred Securities will be required for the Issuer to redeem and cancel the Series 9 Preferred Securities.
- 5.3.4 Notwithstanding that the Series 9 Preferred Securities confer an entitlement to vote under any of the circumstances described above, neither the Bank nor any Subsidiary of the Bank, to the extent that it is a holder of preferred securities of the Issuer, shall be so entitled to vote.
- 5.3.5 The Series 9 Preferred Securities may be transferred in accordance with the procedures established therefore with the relevant clearing system.

## **6. Taxation**

- 6.1 All payments of Distributions and other amounts payable in respect of the Series 9 Preferred Securities and the Series 9 Guarantee by the Issuer or the Bank (as the case may be) will be made free and clear of and without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of The Kingdom of Spain or any political subdivision thereof or any authority or agency therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, the Issuer or (as the case may be) the Bank shall pay such additional amounts as would have been received had no such withholding or deduction been required.

- 6.2 Neither the Issuer nor the Bank shall be required to pay any additional amounts as referred to in Condition 6.1 in relation to any payment in respect of Series 9 Preferred Securities:
- 6.2.1 to, or to a third party on behalf of, a holder who is liable for such taxes, duties, assessments or governmental charges in respect of the Series 9 Preferred Securities by reason of his (or the beneficial owner for whose benefit it holds such Series 9 Preferred Security) having some connection with The Kingdom of Spain other than the mere holding of Series 9 Preferred Securities (or such beneficial interest); or
  - 6.2.2 to, or to a third party on behalf of, a holder in respect of whom the Issuer or the Bank, or the Paying Agent on its behalf, does not receive such details concerning such holder's identity and tax residence (or the identity and tax residence of the beneficial owner for whose benefit it holds such Series 9 Preferred Security) as it requires in order to comply with applicable Spanish legislation and in particular with Law 13/1985 and developing regulations in force or as may be enacted from time to time; or
  - 6.2.3 presented for payment more than thirty days after the Relevant Date, except to the extent that the relevant holder would have been entitled to such additional amounts on presenting the same for payment on the expiry of such period of thirty days; or
  - 6.2.4 where the withholding or deduction referred to in Condition 6.1 is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive; or
  - 6.2.5 presented for payment by or on behalf of a holder of Series 9 Preferred Securities who would have been able to avoid such withholding or deduction by presenting the Series 9 Preferred Securities to another paying agent in a Member State of the European Union; or
  - 6.2.6 to, or to a third party on behalf of, a Spanish resident corporate entity if the Spanish tax authorities determine that instruments and/or securities like the Series 9 Preferred Securities do not comply with exemption requirements specified in the Reply to a Consultation of the Directorate General for Taxation (*Direction General de Tributos*) dated 27th July 2004 and require a withholding to be made.
- 6.3 For the purposes of Condition 6, the **Relevant Date** means, in respect of any payment, the date on which such payment first becomes due and payable, but if the full amount of the moneys payable has not been received by the Paying Agent on or prior to such due date, it means the first date on which, the full amount of such moneys having been so received and being available for payment to holders of Series 9 Preferred Securities, notice to that effect shall have been duly given to the holders of Series 9 Preferred Securities in accordance with Condition 7 below.

*See "Taxation and Disclosure of Holder Information in connection with Payments of Distributions" for a fuller description of certain tax considerations (particularly in relation to holders which are resident in Spain) relating to the Series 9 Preferred Securities, the formalities which holders must follow in order to claim exemption from withholding tax and for a description of certain disclosure requirements imposed on the Issuer and the Bank relating to the identity and country of tax residence of holders of Series 9 Preferred Securities.*

## 7. Notices

Notices, including notice of any redemption of the Series 9 Preferred Securities will be given by the Issuer (i) so long as any Series 9 Preferred Security is admitted to the official list maintained by the UK Listing Authority and is admitted to trading on the London Stock Exchange plc's regulated market, and the UK Listing Authority so requires, by publication in a leading English language daily newspaper published in London (which is expected to be the Financial Times) or, if such publication is not practicable, in a leading English language daily newspaper having general circulation in Europe, and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice relates).

Any notice so given will be deemed to have been validly given on the date of such publication (or, if published more than once, on the first date on which publication is made) or, as the case may be, on the date of such delivery to Euroclear and Clearstream, Luxembourg.

In accordance with their published rules and regulations, each of Euroclear and Clearstream, Luxembourg will

notify holders of securities accounts with it to which any Series 9 Preferred Securities are credited of any such notices received by it.

## **8. Form and Status**

The Series 9 Preferred Securities will be issued in bearer form.

*It is intended that a global Series 9 Preferred Security representing the Series 9 Preferred Securities will be delivered by the Issuer to a common depositary for Euroclear and Clearstream, Luxembourg. As a result, accountholders should note that they will not themselves receive definitive Series 9 Preferred Securities but instead Series 9 Preferred Securities will be credited to their securities account with the relevant clearing system. It is anticipated that only in exceptional circumstances (such as the closure of Euroclear and Clearstream, Luxembourg, the non-availability of any alternative or successor clearing system, removal of the Series 9 Preferred Securities from Euroclear and Clearstream, Luxembourg and failure to comply with the terms and conditions of the Series 9 Preferred Securities by either the Issuer or the Bank) will definitive Series 9 Preferred Securities be issued directly to such accountholders.*

The Series 9 Preferred Securities rank (a) junior to all liabilities of the Issuer including subordinated liabilities, (b) *pari passu* with each other and with any Parity Securities of the Issuer and (c) senior to the Issuer's ordinary shares.

The holders of the Series 9 Preferred Securities, by subscribing for and acquiring the same, waive their right to any preference they might have other than that set out above which they might have in accordance with applicable legislation from time to time and, specifically that which might apply in accordance with Articles 92 and 158 of the Spanish Insolvency Law.

## **9. Use of Proceeds**

The funds raised from the issue of the Series 9 Preferred Securities amounting to 125,700,000 Euro, in accordance with Law 13/1985, will be deposited in their entirety on a permanent basis by way of a deposit with the Bank or with another credit entity (*entidad de credito*) of the Group and will be used for the Group's general corporate purposes and to improve the efficiency of the capital base of the Group. The deposit shall rank equally with the Series 9 Guarantee.

The funds raised from the issue of the Series 9 Preferred Securities and so deposited will be available to absorb losses of the Bank and its Group if and when they occur once there is a reduction in the Shareholders' equity to zero and its reserves have been exhausted.

## **10. Agents**

In acting under the Paying Agency Agreement and in connection with the Series 9 Preferred Securities, the Paying Agents act solely as agents of the Issuer and the Bank and do not assume any obligations towards or relationship of agency or trust for or with any of the holders of the Series 9 Preferred Securities.

The initial Agents and their initial specified offices are listed in the Paying Agency Agreement. The Issuer and the Bank reserve the right at any time to vary or terminate the appointment of any Agent and to appoint a successor principal paying agent, a successor agent bank, a successor calculation agent and additional or successor paying agents; provided, however, that the Issuer and the Bank will maintain (i) a Principal Paying Agent, (ii) to the extent legally possible, a Paying Agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive and (iii) if, and for so long as, the Series 9 Preferred Securities are admitted to the official list maintained by the UK Listing Authority and are admitted to trading on the London Stock Exchange plc's regulated market and the rules of the UK Listing Authority so require, a Paying Agent having its specified office in London.

Notice of any change in any of the Paying Agents or in their specified offices shall promptly be given to the holders of the Series 9 Preferred Securities.

## **11. Prescription**

To the extent that article 950 of the Spanish Commercial Code (*Codigo de Comercio*) applies to the Series 9 Preferred Securities, claims relating to the Series 9 Preferred Securities will become void unless such claims are

duly made within three years of the relevant payment date.

## **12. Governing Law and Jurisdiction**

### *12.1 Governing Law*

The Series 9 Preferred Securities shall be governed by, and construed in accordance with, Spanish law.

### *12.2 Jurisdiction*

The Issuer hereby irrevocably agrees for the benefit of the holders of the Series 9 Preferred Securities that the courts of the city of Madrid are to have jurisdiction to settle any disputes which may arise out of or in connection with the Series 9 Preferred Securities and that accordingly any suit, action or proceedings arising out of or in connection with the Preferred Securities (together referred to as **Proceedings**) may be brought in such courts. The Issuer irrevocably waives any objection which it may have now or hereinafter to the laying of the venue of any Proceedings in the courts of the city of Madrid. Nothing contained in this clause 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 competent jurisdictions, whether concurrently or not.

## THE GUARANTEES

The Guarantee of each series of Preferred Securities has been authorised by a resolution of the Executive Committee of the Guarantor dated 20 July 2009. The following is the text of the Guarantees.

### THE SERIES 8 GUARANTEE

The following is the text of the Series 8 Guarantee:

**THIS GUARANTEE** (the **Series 8 Guarantee**), dated 23 July 2009, is executed and delivered by Banco Santander, S.A., a limited liability company (*sociedad anonima*) incorporated under the laws of the Kingdom of Spain (the **Bank** or the **Guarantor**) for the benefit of the Holders (as defined below).

WHEREAS, the Bank wishes to procure the issue by Santander Finance Preferred, S.A. Unipersonal, a limited liability company (*sociedad anonima*) incorporated under the laws of the Kingdom of Spain (the **Issuer**) of Series 8 GBP 679,400,000 Fixed/Floating Non-cumulative Perpetual Guaranteed Preferred Securities (the **Series 8 Preferred Securities**) and the Bank wishes to issue this Series 8 Guarantee for the benefit of the Holders.

NOW, THEREFORE the Bank executes and delivers this Series 8 Guarantee for the benefit of the Holders.

#### 1. Definitions

As used in this Series 8 Guarantee, the following terms shall, unless the context otherwise requires, have the following meanings:

**Bank Shares** means any ordinary shares of the Bank;

**Distributable Profits** means in respect of any Fiscal Year of the Bank the reported net profit (calculated in compliance with the regulations of the Bank of Spain) of the Bank, determined after tax and extraordinary items for such year, as derived from the non-consolidated audited profit and loss account of the Bank, irrespective of whether shareholders' meeting approval is still pending, prepared in accordance with generally applicable accounting standards in Spain and Bank of Spain requirements and guidelines, each as in effect at the time of such preparation. In the event that on any Distribution Payment Date, the audit of the non-consolidated profit and loss account of the Bank has not been completed, the reference to be used to calculate the Distributable Profits will be the balance of the unaudited non-consolidated profit and loss account of the Bank as reported in the financial statements delivered to the Bank of Spain in respect of 31 December of the preceding Fiscal Year.

**Distributions** means the non-cumulative cash distributions payable per Series 8 Preferred Security in accordance with the terms thereof;

**Distribution Payment Date** means each Distribution Payment Date (Fixed) and each Distribution Payment Date (Floating) (each as defined in "Conditions of the Preferred Securities - Definitions");

**Distribution Period** shall have the meaning given to it in "Conditions of the Preferred Securities - Definitions";

**Fiscal Year** means the accounting year of the Guarantor as set out in its by-laws;

**Guarantee Payments** means (without duplication) (i) any accrued but unpaid Distribution payable on the Series 8 Preferred Securities for the most recent Distribution Period; (ii) the Redemption Price payable on the redemption of Series 8 Preferred Securities; and (iii) the Liquidation Distributions due on the Liquidation Date;

**Group** means the Bank and its consolidated subsidiaries;

**Holder** means any holder from time to time of any Series 8 Preferred Security; provided, however, that in determining whether the Holders of the requisite percentage of Series 8 Preferred Securities have given any request, notice, consent or waiver hereunder, Holder shall not include the Bank or any Subsidiary (including the Issuer);

**Liquidation Date** means the date of final distribution of the assets of the Issuer in the case of any liquidation, dissolution or winding-up of the Issuer (whether voluntary or involuntary);

**Liquidation Distribution** means, with respect to each Series 8 Preferred Security, the Liquidation Preference plus an amount equal to accrued and unpaid Distributions for the then current Distribution Period to (but excluding) the date of payment on such Liquidation Distribution;

**Liquidation Preference** means GBP 50,000 per Series 8 Preferred Security;

**Parity Securities** means (as the case may be) any preferred securities (*participaciones preferentes*) issued under Spanish Law 13/1985, or other securities or instruments equivalent to preferred securities issued by the Issuer, or by any other subsidiary of the Bank which are guaranteed by the Bank and entitled to the benefit of a guarantee ranking *pari passu* with the Bank's obligations under the Series 8 Guarantee, or issued by the Bank and ranking *pari passu* with the Bank's obligations under the Series 8 Guarantee.

**Redemption Price** means the Liquidation Preference plus accrued and unpaid Distributions for the then current Distribution Period to the date fixed for redemption per Series 8 Preferred Security;

**Spain** means the Kingdom of Spain;

**Subsidiary** means any entity which the Bank may, directly or indirectly, control in accordance with Article 4 of the Securities Market Act (*Ley del Mercado de Valores*); and

**Special General Meetings** means the meetings of holders of preferred securities of the Issuer.

## **2. Series 8 Guarantee**

### **2.1 Guarantee**

Subject to the limitations contained in the following paragraphs of this Clause 2 (*Series 8 Guarantee*), the Bank irrevocably and unconditionally agrees to pay in full to the Holders, the Guarantee Payments (to the extent not paid by the Issuer), as and when due upon receipt of a notice by any Holder demanding payment, regardless of any defence, right of set-off or counterclaim which the Issuer may have or assert. This Series 8 Guarantee is unconditional, irrevocable, continuous and absolute (*Garantía Solidaria* under Spanish law).

### **2.2 Limitations to the Guarantee Payments in relation to the Distributions**

Notwithstanding Clause 2.1 (*Guarantee*), the Bank will not be obliged to make any Guarantee Payment in respect of Distributions (including accrued and unpaid Distributions relating to the Redemption Price or Liquidation Distribution) on any Series 8 Preferred Securities to the extent that:

2.2.1 the aggregate of such Distribution, together with any other distributions previously paid during the then-current Fiscal Year and any distributions proposed to be paid during the then-current Distribution Period in each case on or in respect of Parity Securities (including the Series 8 Preferred Securities) would exceed the Distributable Profits of the immediately preceding Fiscal Year; or

2.2.2 even if Distributable Profits are sufficient, to the extent that under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company only basis or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or Parity Securities issued by it.

### **2.3 Limitations to the Guarantee Payments in relation to the Liquidation Distributions**

Notwithstanding Clause 2.1 (*Guarantee*), if, at the time that any liquidating distributions are to be paid by the Bank in respect of the Series 8 Preferred Securities or any other Parity Securities, proceedings are or have been commenced for the voluntary or involuntary liquidation, dissolution or winding up of the Bank or for a reduction in the Bank's shareholders' equity pursuant to Article 169 of the Spanish Corporation Law (*Ley de Sociedades Anónimas*) the liquidating distribution with respect to the Series 8 Preferred Securities, and all Parity Securities shall not exceed the liquidating distribution that would have been paid from the assets of the Bank (after payment in full, in accordance with Spanish law, to all creditors of the Bank, including holders of its subordinated debt, but excluding holders of any guarantee or other contractual right expressed to rank *pari passu* with or junior to this Series 8 Guarantee) had all Parity Securities (including the Series 8 Preferred

Securities) been issued by the Bank and ranked (A) junior to all liabilities of the Bank, (B) *pari passu* with Parity Securities issued by the Bank, if any, and (C) senior to the Bank Shares.

#### **2.4 Pro rata Payments**

If the amounts described in Clause 2.1 (*Guarantee*) cannot be paid in full by reason of any limitation referred to in Clause 2.2 (*Limitations to the Guarantee Payments in relation to the Distributions*) or 2.3 (*Limitations to the Guarantee Payments in relation to the Liquidation Distributions*), such amounts will be payable *pro rata* in the proportion that the amount available for payment bears to the full amount that would have been payable but for such limitations.

#### **2.5 Ranking of the Series 8 Guarantee**

The Bank agrees that subject to applicable laws, the Bank's obligations hereunder constitute unsecured obligations of the Bank and rank and will at all times rank (a) junior to all liabilities of the Bank, including subordinated liabilities, (other than any guarantee or contractual right expressed to rank equally with or junior to this Series 8 Guarantee); (b) *pari passu* with any Parity Securities issued by the Bank and any obligation assumed by the Bank under any guarantee in favour of holders of any Parity Securities issued by any Subsidiary; and (c) senior to the Bank Shares.

#### **2.6 Acceptance of the Series 8 Guarantee**

The mere subscription of Series 8 Preferred Securities will be deemed for all purposes to constitute the plain and full acceptance of this Series 8 Guarantee.

### **3. Characteristics of the Guarantor's Obligations under the Series 8 Guarantee**

#### **3.1 Waiver**

The Guarantor waives any right or benefit (of order, *excussio* or division) to which it may be entitled under Spanish law with regard to objecting to make any payment by virtue of the Series 8 Guarantee.

The obligations of the Guarantor are independent of those of the Issuer. The Guarantor shall remain liable as the principal and sole debtor hereunder to make Guarantee Payments pursuant to the terms of this Series 8 Guarantee, and shall not be able to demand that the Holders of the Series 8 Preferred Securities exhaust any of their rights or take any legal action against the Issuer prior to taking action against the Guarantor (*Garantia Solidaria* under Spanish law).

#### **3.2 Obligations and Commitments of the Guarantor**

The obligations and commitments of the Guarantor shall not be affected by any of the following circumstances:

- 3.2.1 the waiver by the Issuer, either by the application of a legal provision or for any other reason, to fulfil any commitment, term or condition, whether implicit or explicit, in relation to the Series 8 Preferred Securities; or
- 3.2.2 the extension of the Distribution Payment Date, the Liquidation Date or the date for payment of the Redemption Price with regard to the Series 8 Preferred Securities or the extension granted for the fulfilment of any other obligation related to the Series 8 Preferred Securities; or
- 3.2.3 any breach, omission or delay by the Holders in exercising the rights granted by the Series 8 Preferred Securities; or
- 3.2.4 the liquidation, dissolution, or sale of any asset given as a guarantee, temporary receivership, bankruptcy, receivership proceedings or renegotiation of debt affecting the Issuer; or
- 3.2.5 any defect in or invalidity of the Series 8 Preferred Securities; or
- 3.2.6 transactions involving any obligation guaranteed by this Series 8 Guarantee or undertaken by virtue of this Series 8 Guarantee.

The Holders of Series 8 Preferred Securities shall not be obliged whatsoever to notify the Guarantor of the

occurrence of any of the aforementioned circumstances, nor to obtain their consent in relation to the same.

### **3.3 Subrogation**

The Bank shall be subrogated to any and all rights of the Holders against the Issuer in respect of any amounts paid to the Holders by the Bank under this Series 8 Guarantee. The Bank shall not (except to the extent required by mandatory provisions of law) exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of a payment under this Series 8 Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Series 8 Guarantee. If any amount shall be paid to the Bank in violation of the preceding sentence, the Bank agrees to pay over such amount to the Holders.

### **3.4 Deposit of the Series 8 Guarantee**

This Series 8 Guarantee shall be deposited with and held by the Bank of New York Mellon as Principal Paying Agent until all the obligations of the Bank have been discharged in full. The Bank hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain a copy of, this Series 8 Guarantee. A Holder may enforce this Series 8 Guarantee directly against the Bank, and the Bank waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Bank. Subject to Clause 3.1 (*Waiver*), all waivers contained in this Series 8 Guarantee shall be without prejudice to the Holder's right to proceed against the Issuer. The Bank agrees that this Series 8 Guarantee shall not be discharged except by payment of the Guarantee Payments in full and by complete performance of all obligations of the Bank under this Series 8 Guarantee.

## **4. Other Obligations of the Guarantor under the Series 8 Guarantee**

### **4.1 No further issues**

The Bank will not issue any preferred securities or other instruments equivalent to preferred securities, ranking senior to its obligations under this Series 8 Guarantee or give any guarantee in respect of any preferred securities or other instruments equivalent to preferred securities, issued by any Subsidiary, if such guarantee would rank senior to this Series 8 Guarantee (including, without limitation, any guarantee that would provide a priority of payment with respect to Distributable Profits) unless in each case, this Series 8 Guarantee is amended so that it ranks *pari passu* with, and contains substantially equivalent rights of priority as to payment of Distributable Profits as, any such other preferred securities or securities or other instruments equivalent to preferred securities or other such guarantee.

### **4.2 Non-Payments**

The Bank undertakes that if any amount required to be paid pursuant to this Series 8 Guarantee in respect of any Distribution payable in respect of the most recent Distribution Period has not been paid, whether by reason of the limitations of Clause 2.2 (*Limitations to the Guarantee Payments in relation to the Distributions*) or otherwise, no dividends (except in the form of the Bank Shares or other shares of the Bank ranking junior to the obligations of the Bank under this Series 8 Guarantee) will be declared or paid or set aside for payment, or other distribution made, upon the Bank Shares or any other class of share capital or any securities of the Bank ranking junior to this Series 8 Guarantee, nor will any Bank Shares or any other class of share capital or securities of the Bank ranking junior to the obligations of the Bank under this Series 8 Guarantee, be redeemed, repurchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such Bank Shares, class of share capital or securities) by the Bank (except by conversion into or in exchange for shares or securities of the Bank ranking junior to this Series 8 Guarantee), until such time as the Issuer or the Bank pursuant to this Series 8 Guarantee shall have made payment of, or set aside payment with respect to, full Distributions on two consecutive Distribution Periods (Fixed) or on four consecutive Distribution Periods (Floating) (or, if applicable, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)) in respect of all Series 8 Preferred Securities then outstanding.

### **4.3 Ownership**

The Guarantor undertakes to hold (directly or indirectly) 100% of the ordinary shares of the Issuer so long as any Series 8 Preferred Securities of the Issuer shall remain outstanding, and not to permit or take any action to cause the liquidation, dissolution or winding up of the Issuer except as provided in paragraph 2.2 of the Conditions of the Preferred Securities.

### **4.4 Voting Rights**

The Bank undertakes in connection with the right of the Holders to participate in the adoption by the Issuer of certain decisions in the Special General Meetings as contemplated in the terms and conditions of the Series 8 Preferred Securities:

- 4.4.1 to vote, in the corresponding general meeting of shareholders of the Issuer, in favour of the appointment or removal of the directors so named by the Special General Meetings and to take all necessary measures in such regard;
- 4.4.2 to vote, in the corresponding general meeting of shareholders of the Issuer, in conformity with the result of the vote of the Special General Meetings with respect to the dissolution and winding-up of the Issuer; and
- 4.4.3 to vote, in the corresponding general meeting of shareholders of the Issuer, in conformity with the result of the vote of the Special General Meetings with respect the issuance of further Series 8 Preferred Securities or of other preferred securities where the Issuer has not duly made the most recent distribution required in respect of the preferred securities issued and outstanding at the time.

#### **4.5 Compliance with the Series 8 Preferred Securities**

The Guarantor agrees to comply with any obligations expressed to be undertaken by it under the terms of the Series 8 Preferred Securities.

#### **5. Termination of the Series 8 Guarantee**

This Series 8 Guarantee shall terminate and be of no further force and effect upon payment of the Redemption Price or purchase and cancellation of all Series 8 Preferred Securities or payment in full of the Liquidation Distributions, provided, however, that this Series 8 Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time payment of any sums paid under the Series 8 Preferred Securities or this Series 8 Guarantee must be restored by a Holder for any reason whatsoever.

#### **6. General**

##### **6.1 Successors and Assigns**

Subject to operation of law, all guarantees and agreements contained in this Series 8 Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Bank and shall inure to the benefit of the Holders, each of whom shall be entitled severally to enforce this Series 8 Guarantee against the Bank. The Bank shall not transfer its obligations hereunder without the prior approval of the Holders of not less than two-thirds in Liquidation Preference of the Series 8 Preferred Securities or by resolution of a Special General Meeting approved by the Holders of Series 8 Preferred Securities representing at least two-thirds of the Liquidation Preference, provided, however, that the foregoing shall not preclude the Bank from merging or consolidating with, or transferring or otherwise assigning all or substantially all of its assets to, a banking organisation or any other entity permitted by applicable laws without obtaining any approval of such Holders. The convening and holding of the Special General Meeting shall be done in accordance with Clause 5.2 of the Conditions of the Preferred Securities.

The Bank shall notify (i) any request for approval from the Holders and (ii) any merger, consolidation, transfer or assignment, each as referred to in this Clause 6.1 (*Successors and Assigns*), in accordance with Clause 6.4 (*Notices*).

##### **6.2 Transfers**

This Series 8 Guarantee is solely for the benefit of the Holders and is not separately transferable from the Series 8 Preferred Securities.

##### **6.3 Amendments**

Except for those changes (a) required by Clause 4.1 (*No further issues*) hereof, (b) which do not adversely affect the rights of Holders or, (c) necessary or desirable to give effect to any one or more transactions referred to in the provision to Clause 6.1 (*Successor and Assigns*) (in any of which cases no agreements will be required), this Series 8 Guarantee shall be changed only by agreement in writing signed by the Bank with the prior approval of the Holders of not less than two-thirds in Liquidation Preference of the Series 8 Preferred Securities or by resolution of a Special General Meeting approved by the Holders of the Series 8 Preferred Securities representing at least two-thirds of the Liquidation Preference. The calling and holding of such Special General Meeting shall be done in accordance with Clause 6.2 of the Terms and Conditions.

**6.4 Notices**

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

Banco Santander, S.A.  
Ciudad Grupo Santander  
Edificio Encinar, Planta 0  
28660 Boadilla del Monte  
Madrid, Spain  
Facsimile: +34 91 257 1473  
Attention: Emisiones Corporativas

The address of the Bank may be changed at any time and from time to time and shall be the most recent such address furnished in writing by the Bank to The Bank of New York Mellon as Principal Paying Agent.

6.4.2 Any notice, request or other communication required to be given by the Bank under this Series 8 Guarantee will be given by it (i) so long as any Series 8 Preferred Security is admitted to the official list maintained by the UK Listing Authority and is admitted to trading on the London Stock Exchange Plc's regulated market, and the UK Listing Authority so requires, by publication in a leading English language daily newspaper published in London (which is expected to be the *Financial Times*) of, if such a publication is not practicable, in a leading daily newspaper in English and having general circulation in Europe, and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice, request or communication relates).

In accordance with their published rules and regulations, each of Euroclear and Clearstream, Luxembourg will notify holders of securities accounts with it to which any Series 8 Preferred Securities are credited of any such notices received by it.

**6.5 Annual Reports**

The Bank will furnish any prospective Holder, upon request of such Holder, with a copy of its annual report, and any interim reports made generally available by the Bank to holders of the Bank Shares.

**7. Law and Jurisdiction**

**7.1 Law**

This Series 8 Guarantee shall be governed by, and construed in accordance with, Spanish law.

**7.2 Jurisdiction**

The Bank hereby irrevocably agrees for the benefit of the Holders that the courts of Madrid are to have jurisdiction to settle any disputes which may arise out of or in connection with this Series 8 Guarantee and that accordingly any suit, action or proceedings arising out of or in connection with this Series 8 Guarantee (together referred to as **Proceedings**) may be brought in such courts. The Bank irrevocably waives any objection which it may have now or hereinafter to the laying of the venue of any Proceedings in the courts of Madrid. Nothing contained in this clause 7.2 (*Jurisdiction*) shall limit any right to take Proceedings against the Bank in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other competent jurisdictions, whether concurrently or not.

**THIS SERIES 8 GUARANTEE** is executed as of the date first above written on behalf of the Bank.

**BANCO SANTANDER, S.A.**

By: .....

## THE SERIES 9 GUARANTEE

The following is the text of the Series 9 Guarantee:

**THIS GUARANTEE** (the **Series 9 Guarantee**), dated 23 July 2009, is executed and delivered by Banco Santander, S.A., a limited liability company (*sociedad anonima*) incorporated under the laws of the Kingdom of Spain (the **Bank** or the **Guarantor**) for the benefit of the Holders (as defined below).

WHEREAS, the Bank wishes to procure the issue by Santander Finance Preferred, S.A. Unipersonal, a limited liability company (*sociedad anonima*) incorporated under the laws of the Kingdom of Spain (the **Issuer**) of Series 9 Eur 125,700,000 Fixed/Floating Non-cumulative Perpetual Guaranteed Preferred Securities (the **Series 9 Preferred Securities**) and the Bank wishes to issue this Series 9 Guarantee for the benefit of the Holders.

NOW, THEREFORE the Bank executes and delivers this Series 9 Guarantee for the benefit of the Holders.

### 1. Definitions

As used in this Series 9 Guarantee, the following terms shall, unless the context otherwise requires, have the following meanings:

**Bank Shares** means any ordinary shares of the Bank;

**Distributable Profits** means in respect of any Fiscal Year of the Bank the reported net profit (calculated in compliance with the regulations of the Bank of Spain) of the Bank, determined after tax and extraordinary items for such year, as derived from the non-consolidated audited profit and loss account of the Bank, irrespective of whether shareholders' meeting approval is still pending, prepared in accordance with generally applicable accounting standards in Spain and Bank of Spain requirements and guidelines, each as in effect at the time of such preparation. In the event that on any Distribution Payment Date, the audit of the non-consolidated profit and loss account of the Bank has not been completed, the reference to be used to calculate the Distributable Profits will be the balance of the unaudited non-consolidated profit and loss account of the Bank as reported in the financial statements delivered to the Bank of Spain in respect of 31 December of the preceding Fiscal Year.

**Distributions** means the non-cumulative cash distributions payable per Series 9 Preferred Security in accordance with the terms thereof;

**Distribution Payment Date** means each Distribution Payment Date (Fixed) and each Distribution Payment Date (Floating) (each as defined in the "Conditions of the Preferred Securities - Definitions");

**Distribution Period** shall have the meaning given to it in "Conditions of the Preferred Securities - Definitions";

**Fiscal Year** means the accounting year of the Guarantor as set out in its by-laws;

**Guarantee Payments** means (without duplication) (i) any accrued but unpaid Distribution payable on the Series 9 Preferred Securities for the most recent Distribution Period; (ii) the Redemption Price payable on the redemption of Series 9 Preferred Securities; and (iii) the Liquidation Distributions due on the Liquidation Date;

**Group** means the Bank and its consolidated subsidiaries;

**Holder** means any holder from time to time of any Series 9 Preferred Security; provided, however, that in determining whether the Holders of the requisite percentage of Series 9 Preferred Securities have given any request, notice, consent or waiver hereunder, Holder shall not include the Bank or any Subsidiary (including the Issuer);

**Liquidation Date** means the date of final distribution of the assets of the Issuer in the case of any liquidation, dissolution or winding-up of the Issuer (whether voluntary or involuntary);

**Liquidation Distribution** means, with respect to each Series 9 Preferred Security, the Liquidation Preference plus an amount equal to accrued and unpaid Distributions for the then current Distribution Period to (but excluding) the date of payment on such Liquidation Distribution;

**Liquidation Preference** means EUR 50,000 per Series 9 Preferred Security;

**Parity Securities** means (as the case may be) any preferred securities (*participaciones preferentes*) issued under Spanish Law 13/1985, or other securities or instruments equivalent to preferred securities issued by the Issuer, or by any other subsidiary of the Bank which are guaranteed by the Bank and entitled to the benefit of a guarantee ranking *pari passu* with the Bank's obligations under the Series 9 Guarantee, or issued by the Bank and ranking *pari passu* with the Bank's obligations under the Series 9 Guarantee.

**Redemption Price** means the Liquidation Preference plus accrued and unpaid Distributions for the then current Distribution Period to the date fixed for redemption per Series 9 Preferred Security;

**Spain** means the Kingdom of Spain;

**Subsidiary** means any entity which the Bank may, directly or indirectly, control in accordance with Article 4 of the Securities Market Act (*Ley del Mercado de Valores*); and

**Special General Meetings** means the meetings of holders of preferred securities of the Issuer.

## **2. Series 9 Guarantee**

### **2.1 Guarantee**

Subject to the limitations contained in the following paragraphs of this Clause 2 (*Series 9 Guarantee*), the Bank irrevocably and unconditionally agrees to pay in full to the Holders, the Guarantee Payments (to the extent not paid by the Issuer), as and when due upon receipt of a notice by any Holder demanding payment, regardless of any defence, right of set-off or counterclaim which the Issuer may have or assert. This Series 9 Guarantee is unconditional, irrevocable, continuous and absolute (*Garantia Solidaria* under Spanish law).

### **2.2 Limitations to the Guarantee Payments in relation to the Distributions**

Notwithstanding Clause 2.1 (*Guarantee*), the Bank will not be obliged to make any Guarantee Payment in respect of Distributions (including accrued and unpaid Distributions relating to the Redemption Price or Liquidation Distribution) on any Series 9 Preferred Securities to the extent that:

2.2.1 the aggregate of such Distribution, together with any other distributions previously paid during the then-current Fiscal Year and any distributions proposed to be paid during the then-current Distribution Period in each case on or in respect of Parity Securities (including the Series 9 Preferred Securities) would exceed the Distributable Profits of the immediately preceding Fiscal Year; or

2.2.2 even if Distributable Profits are sufficient, to the extent that under applicable Spanish banking capital adequacy regulations affecting financial institutions which fail to meet their required capital ratios on a parent company only basis or on a consolidated basis, the Bank would be prevented at such time from making payments on its ordinary shares or Parity Securities issued by it.

### **2.3 Limitations to the Guarantee Payments in relation to the Liquidation Distributions**

Notwithstanding Clause 2.1 (*Guarantee*), if, at the time that any liquidating distributions are to be paid by the Bank in respect of the Series 9 Preferred Securities or any other Parity Securities, proceedings are or have been commenced for the voluntary or involuntary liquidation, dissolution or winding up of the Bank or for a reduction in the Bank's shareholders' equity pursuant to Article 169 of the Spanish Corporation Law (*Ley de Sociedades Anonimas*) the liquidating distribution with respect to the Series 9 Preferred Securities, and all Parity Securities shall not exceed the liquidating distribution that would have been paid from the assets of the Bank (after payment in full, in accordance with Spanish law, to all creditors of the Bank, including holders of its subordinated debt, but excluding holders of any guarantee or other contractual right expressed to rank *pari passu* with or junior to this Series 9 Guarantee) had all Parity Securities (including the Series 9 Preferred Securities) been issued by the Bank and ranked (A) junior to all liabilities of the Bank, (B) *pari passu* with Parity Securities issued by the Bank, if any, and (C) senior to the Bank Shares.

### **2.4 Pro rata Payments**

If the amounts described in Clause 2.1 (*Guarantee*) cannot be paid in full by reason of any limitation referred to in Clause 2.2 (*Limitations to the Guarantee Payments in relation to the Distributions*) or 2.3 (*Limitations to the Guarantee Payments in relation to the Liquidation Distributions*), such amounts will be payable *pro rata* in the

proportion that the amount available for payment bears to the full amount that would have been payable but for such limitations.

## **2.5 Ranking of the Series 9 Guarantee**

The Bank agrees that subject to applicable laws, the Bank's obligations hereunder constitute unsecured obligations of the Bank and rank and will at all times rank (a) junior to all liabilities of the Bank, including subordinated liabilities, (other than any guarantee or contractual right expressed to rank equally with or junior to this Series 9 Guarantee); (b) *pari passu* with any Parity Securities issued by the Bank and any obligation assumed by the Bank under any guarantee in favour of holders of any Parity Securities issued by any Subsidiary; and (c) senior to the Bank Shares.

## **2.6 Acceptance of the Series 9 Guarantee**

The mere subscription of Series 9 Preferred Securities will be deemed for all purposes to constitute the plain and full acceptance of this Series 9 Guarantee.

## **3. Characteristics of the Guarantor's Obligations under the Series 9 Guarantee**

### **3.1 Waiver**

The Guarantor waives any right or benefit (of order, *excussio* or division) to which it may be entitled under Spanish law with regard to objecting to make any payment by virtue of the Series 9 Guarantee.

The obligations of the Guarantor are independent of those of the Issuer. The Guarantor shall remain liable as the principal and sole debtor hereunder to make Guarantee Payments pursuant to the terms of this Series 9 Guarantee, and shall not be able to demand that the Holders of the Series 9 Preferred Securities exhaust any of their rights or take any legal action against the Issuer prior to taking action against the Guarantor (*Garantia Solidaria* under Spanish law).

### **3.2 Obligations and Commitments of the Guarantor**

The obligations and commitments of the Guarantor shall not be affected by any of the following circumstances:

- 3.2.1 the waiver by the Issuer, either by the application of a legal provision or for any other reason, to fulfil any commitment, term or condition, whether implicit or explicit, in relation to the Series 9 Preferred Securities; or
- 3.2.2 the extension of the Distribution Payment Date, the Liquidation Date or the date for payment of the Redemption Price with regard to the Series 9 Preferred Securities or the extension granted for the fulfilment of any other obligation related to the Series 9 Preferred Securities; or
- 3.3.3 any breach, omission or delay by the Holders in exercising the rights granted by the Series 9 Preferred Securities; or
- 3.3.4 the liquidation, dissolution, or sale of any asset given as a guarantee, temporary receivership, bankruptcy, receivership proceedings or renegotiation of debt affecting the Issuer; or
- 3.3.5 any defect in or invalidity of the Series 9 Preferred Securities; or
- 3.3.6 transactions involving any obligation guaranteed by this Series 9 Guarantee or undertaken by virtue of this Series 9 Guarantee.

The Holders of Series 9 Preferred Securities shall not be obliged whatsoever to notify the Guarantor of the occurrence of any of the aforementioned circumstances, nor to obtain their consent in relation to the same.

### **3.3 Subrogation**

The Bank shall be subrogated to any and all rights of the Holders against the Issuer in respect of any amounts paid to the Holders by the Bank under this Series 9 Guarantee. The Bank shall not (except to the extent required

by mandatory provisions of law) exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of a payment under this Series 9 Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Series 9 Guarantee. If any amount shall be paid to the Bank in violation of the preceding sentence, the Bank agrees to pay over such amount to the Holders.

### **3.4 Deposit of the Series 9 Guarantee**

This Series 9 Guarantee shall be deposited with and held by the Bank of New York Mellon as Principal Paying Agent until all the obligations of the Bank have been discharged in full. The Bank hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain a copy of, this Series 9 Guarantee. A Holder may enforce this Series 9 Guarantee directly against the Bank, and the Bank waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Bank. Subject to Clause 3.1 (*Waiver*), all waivers contained in this Series 9 Guarantee shall be without prejudice to the Holder's right to proceed against the Issuer. The Bank agrees that this Series 9 Guarantee shall not be discharged except by payment of the Guarantee Payments in full and by complete performance of all obligations of the Bank under this Series 9 Guarantee.

## **4. Other Obligations of the Guarantor under the Series 9 Guarantee**

### **4.1 No further issues**

The Bank will not issue any preferred securities or other instruments equivalent to preferred securities, ranking senior to its obligations under this Series 9 Guarantee or give any guarantee in respect of any preferred securities or other instruments equivalent to preferred securities, issued by any Subsidiary, if such guarantee would rank senior to this Series 9 Guarantee (including, without limitation, any guarantee that would provide a priority of payment with respect to Distributable Profits) unless in each case, this Series 9 Guarantee is amended so that it ranks *pari passu* with, and contains substantially equivalent rights of priority as to payment of Distributable Profits as, any such other preferred securities or securities or other instruments equivalent to preferred securities or other such guarantee.

### **4.2 Non-Payments**

The Bank undertakes that if any amount required to be paid pursuant to this Series 9 Guarantee in respect of any Distribution payable in respect of the most recent Distribution Period has not been paid, whether by reason of the limitations of Clause 2.2 (*Limitations to the Guarantee Payments in relation to the Distributions*) or otherwise, no dividends (except in the form of the Bank Shares or other shares of the Bank ranking junior to the obligations of the Bank under this Series 9 Guarantee) will be declared or paid or set aside for payment, or other distribution made, upon the Bank Shares or any other class of share capital or any securities of the Bank ranking junior to this Series 9 Guarantee, nor will any Bank Shares or any other class of share capital or securities of the Bank ranking junior to the obligations of the Bank under this Series 9 Guarantee, be redeemed, repurchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such Bank Shares, class of share capital or securities) by the Bank (except by conversion into or in exchange for shares or securities of the Bank ranking junior to this Series 9 Guarantee), until such time as the Issuer or the Bank pursuant to this Series 9 Guarantee shall have made payment of, or set aside payment with respect to, full Distributions on two consecutive Distribution Periods (Fixed) or on four consecutive Distribution Periods (Floating) (or, if applicable, for one Distribution Period (Fixed) and two consecutive Distribution Periods (Floating)) in respect of all Series 9 Preferred Securities then outstanding.

### **4.3 Ownership**

The Guarantor undertakes to hold (directly or indirectly) 100% of the ordinary shares of the Issuer so long as any Series 9 Preferred Securities of the Issuer shall remain outstanding, and not to permit or take any action to cause the liquidation, dissolution or winding up of the Issuer except as provided in paragraph 2.2 of the Conditions of the Preferred Securities.

### **4.4 Voting Rights**

The Bank undertakes in connection with the right of the Holders to participate in the adoption by the Issuer of certain decisions in the Special General Meetings as contemplated in the terms and conditions of the Series 9 Preferred Securities:

4.4.1 to vote, in the corresponding general meeting of shareholders of the Issuer, in favour of the appointment or removal of the directors so named by the Special General Meetings and to take all

necessary measures in such regard;

- 4.4.2 to vote, in the corresponding general meeting of shareholders of the Issuer, in conformity with the result of the vote of the Special General Meetings with respect to the dissolution and winding-up of the Issuer; and
- 4.4.3 to vote, in the corresponding general meeting of shareholders of the Issuer, in conformity with the result of the vote of the Special General Meetings with respect the issuance of further Series 9 Preferred Securities or of other preferred securities where the Issuer has not duly made the most recent distribution required in respect of the preferred securities issued and outstanding at the time.

#### **4.5 Compliance with the Series 9 Preferred Securities**

The Guarantor agrees to comply with any obligations expressed to be undertaken by it under the terms of the Series 9 Preferred Securities.

#### **5. Termination of the Series 9 Guarantee**

This Series 9 Guarantee shall terminate and be of no further force and effect upon payment of the Redemption Price or purchase and cancellation of all Series 9 Preferred Securities or payment in full of the Liquidation Distributions, provided, however, that this Series 9 Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time payment of any sums paid under the Series 9 Preferred Securities or this Series 9 Guarantee must be restored by a Holder for any reason whatsoever.

#### **6. General**

##### **6.1 Successors and Assigns**

Subject to operation of law, all guarantees and agreements contained in this Series 9 Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Bank and shall inure to the benefit of the Holders, each of whom shall be entitled severally to enforce this Series 9 Guarantee against the Bank. The Bank shall not transfer its obligations hereunder without the prior approval of the Holders of not less than two-thirds in Liquidation Preference of the Series 9 Preferred Securities or by resolution of a Special General Meeting approved by the Holders of Series 9 Preferred Securities representing at least two-thirds of the Liquidation Preference, provided, however, that the foregoing shall not preclude the Bank from merging or consolidating with, or transferring or otherwise assigning all or substantially all of its assets to, a banking organisation or any other entity permitted by applicable laws without obtaining any approval of such Holders. The convening and holding of the Special General Meeting shall be done in accordance with Clause 5.2 of the Conditions of the Preferred Securities.

The Bank shall notify (i) any request for approval from the Holders and (ii) any merger, consolidation, transfer or assignment, each as referred to in this Clause 6.1 (*Successors and Assigns*), in accordance with Clause 6.4 (*Notices*).

##### **6.2 Transfers**

This Series 9 Guarantee is solely for the benefit of the Holders and is not separately transferable from the Series 9 Preferred Securities.

##### **6.3 Amendments**

Except for those changes (a) required by Clause 4.1 (*No further issues*) hereof, (b) which do not adversely affect the rights of Holders or, (c) necessary or desirable to give effect to any one or more transactions referred to in the provision to Clause 6.1 (*Successor and Assigns*) (in any of which cases no agreements will be required), this Series 9 Guarantee shall be changed only by agreement in writing signed by the Bank with the prior approval of the Holders of not less than two-thirds in Liquidation Preference of the Series 9 Preferred Securities or by resolution of a Special General Meeting approved by the Holders of the Series 9 Preferred Securities representing at least two-thirds of the Liquidation Preference. The calling and holding of such Special General Meeting shall be done in accordance with Clause 6.2 of the Terms and Conditions.

##### **6.4 Notices**

- 6.4.1 Any notice, request or other communication required or permitted to be given hereunder to the Bank shall be given in writing by delivering the same against receipt therefore or by facsimile transmission (confirmed by mail) addressed to the Bank, as follows (and if so given by facsimile transmission), shall be deemed given

upon mailing of confirmation, to:

Banco Santander, S.A.  
Ciudad Grupo Santander  
Edificio Encinar, Planta 0  
28660 Boadilla del Monte  
Madrid, Spain  
Facsimile: +34 91 257 1473  
Attention: Emisiones Corporativas

The address of the Bank may be changed at any time and from time to time and shall be the most recent such address furnished in writing by the Bank to The Bank of New York Mellon as Principal Paying Agent.

- 6.4.2 Any notice, request or other communication required to be given by the Bank under this Series 9 Guarantee will be given by it (i) so long as any Series 9 Preferred Security is admitted to the official list maintained by the UK Listing Authority and is admitted to trading on the London Stock Exchange Plc's regulated market, and the UK Listing Authority so requires, by publication in a leading English language daily newspaper published in London (which is expected to be the *Financial Times*) or, if such a publication is not practicable, in a leading daily newspaper in English and having general circulation in Europe, and (ii) by mail to Euroclear and Clearstream, Luxembourg (in each case not less than 30 nor more than 60 days prior to the date of the act or event to which such notice, request or communication relates).

In accordance with their published rules and regulations, each of Euroclear and Clearstream, Luxembourg will notify holders of securities accounts with it to which any Series 9 Preferred Securities are credited of any such notices received by it.

## 6.5 Annual Reports

The Bank will furnish any prospective Holder, upon request of such Holder, with a copy of its annual report, and any interim reports made generally available by the Bank to holders of the Bank Shares.

## 7. Law and Jurisdiction

### 7.1 Law

This Series 9 Guarantee shall be governed by, and construed in accordance with, Spanish law.

### 7.2 Jurisdiction

The Bank hereby irrevocably agrees for the benefit of the Holders that the courts of Madrid are to have jurisdiction to settle any disputes which may arise out of or in connection with this Series 9 Guarantee and that accordingly any suit, action or proceedings arising out of or in connection with this Series 9 Guarantee (together referred to as **Proceedings**) may be brought in such courts. The Bank irrevocably waives any objection which it may have now or hereinafter to the laying of the venue of any Proceedings in the courts of Madrid. Nothing contained in this clause 7.2 (*Jurisdiction*) shall limit any right to take Proceedings against the Bank in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other competent jurisdictions, whether concurrently or not.

**THIS SERIES 9 GUARANTEE** is executed as of the date first above written on behalf of the Bank.

**BANCO SANTANDER, S.A.**

By: .....

## THE ISSUER

The Issuer, which is a wholly owned subsidiary of the Guarantor, was incorporated by a public deed executed on 27 February 2004, and registered in the Mercantile Registry of Madrid on 2 March 2004, in volume 19.747, book 0, Folio 171, section 8, sheet M-347560 as a company with unlimited duration and with limited liability under the laws of Spain (*sociedad anonima*). The Issuer was incorporated to issue preferred securities in various markets (including the United States, Luxembourg and the Netherlands) and deposit the net proceeds with the Bank. As of the date of this Prospectus, the share capital of the Issuer is EUR150,500 divided into 1,505 ordinary shares of par value EUR100.00 each, all of them issued and fully paid and each of a single class. The Issuer is a financing vehicle for the Group and has no subsidiary companies. The Issuer has no material assets other than inter-company debt with affiliates. For so long as any preferred securities remain outstanding, the Issuer's exclusive activities shall be the issuance of preferred securities, the deposit of proceeds of such issuances with the Bank and other activities incidental thereto. The Issuer's objects and purposes can be found in Article 2 of its Bylaws. The Issuer complies with the corporate governance regime of Spain. With the exception of Spanish reserve requirements which must be met prior to the payment of dividends and provided that dividends may only be distributed out of income for the previous year or out of unrestricted reserves and provided further that the net worth of the Issuer must not, as a result of the distribution, fall below its paid-in share capital (*capital social*), there are no restrictions on the Guarantor's ability to obtain funds from the Issuer through dividends, loans or otherwise. Spanish Law 13/1985 requires that the proceeds of the offering of the Preferred Securities be deposited on a permanent basis with the Guarantor or one of its consolidated subsidiaries.

As of the date of this Prospectus, the Issuer did not have any senior or subordinated indebtedness and has issued and has outstanding \$190 million Series 1 Preferred Securities, EUR300 million Series 2 Preferred Securities, EUR200 million Series 3 Preferred Securities, \$500 million Series 4 Preferred Securities, \$600 million Series 5 Preferred Securities, \$350 million Series 6 Preferred Securities, and GBP 250 million Series 7 Preferred Securities which will rank *pari passu* to the Issuer's obligations under the Preferred Securities.

Save for the above referred issues and for the Preferred Securities and matters incidental thereto, the Issuer has not carried on any business since the date of its incorporation. As of the date of this Prospectus, the Issuer has prepared its audited financial statements for the year ended 31 December 2008. Save for the Preferred Securities, and matters incidental thereto, there have been no other main changes to the financial statements of the Issuer since 31 December 2008.

The registered office of the Issuer is located in the Guarantor's principal executive offices at Ciudad Grupo Santander, Avenida de Cantabria s/n, 28660 Boadilla del Monte, Madrid, Spain, and its telephone number is +34-91-257-2057.

The names, business addresses, positions and other positions in the Group of each of the directors of the Issuer are as follows:

<b>Name</b>	<b>Business Address</b>	<b>Position</b>	<b>Other position in the Group</b>
Jose Antonio Soler	Ciudad Grupo Santander Edificio Encinar Avenida de Cantabria, s/n 28660 Boadilla del Monte Madrid Spain	Chairman	Senior Vice-president of the Guarantor
Javier Anton San Pablo	Ciudad Grupo Santander Edificio Encinar Avenida de Cantabria, s/n 28660 Boadilla del Monte Madrid Spain	Director	Vice-president of the Guarantor
Antonio Torio Martin	Ciudad Grupo Santander Edificio Encinar Avenida de Cantabria, s/n 28660 Boadilla del Monte Madrid Spain	Director	Vice-president of the Guarantor
Pablo Roig Garcia Bernalt	Ciudad Grupo Santander Edificio Encinar Avenida de Cantabria, s/n 28660 Boadilla del Monte Madrid Spain	Director	Vice-president of the Guarantor

Save as specified in the above table, there are no activities performed by any of the above directors outside of the Issuer which are significant with respect to the Issuer.

The above members of the Board of Directors have no potential conflicts of interests between any duties to the Issuer and their private interests and/or other duties.

Since the Issuer's date of incorporation, the Issuer has not been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) which may have, or have had in the recent past, significant effects on the Issuer's financial position or profitability.

The financial statements (excluding the management report) of the Issuer incorporated into this Prospectus by reference for the year ended 2008 and 2007, have been audited by Deloitte, S.L. (formerly DELOITTE & TOUCHE ESPANA, S.L.), the Issuer's independent auditors, of Plaza Pablo Ruiz Picasso, 1, Madrid, and registered under number S-0692 in the Official Register of Auditors (*Registro Oficial de Auditores de Cuentas*). DELOITTE, S.L. are members of the Instituto de Censores Jurados de Cuentas de España.

There has been no significant change in the financial or trading position of the Issuer since 31 December 2008, being the date of the most recently published audited financial statements of the Issuer.

There has been no material adverse change in the prospects of the Issuer since 31 December 2008.

## BANCO SANTANDER S.A. AS GUARANTOR

### Information about the Guarantor

The name of the Guarantor is Banco Santander, S.A. and it operates under the trading name "Santander".

The Guarantor is registered in the Mercantile Registry of Cantabria in book 83, folio 1, sheet 9, entry 5519, and it adapted its Bylaws to the current Companies Act by document executed in Santander on 8 June 1992 before the Public Notary Mr José María de Prada Díez, and numbered 1316 in his records, and registered in the Mercantile Registry of Cantabria in volume 448 of the Archive, folio 1, sheet number 1960, Adaptation entry one.

The current Bylaws, with the exception of subsections of Article 5 regarding share capital, were approved by the shareholders at the General Shareholders' Meeting held on 21 June 2008; the respective notarial instrument was recorded with the Mercantile Registry on 11 August, 2008, in volume 926, folio 160, section 8, page S-1960, entry 1640.

The current text of subsections of Article 5 of the Bylaws is set forth in the public deed dated 30 January 2009 recording the share capital in the amount of 4,077,802,861.50. This document was registered with the Mercantile Registry of Cantabria on such date.

The Guarantor is also registered in the Special Register of Banks and Bankers under code number 0049.

The Guarantor was founded in the city of Santander by notarised document executed on 3 March 1856 before court official Mr José Dou Martínez, ratified and partially amended by a further document dated 21 March 1857 before the court official of Santander Mr José María Olarán, and commenced trading on 20 August 1857. The Guarantor was transformed to a Credit Company (*Sociedad Anónima de Crédito*) by a public deed executed on 14 January 1875 which was recorded with the Mercantile Registry of the Government of the Province of Santander.

The Guarantor commenced trading at the time of its formation and according to Article 4 of the Bylaws it will remain in existence for an indefinite period.

The Guarantor is domiciled in Spain and has the legal form of a Joint Stock Company (*Sociedad Anónima*) and its activities are subject to special Spanish legislation governing credit institutions in general and the supervision, control and regulation of the Bank of Spain in particular.

The Guarantor was incorporated in Spain and has its registered office at Paseo de Pereda, numbers 9 to 12, Santander. The principal operating headquarters of the Guarantor are located at Ciudad Grupo Santander, Avda. de Cantabria s/n, 28660 Boadilla del Monte, in the province of Madrid. The telephone number of the principal operating headquarters of the Guarantor is +34 91 259 65 20.

The non-consolidated and consolidated annual financial statements of the Guarantor for the years ended 31 December 2008 and 2007 were audited by the external auditors, Deloitte, S.L. of Plaza Pablo Ruiz Picasso, 1, Madrid, and registered under number S-0692 in the Official Register of Auditors (*Registro Oficial de Auditores de Cuentas*). Deloitte, S.L. are members of the Instituto de Censores Jurados de Cuentas de España.

The Bank's auditors have not resigned nor been removed, and were last re-appointed by the Bank on 21 June 2008 to audit the annual financial statements for the financial year ending 31 December 2009.

### Business Overview

The Group is a financial group operating principally in Spain, the United Kingdom, Portugal, other European countries, Latin America and the United States, offering a wide range of financial products. At 31 December 2008, the Group was the seventh largest banking group in the world by market capitalisation<sup>1</sup> and the largest banking group in the Eurozone with a stock market capitalisation of €54.0 billion, stockholders' equity of €57.6 billion and total assets of €1,049.6 billion. It had an additional €118.7 billion in mutual funds, pension funds and other assets under management at that date. As of 31 December 2008, the Group had 48,467 employees and 5,998 branch offices in Continental Europe, 24,379 employees and 1,303 branches in the United Kingdom, 96,405 employees and 6,089 branches in Latin America

---

<sup>1</sup> Source: Bloomberg

and 1,710 employees in other geographic regions.

The Group's principal operations are in Spain, the United Kingdom, Portugal, other European countries, Latin America and the United States. At 31 December 2008 the Group also had significant operations in New York as well as financial investments in Sovereign (during the first quarter of 2009, the Group completed the acquisition of 100 per cent. of Sovereign). In Latin America, the Group has majority shareholdings in banks in Argentina, Brazil, Chile, Colombia, Mexico, Puerto Rico, Uruguay and Venezuela.

The structure of the operating business areas has been segmented into two levels:

*Geographic level.* The activity of the Group's operating units is segmented by geographical areas. This coincides with the Group's first level of management and reflects its positioning in the world's three main currency areas. The reported segments are:

- Continental Europe. This covers all retail banking business (including Banco Banif, S.A. ("**Banif**"), the Group's specialised private bank), wholesale banking and asset management and insurance conducted in Europe, with the exception of the United Kingdom. This segment includes the following units: the Santander Branch Network, Banco Español de Crédito, S.A. ("**Banesto**"), Santander Consumer Finance (including Drive (as defined below)) and Portugal.
- United Kingdom. This includes retail and wholesale banking, asset management and insurance conducted by the various units and branches of the Group.
- Latin America. This embraces all the financial activities conducted via the Group's subsidiary banks and other subsidiaries in Latin America. It also includes the specialised units in International Private Banking, as an independent globally managed unit. The Group's business in New York is also managed in this area.

*Business level.* This segments the activity of the Group's operating units by type of business. The reported segments are:

- Retail Banking. This covers all customer banking businesses (except those of Corporate Banking, which are managed globally throughout the world).
- Global Wholesale Banking. This business reflects the returns from Global Corporate Banking, Investment Banking and Markets worldwide, including all treasury activities under global management, as well as the Group's equities business.
- Asset Management and Insurance. This includes the Group's units that design and manage mutual and pension funds and insurance.

In addition to these operating units, which cover everything by geographic area and business, the Group continues to maintain a separate Financial Management and Equity Stakes area. This area incorporates the centralised activities relating to equity stakes in industrial and financial companies, financial management of the structural exchange rate position and of the parent Bank's structural interest rate risk, as well as management of liquidity and of shareholders' equity through issues and securitisations. As the Group's holding entity, it manages all capital and reserves and allocations of capital and liquidity.

In 2008, the Group maintained the same primary and secondary operating segments as it had in 2007.

In addition, and in line with the criteria established in the EU-IFRS required to be applied under Bank of Spain's Circular 4/2004, the results of businesses discontinued in 2007 (the Group's Latin American pension management companies) and which were consolidated by global integration were eliminated from various lines of the income statement and included in "net profit from discontinued operations".

*Geographic level:*

## **Continental Europe**

This area covers the banking activities of the different networks and specialised units in Europe, principally with individual clients and small and medium sized companies ("SMEs"), as well as private and public institutions. During 2008 there were four main units within this area: the Santander Branch Network, Banesto, Santander Consumer Finance and Portugal including retail banking, global wholesale banking and asset management and insurance.

Continental Europe is the largest business area of the Group. At the end of 2008, it accounted for 43 per cent. of total customer and funds under management, 52 per cent. of total loans and credits and 54 per cent. of profit attributed to the Group or the Group's main business areas.

The area had 5,998 branches and 48,467 employees (direct and assigned) at the end of 2008.

In 2008, the Continental Europe Segment's profit attributed to the Group increased 11 per cent. to €4,908 million. Return on equity, "ROE", in 2008 was 21.2 per cent., a 0.1 per cent. decrease from 2007.

### **Santander Branch Network**

The retail banking activity in Spain is carried out mainly through the branch network of the Group's parent bank Santander (the "**Santander Branch Network**"), with support from an increasing number of automated cash dispensers, savings books updaters, telephone banking services, electronic and internet banking.

At the end of 2008, the Santander Branch Network had 2,933 branches and a total of 19,447 employees (direct and assigned), of which one employee was temporary, dedicated to retail banking in Spain. Compared to 2007, there was a net increase of 46 branches and a net increase of 55 employees.

In 2008, the Santander Branch Network grew by approximately 4.0 per cent. in lending, 16.2 per cent. in profit attributed to the Group.

In 2008, profit attributed to the Group from the Santander Branch Network was €2,098 million, 16.2 per cent. higher than profit attributed to the Group in 2007, while the ROE reached 25.3 per cent. (as compared to 22.7 per cent. in 2007).

The 4.0 per cent. growth in lending in 2008 versus 2007 reflects a decrease in mortgage activity offset by a 9 per cent. increase in other types of credits. Impaired loans grew to 2.6 per cent. from 0.6 per cent. in 2007.

Customer funds under management experienced a reduction of 4.1 per cent. during 2008, which came principally from a decrease of 37 per cent. in mutual funds.

### **Banesto**

At the end of 2008, Banco Español de Crédito ("**Banesto**") had 1,915 branches and 10,440 employees (direct and assigned), of which 39 employees were temporary (a decrease of 31 branches and 336 employees as compared to the end of 2007).

For the purposes of the Group's financial statements, Banesto's results of operations have been calculated using the criteria described at Note 2 (Accounting policies and measurement bases) of the Consolidated Financial Statements and Directors' Report for the year ending 31 December 2008. As a result, the data set forth herein may not coincide with the data published independently by Banesto.

In 2008 profit attributed to the Group from Banesto was €754 million, a 12.8 per cent. increase from 2007, while the ROE reached 18.8 per cent. (as compared to 18.3 per cent. in 2007).

In 2008, Banesto grew by approximately 3 per cent. in lending and 6.9 per cent. in customer deposits and there was a decrease of 30.5 per cent. in off-balance sheet customer funds. Impaired loans grew to 1.6 per cent. in 2008 from 0.5 per cent. a year earlier.

### **Santander Consumer Finance**

The Group's consumer financing activities are conducted through its subsidiary Santander Consumer Finance S.A. ("**Santander Consumer Finance**") and its group of companies. Most of its activities relate to auto financing, personal loans, credit cards, insurance, and customer deposits. These consumer financing activities are mainly focused on Spain, Portugal, Germany, Italy and the U.S. The Group also conducts this business in the UK, Hungary, the Czech

Republic, Austria, the Netherlands, Norway, Poland, Finland and Sweden.

At the end of 2008, this unit had 290 branches (as compared to 285 at the end of 2007) and 8,052 employees (direct and assigned) (as compared to 7,221 employees at the end of 2007), of which 429 employees were temporary.

In 2008, this unit generated gross profit attributed to the Group of €696 million, a 3.1 per cent. decrease from 2007, while the ROE reached 17 per cent. (as compared to 34.1 per cent. in 2007). Three countries account for 74 per cent. of the profit attributable to the Group: Germany (55 per cent.), Spain (14 per cent.) and Italy (5 per cent.). Of note are the increases in Germany (+19.3 per cent.) and Nordic countries (+29.6 per cent.) that offset the reduction in Spain (-54.3 per cent.) due to the strong increase in provisions.

At the end of 2008, total lending for this subsidiary amounted to €54 billion (a 17.8 per cent. increase as compared to 2007). Two-thirds of it is auto finance, with a greater share of new vehicles (34 per cent. vs. 28 per cent. for used vehicles), and the combined share of consumer loans via dealers, cards and direct credit represent 22 per cent. of the total portfolio.

The most relevant factors that explain the business of Santander Consumer Finance in 2008 have been:

- The contraction of the European consumer market and particularly the car segment. In this context, the area almost managed to maintain its new auto financing in Europe (-3 per cent.), as Spain's shrinkage was offset by the strength of the German market and strong growth in Italy and the Nordic countries.
- Business diversification in Europe enabled us to offset the weak macroeconomic situation in some markets with the greater strength and capacity to generate synergies in others. Of note were Germany and the Nordic countries which offset the much lower contribution from Spain, affected by larger provisions as the performance of revenues and expenses remained good.
- Attributable profit rose 5.6 per cent. in dollars and credit quality ratios remained sound for the standards of the business (the ratio of non-performing loans (NPLs) was 4.9 per cent. and coverage of 88 per cent.).

## **Portugal**

The Group's main Portuguese operations are conducted by Banco Santander Totta, S.A., and the Group's Portuguese investment banking operations are conducted by Banco Santander de Negocios Portugal, S.A.

At the end of 2008, Portugal operated 770 branches (as compared to 763 branches at the end of 2007) and had 6,584 employees (direct and assigned) (as compared to 6,405 employees at the end of 2007), of which 248 employees were temporary.

In 2008 profit attributed to the Group was €531 million, 0.7 per cent. higher than in 2007, while the ROE reached 27 per cent. (28.6 per cent. in 2007).

## **Others**

The rest of the Group's businesses in Continental Europe (Banif, Asset Management, Insurance and Global Wholesale Banking) generated profit attributed to the Group of €829 million, 15.3 per cent. more than in 2007.

## **United Kingdom**

Abbey became part of the Group on 12 November 2004 and only its balance sheet was consolidated with the Group as of 31 December 2004. Its results of operations were consolidated with the Group's for the first time in 2005.

Abbey is a significant financial services provider in the United Kingdom, being the second largest residential mortgage lender and the third largest savings brand measured by outstanding balances, following the combinations in 2008 with Alliance & Leicester and Bradford & Bingley's retail deposits, branch network and its related employees. Abbey also provides a wide range of retail savings accounts, and operates across the full range of personal financial services.

At the end of 2008, the Group had 1,303 branches and a total of 24,379 employees (direct and assigned) in the United Kingdom, of which 325 employees were temporary. Compared to 2007, there was a net increase of 599 branches and 7,552 employees due mainly to the acquisitions described above.

For purposes of the Group's financial statements, Abbey's results of operations have been calculated using the criteria described at Note 2 (Accounting policies and measurement bases) of the Consolidated Financial Statements and Directors' Report for the year ending 31 December 2008. As a result, the data set forth herein may not coincide with the data published independently by Abbey.

The figures shown below do not include any impact on results of Alliance & Leicester whose financial statements were consolidated into the Group at the end of 2008. Bradford and Bingley's fourth quarter results are included (-£10 million).

In 2008, Abbey contributed €1,247 million profit attributable to the Group (a 3.8 per cent. increase from 2007) which represents 14 per cent. of the Group's total operating areas. Loans and advances increased by 9.9 per cent. and customer funds under management increased 4.9 per cent. during the same period. ROE was 28.6 per cent. (as compared to 32.3 per cent. in 2007).

In 2008 personnel expenses and general administrative expenses decreased by 5.6 per cent. and 12.2 per cent. respectively, due to continuing cost reduction activity.

Impaired loans at the end of 2008 increased to 1.0 per cent. from 0.6 per cent. at the end of 2007, while the coverage ratio increased from 66 per cent. to 69 per cent. The increase in impaired loans was due both to the acquisition of A&L and to the market decline.

In May 2009, Banco Santander announced that Abbey, Alliance & Leicester and Bradford & Bingley will be changing their names to Santander in 2010. This means any Santander customer in the UK will be able to use any of the Bank's 1,300 branches by the end of 2010.

### Latin America

At 31 December 2008, the Group had 6,089 offices and 96,405 employees (direct and assigned) in Latin America (as compared to 4,498 offices and 65,628 employees, respectively, at 31 December 2007), of which 257 were temporary employees. On that date, Latin America accounted for 21% of the total customer and funds under management, 15% of total loans and credits and 32% of profit attributed to the Group of the Group's main business areas.

Profit attributed to the Group from Latin America was €2,945 million, a 10.4 per cent. increase from 2007, while the ROE reached 26.1 per cent. (as compared to 29.1 per cent. in 2007). At the end of 2008, Latin America accounted for 32 per cent. of the operating areas' profit attributed to the Group after the consolidation of Banco Real in Santander Brazil and the assets and liabilities of ABN-Amro Uruguay in Santander Uruguay.

The Group's Latin American banking business is principally conducted by the following banking subsidiaries:

	<b>PERCENTAGE HELD AT 31 DECEMBER 2008</b>		<b>PERCENTAGE HELD AT 31 DECEMBER 2008</b>
Banco Santander Río, S.A. (Argentina)	99.30	Banco Santander, S.A. (Mexico)	74.95
Banco Santander, S.A. (Brazil)	97.93	Banco Santander Puerto Rico	90.59
Banco Santander Chile	76.73	Banco Santander, S.A. (Uruguay)	100.00
Banco Santander Colombia, S.A.	97.85	Banco de Venezuela, S.A. Banco Universal	98.42

The Group engages in a full range of retail banking activities in Latin America, although the range of its activities

varies from country to country. The Group seeks to take advantage of whatever particular business opportunities local conditions present.

The Group's significant position in Latin America is attributable to its financial strength, high degree of diversification (by countries, businesses, products, etc.), breadth and depth of its franchise.

Detailed below are the performance highlights of the main Latin American countries in which the Group operates:

**Brazil.** Santander Brazil Group, made up by Banco Santander Brazil and Banco Real, is the third private financial franchise in Brazil. Santander Brazil Group has 3,603 branches and 21.9 million individual customers.

The Group has been focusing on improving efficiency via best practices in expenses and revenues, and on technological and operational integration. Additionally, the Group has established several strategies and growth targets.

Lending rose 165 per cent. in local currency, mainly due to the consolidation of Banco Real. Excluding Banco Real, lending to individual customers grew by 14 per cent., and lending to SMEs and companies by 45 per cent. (all percentages in local currency).

Deposits and mutual funds increased by 126 per cent. (in local currency).

Profit attributable to the Group from Brazil in 2008 was €1,105 million, a 22.0 per cent. increase when compared with 2007 (a 21.9 per cent. increase in local currency). At the end of 2008 ROE was 25.5 per cent., NPLs was 3.6 per cent. and the NPLs coverage was 102 per cent.

**Mexico.** Banco Santander, S.A. (Mexico), is one of the leading financial services companies in Mexico. It leads the third largest banking group in Mexico in terms of business volume. The Group has a network of 1,129 branches and 8.8 million customers in Mexico.

Loans and credits increased in 2008 by 8 per cent. Of note were the 4 per cent. decrease of consumer credits and the growth of mortgage lending (+23 per cent.) and of commercial lending (+17 per cent.).

Profit attributable to the Group from Mexico decreased 8.2 per cent. to €600 million (a decrease of 0.2 per cent. in local currency). ROE was 20.8 per cent., the ratio of non-performing loans was 2.4 per cent. at the end of 2008 and the NPLs coverage was 132.

**Chile.** Banco Santander Chile heads the largest financial group in the country with substantial business in loans, deposits and mutual funds and pension funds. The Group has 507 branches and 3.1 million banking customers.

In 2008, lending increased by 20 per cent. (to individuals +17 per cent. and to companies +16 per cent.), while deposits increased by 19 per cent.

Profit attributed to the Group from Chile increased 0.3 per cent. to €545 million (a 6.3 per cent. increase in local currency). ROE was 37.3 per cent., the ratio of non-performing loans was 2.6 per cent. and the NPLs coverage was 102 per cent.

**Puerto Rico.** Banco Santander Puerto Rico is one of the largest financial institutions in Puerto Rico. The Group has 133 branches and 0.5 million customers.

The economy was in recession, affecting both the growth of the financial system and its profitability, under pressure from lower activity and higher risk premiums. In this environment, the Group continued to focus on selective growth in business with individual customers and companies and cutting costs.

Loss attributed to the Group from Puerto Rico was €19 million, compared to the €1 million obtained in 2007 due to the higher net loan-loss provision in 2008. The ratio of non-performing loans stood at 6.9 per cent. and the NPLs coverage was 61 per cent.

**Venezuela.** Banco de Venezuela is one of the country's largest banks with 285 branches and 3.2 million banking customers.

The Group focused in 2008 on maximising the return on the balance sheet, keeping comfortable levels of liquidity and boosting recurring revenues through greater customer linkage (growth in deposits and fee-generating services) and strict control of risks. Lending rose by 14 per cent., and deposits by 9 per cent.

Profit attributed to the Group from Venezuela grew to €317 million from €179 million a year earlier (an 89.4 per cent. increase in local currency). ROE stood at 58.9 per cent., the ratio of non-performing loans was 1.9 per cent. and the NPLs coverage was 126 per cent.

On 22 May 2009, Santander announced that it had reached an agreement in principle for the sale of its holding in Banco de Venezuela to the Republic of Venezuela (see "Recent Developments", below).

Colombia: Banco Santander Colombia, S.A. has 76 branches and 0.5 million banking customers.

The Group focused in 2008 on developing its franchise and selective growth in business, while maintaining appropriate levels of liquidity. Lending grew by 2 per cent. and deposits plus mutual funds increased by 34 per cent.

Profit attributable to the Group from Colombia was €27 million, 73.8 per cent. higher than in 2007 in local currency. The ratio of non-performing loans was 1.79 per cent. and the NPLs coverage was 204 per cent.

Argentina. Banco Santander Río S.A. is one of the country's leading banks, with 292 branches and 2.1 million banking customers.

In 2008, the Group focused its strategy on linking customers rather than increasing their number. On the other hand, a more selective criteria in lending was applied with greater emphasis on capturing deposits and maintaining comfortable levels of liquidity. Lending rose 18 per cent. while deposits increased by 12 per cent.

Banco Santander Río made a positive contribution to the Group's earnings, with profit attributable to the Group of €216 million in 2008, a 24.1 per cent. increase in local currency.

#### *Others*

In 2008 Uruguay generated profit attributed to the Group of €9 million with no impact from the consolidation of ABN-Amro which took place at the end of December 2008.

#### *Business level*

### **Retail Banking**

The Group's Retail Banking generated 85 per cent. of the operating areas' total income in 2008 and 75 per cent. of profit before tax. In 2008, Retail Banking generated total income of €26,775 million, 16.9 per cent. higher than in 2007. Profit before tax was €9,376 million, 2.9 higher than in 2007. This segment had 165,244 employees at the end of 2008.

This segment growth was due to two effects. On the one hand, the performance in euro terms in UK and Latin America reflects the negative impact of exchange rates, which absorbed the growth in their respective currencies of management. On the other, the incorporation of one quarter of Banco Real has a positive impact of 3 percentage points on profits.

Retail Banking in Continental Europe continued the growth trends in volume and earnings of the last two years. Net interest income rose 20.5 per cent. and profit before tax 9.2 per cent. The main units of growth were the Santander Branch Network and Banesto Retail. The main drivers were the good evolution of business compared to the market, although quarter-on-quarter growth eased; management of prices in a changing environment of interest rates and selective control of expenses.

Retail Banking in the UK in euro terms was very conditioned by the negative impact of exchange rates (16 percentage points). The 12.7 per cent. growth in revenues and 5.9 per cent. rise in expenses, both in sterling, resulted in a further improvement in efficiency. Net loan-loss provisions increased 44.3 per cent. and profit before tax was 12.1 per cent. higher (-3.5 per cent. in euro).

The results of Retail Banking in Latin America came from growth in customer business, the good performance of net interest income and net fees, and control of costs compatible with ongoing business development. In addition to the entry of Banco Real, the factors behind this segment growth were the rise in the number of individual customers and SMEs, greater linkage and development of loyalty products. Profit before tax for Retail Banking in 2008 was lower than 2007 because there was a large increase in net loan-loss provisions partly due to the deterioration of the global economy and partly due to the unification of provisioning criteria in Brazil after the integration of Banco Real. Excluding the exchange-rate effect, profit before tax, was comparable to that in 2007.

The Global Private Banking division, created in the second half of 2007, includes institutions that specialise in financial

advice and asset management for high income clients: Banif and Allfunds in Spain; Cater Allen, James Hay, Abbey Sharedealing and Abbey International in the UK and Santander Private Banking in Latin America and Italy. As well as the units of domestic private banking in Portugal and Latin America, jointly managed with local retail banks.

Profit before tax for the year was 4.9 per cent. lower at €429 million. This was due to two factors: on the one hand, the evolution of exchange rates, which reduced the profit growth by 6.6 percentage points. and, on the other, the allowances made by Banif in the last part of the year, after the Lehman Brother's collapse.

### **Global Wholesale Banking**

This area covers the Group's corporate banking, treasury and investment banking activities throughout the world.

This segment, managed by Santander Global Banking & Markets, contributed 13 per cent. of operating areas' total income and 21 per cent. of profit before tax (€2,548 million, 23 per cent. more than in 2007). This segment had 2,572 employees at the end of 2008.

In the case of Santander Global Banking & Markets, the improvement was due to a customer-focused business model, the area's global capacities and connection with local units, and the strength of the Group's capital and liquidity which made it possible to increase profitable activity without restrictions. Four factors were at play:

- First, the significant increase in customer revenues by 35% in 2008 as compared to 2007, which accounted for more than 85% of the area's total revenues. All zones registered double digit growth after absorbing the large negative impact of exchange rates. Customer revenues in the UK and Latin America rose 51% and 37% in 2008 as compared to 2007, respectively, in euros, while Spain's grew by 26% in 2008 as compared to 2007. Among the large markets for Global Wholesale Banking, only Portugal fell by 11% in 2008 because of the large operations in 2007.
- Second, the 29 per cent. fall in the results of trading activity, affected by instability in markets.
- Third, strict adjustment of expenses and structures to the new environment, as a result of which total operating expenses were 0.2 per cent. lower than in 2007.
- Lastly, a big increase in generic provisions because of large operations in the second half of the year, particularly in the fourth quarter. These provisions were more than four times higher than those recorded in 2007.

These factors were reflected in the income statement with operating profit before tax increasing 23 per cent. in 2008.

Santander is present in global transaction banking (which includes cash management, trade finance and basic financing), in corporate finance (comprising mergers and acquisitions and asset and capital structuring), in credit markets (which include origination activities, risk management, distribution of structured products and debt), in rates (comprised of structuring and trading activities in financial markets of interest rate and exchange rate instruments) and in global equities (activities relating to the equity markets).

### **Asset Management and Insurance**

This segment comprises all of the Group's companies whose activity is the management of mutual and pension funds and insurance. At 31 December 2008 it accounted for 2.7 per cent. of total income and 4.1 per cent. of profit before tax (€537 million, -1.3 per cent. in comparison to 2007). This segment had 1,435 employees at the end of 2008.

Total income fell 2.8 per cent., as the higher revenues from insurance did not offset the fall in fee income. The latter was hit by the decline in the volume of mutual funds in the main countries where the Group operates, particularly Spain. Profit before tax was 1.3 per cent. lower. The pension fund business in Latin America played no part in the results as it was sold and discontinued in 2007. Total revenues contributed to the Group by asset management and insurance, including those recorded by the distribution networks, amounted to €3,689 million (+1.3 per cent.).

### **Asset Management**

Santander Asset Management's global business generated €1,542 million of fees in 2008 (-18.4 per cent.). Profit before tax, after deducting operating expenses (3.4 per cent. lower than in 2007) and fees paid to the networks, was 9.0 per cent. lower at €221 million. Total managed pension and mutual funds amounted to €100 billion.

Activity in developed countries was determined by the strong preference for liquidity and on-balance sheet funds.

These trends, which in the fourth quarter spread to the other markets where the Group operates, influenced the volumes managed by Santander Asset Management.

As a result, most of its business, principally Traditional Management (€94 billion), was affected by the global fall in share prices in what was the worst year for stock markets in 30 years.

### **Insurance**

The global business of Santander Insurance generated income (fees and revenues from insurance activity) of €2,147 million (+22.6 per cent.), 6.9 per cent. of the operating areas' total. Its total contribution to the Group's results, the sum of profit before tax of the insurance companies and brokers (€316 million) and fees received by networks, was €2,020 million (+23.6 per cent.).

The volume of premium income distributed in the year was more than €9.6 billion (+34 per cent.). Life-savings products contributed 72 per cent. of the total, life-risk 15 per cent. and non-life 13 per cent.

Of the total premium income, 84 per cent. was subscribed by Group companies.

Santander Insurance made further progress in its global business model, developing new products and distribution channels. Of note was the launch of the "affinities channel", which leverages relations with corporate clients to distribute insurance to their clients. Ten distribution agreements were signed. This supplements the strength of the Group's branches (the main distribution channel) and of the Group's direct channels.

### **Financial Management and Equity Stakes**

At the end of 2008, this area had 1,710 employees (direct and assigned) (1,526 employees at the end of 2007), of which 456 were temporary.

This area is responsible for a series of centralised activities and acts as the Group's holding entity, managing all capital and reserves and assigning capital and liquidity to the other businesses. The cost of liquidity, via the transfer of funds to various businesses, is carried out at the short-term market rate, which was 4.26 per cent. in 2008 (4.06 per cent. in 2007).

The area made a loss of €223 million due to the following:

- First, all the €3,572 million of capital gains generated in 2008, net of taxes, were assigned to extraordinary write-downs.

The €586 million from the sale of Grupo Santander City, €741 million from the sale of ABN's liabilities and the €2,245 million from the sale of the businesses in Italy acquired from ABN were assigned as follows: €1,430 million to writing down the stakes in Fortis and Royal Bank of Scotland; €904 million to amortising the intangible assets of Abbey; €386 million to a fund for restructuring costs; €382 million to an early retirement fund; €295 million to amortizing the goodwill of Santander Consumer Finance and write-downs in portfolios and €175 million to other funds. All figures are net of taxes.

In 2007 capital gains were higher than the allowances by €934 million net of taxes.

- Second, share of results of entities accounted for using the equity method was €780 million in 2008 compared to €427 million in 2007. This difference was due, on the one hand, to a greater contribution from RFS Holdings, B.V. (basically Banco Real) which in 2008 consolidated nine months of profit after tax (in the fourth quarter it was consolidated by global integration), while in 2007 it was only consolidated from October, the date of the acquisition, until the end of the year. Cepsa's contribution, on the other hand, was lower because as of 1 October 2008, its profits ceased to be recorded by the equity method as the stake was transferred to non-current assets held for sale.
- Third, gains on financial assets and liabilities was affected in 2008 by the creation of a €643 million fund (€450 million net of tax) for the victims of the collapse of Lehman Brothers and the fraud of Bernard L. Madoff.

**Equity Stakes:** this sub segment centralises the management of equity stakes in financial and industrial companies.

The main events in 2007 and 2008 were the sale of 1.79 per cent. of Intesa Sanpaolo in the second quarter of 2007 (generating a capital gain of €566 million) and the consolidation of the assets acquired to ABN Amro and the transfer

of the Group's investment in CEPSA to available for sale financial assets in 2008. On 31 March 2009, the Group announced that it had reached an agreement to sell its holding in CEPSA subject to certain conditions.

#### *Financial Investments*

The Group's most important financial investment at 31 December 2008 was in Sovereign where the Group had a 24.99 per cent. stake. On 13 October 2008, Banco Santander, S.A. and Sovereign, the parent of Sovereign Bank, announced that Banco Santander would acquire Sovereign through a share exchange. This acquisition was completed in January 2009.

#### *Industrial Portfolio*

The majority of the Group's industrial holdings portfolio consists of investments in strategic sectors related to the growth of the Spanish economy. Through the Group's investments in these areas, it aims to contribute to the Group's consolidated results.

The following table summarises the Group's main industrial holdings at 31 December 2008:

<b>Company</b>	<b>Business</b>	<b>Percentage Held At 31 December 2008</b>
France Telecom España, S.A.	Telecommunications	5.01
CEPSA	Oil and Petrochemicals	32.5
Cableuropa – Grupo ONO	Telecommunications	4.47

**Financial Management:** this area manages the Group's structural exchange rate position, the structural interest rate risk of the parent bank and liquidity risk. The management of liquidity risk is conducted through debt issuance and securitisation.

The cost of hedging the capital of the Group's non-euro denominated investments is another activity. The current hedging policy is aimed at protecting the capital invested and the year's results through various instruments that are considered appropriate for their management. The main units that have exchange rate risk continued to be hedged in 2007 and 2008.

This sub segment also manages shareholders' equity, the allocation of capital to each business unit, and the cost of financing investments, with the result that the contribution to earnings is usually negative.

The summarised balance sheets and income statements of the various geographical segments (principal level) are as follows:

(Condensed) Balance Sheet	Millions of Euros									
	2008					2007				
	Continental Europe	United Kingdom	Latin America	Financial Management and Holdings	<i>Total</i>	Continental Europe	United Kingdom	Latin America	Financial Management and Holdings	<i>Total</i>
Loans and advances to customers	325,379	202,623	96,054	2,833	626,888	314,714	184,080	70,228	2,076	571,099
Financial assets held for trading (excluding loans and advances)	72,303	50,028	20,966	2,686	145,9835	44,846	53,787	22,846	1,328	122,808
Available-for sale financial assets	12,806	2,785	19,208	14,122	48,9208	10,149	44	12,628	21,528	44,349
Loans and advances to credit institutions	63,296	31,518	19,946	48,222	162,9815	54,798	22,165	12,847	26,502	116,312
Non-current assets	5,562	1,210	3,272	245	10,289	5,373	4,685	1,805	(202)	11,661
Other asset accounts	17,644	30,626	30,496	179,522	258,288	20,185	7,103	21,630	168,925	217,844

<b>Total assets /liabilities</b>	<b>496,989</b>	<b>318,790</b>	<b>189,941</b>	<b>247,630</b>	<i>1,253,350</i>	<b>450,067</b>	<b>271,865</b>	<b>141,985</b>	<b>220,156</b>	<i>1,084,073</i>
Customer deposits	165,763	143,200	108,257	3,009	<i>420,229</i>	149,061	122,500	82,046	1,800	<i>355,407</i>
Marketable debt securities	52,076	67,996	8,674	107,657	<i>236,4043</i>	70,004	76,056	5,031	82,196	<i>233,287</i>
Subordinated liabilities	1,752	9,890	3,847	23,384	<i>38,837</i>	2,433	8,345	2,540	22,874	<i>36,193</i>
Liabilities under insurance contracts	13,889	3	2,958	-	<i>16,850</i>	10,907	6	2,121	-	<i>13,034</i>
Deposits from credit institutions	85,044	60,063	29,998	38,961	<i>214,066</i>	66,027	38,688	19,064	47,789	<i>171,567</i>
Other liability accounts	154,812	32,306	23,623	14,915	<i>225,656</i>	131,362	23,094	22,595	18,541	<i>195,593</i>
Equity	23,653	5,332	12,583	59,704	<i>101,272</i>	20,273	3,177	8,588	46,955	<i>78,993</i>
Off-balance sheet customer funds	63,332	7,180	48,210	-	<i>118,723</i>	92,761	10,225	47,990	-	<i>150,977</i>
<b>Total funds under management</b>	<b>560,321</b>	<b>325,970</b>	<b>238,150</b>	<b>247,630</b>	<b><i>1,372,073</i></b>	<b>542,828</b>	<b>282,091</b>	<b>189,975</b>	<b>220,155</b>	<b><i>1,235,651</i></b>

(Condensed) Income Statement	Millions of Euros									
	2008					2007				
	Continental Europe	United Kingdom	Latin America	Financial Management and Holdings	<i>Total</i>	Continental Europe	United Kingdom	Latin America	Financial Management and Holdings	<i>Total</i>
<b>NET INTEREST INCOME</b>	<b>9,413</b>	<b>2,411</b>	<b>8,659</b>	<b>(2,312)</b>	<b>18,172</b>	<b>7,742</b>	<b>2,334</b>	<b>6,654</b>	<b>(1,777)</b>	<b>14,953</b>
Income from equity instruments	266	-	58	229	553	201	1	37	183	423
Share of results of entities accounted for using the equity method	(4)	-	21	780	797	9	2	4	427	441
Net fee and commission income	4,086	926	3,393	46	8,451	4,137	1,007	2,866	30	8,040
Gains/losses on financial assets and liabilities	771	500	926	1,346	3,543	732	436	702	1,113	2,982
Other operating income/(expenses)	148	49	(54)	64	208	133	65	(5)	43	237
<b>GROSS INCOME</b>	<b>14,681</b>	<b>3,887</b>	<b>13,002</b>	<b>154</b>	<b>31,724</b>	<b>12,955</b>	<b>3,845</b>	<b>10,258</b>	<b>19</b>	<b>27,077</b>
Staff costs	(3,126)	(986)	(2,655)	(197)	(6,964)	(3,037)	(1,045)	(2,222)	(248)	(6,551)
Other administrative expenses	(1,620)	(618)	(2,304)	(474)	(5,015)	(1,527)	(784)	(1,867)	(289)	(4,467)
Depreciation and amortisation of tangible and intangible assets	(580)	(157)	(437)	(96)	(1,270)	(559)	(102)	(348)	(259)	(1,268)
Net impairment losses on financial assets	(2,477)	(456)	(3,082)	(331)	(6,345)	(1,557)	(312)	(1,619)	(13)	(3,502)
Provisions (net)	(37)	(29)	(565)	(1,068)	(1,699)	30	5	(553)	(506)	(1,024)

<b>PROFIT/(LOSS) FROM OPERATIONS</b>	<b>6,841</b>	<b>1,642</b>	<b>3,959</b>	<b>(2,011)</b>	<b>10,431</b>	<b>6,305</b>	<b>1,608</b>	<b>3,649</b>	<b>(1,296)</b>	<b>10,265</b>
Net impairment losses on non-financial assets	(16)	-	(7)	(1,026)	(1,050)	(8)	-	(30)	(1,511)	(1,549)
Other non-financial gains/(losses)	(30)	31	42	1,806	1,849	26	15	161	2,257	(2,459)
<b>PROFIT/(LOSS) BEFORE TAX</b>	<b>6,794</b>	<b>1,673</b>	<b>3,994</b>	<b>(1,231)</b>	<b>11,230</b>	<b>6,323</b>	<b>1,622</b>	<b>3,781</b>	<b>(550)</b>	<b>11,175</b>
Income tax	(1,756)	(426)	(711)	1,009	(1,884)	(1,777)	(421)	(822)	685	(2,336)
<b>PROFIT/(LOSS) FROM ORDINARY ACTIVITIES</b>	<b>5,039</b>	<b>1,247</b>	<b>3,283</b>	<b>(222)</b>	<b>9,346</b>	<b>4,546</b>	<b>1,201</b>	<b>2,958</b>	<b>135</b>	<b>8,840</b>
Profit/(loss) from discontinued operations	(21)	-	7	-	(15)	-	-	112	684	797
<b>CONSOLIDATED PROFIT/(LOSS) FOR THE YEAR</b>	<b>5,018</b>	<b>1,247</b>	<b>3,290</b>	<b>(222)</b>	<b>9,332</b>	<b>4,546</b>	<b>1,201</b>	<b>3,071</b>	<b>819</b>	<b>9,636</b>
Attributable to minority interests	110	-	346	1	456	107	-	404	65	576
<b>PROFIT ATTRIBUTABLE TO THE PARENT</b>	<b>4,908</b>	<b>1,247</b>	<b>2,945</b>	<b>(223)</b>	<b>8,876</b>	<b>4,439</b>	<b>1,201</b>	<b>2,666</b>	<b>754</b>	<b>9,060</b>

Business Segments (secondary level): At the secondary level of segment reporting, the Group is structured into Retail Banking, Global Wholesale Banking, Asset Management and Insurance; the sum of these three segments is equal to that of the three primary operating geographical segments. Total figures for the Group are obtained by adding to the business segments the data for the Financial Management and Equity Stakes segment.

The summarised income statements and other significant data are as follows:

(Condensed) Income Statement	Millions of Euros									
	2008					2007				
	Commercial Banking	Global Wholesale Banking	Asset Management and Insurance	Financial Management and Holdings	Total	Commercial Banking	Global Wholesale Banking	Asset Management and Insurance	Financial Management and Holdings	Total
<b>NET INTEREST INCOME</b>	<b>18,362</b>	<b>1,934</b>	<b>188</b>	<b>(2,312)</b>	<b>18,172</b>	<b>15,235</b>	<b>1,364</b>	<b>131</b>	<b>(1,777)</b>	<b>14,953</b>
Income from equity instruments	149	162	13	229	553	80	148	12	183	423
Share of results of entities accounted for using the equity method	16	2	-	780	797	13	2	-	427	441
Net fee and commission income	7,137	861	407	46	8,451	6,618	922	470	30	8,040
Gains/losses on financial assets and liabilities	1,144	1,027	26	1,346	3,543	962	878	29	1,113	2,982
Other operating income/(expenses)	(33)	(39)	215	64	208	(5)	(30)	229	43	237
<b>GROSS INCOME</b>	<b>26,775</b>	<b>3,947</b>	<b>848</b>	<b>154</b>	<b>31,724</b>	<b>22,901</b>	<b>3,285</b>	<b>872</b>	<b>19</b>	<b>27,077</b>
Staff costs	(5,987)	(647)	(132)	(197)	(6,964)	(5,539)	(632)	(132)	(248)	(6,551)
Other administrative expenses	(4,015)	(380)	(147)	(474)	(5,015)	(3,633)	(392)	(153)	(289)	(4,467)
Depreciation and amortisation of tangible and intangible assets	(1,067)	(88)	(19)	(96)	(1,270)	(898)	(91)	(19)	(259)	(1,268)
Net impairment losses on financial assets	(5,740)	(275)	1	(331)	(6,345)	(3,426)	(63)	-	(13)	(3,502)
Provisions (net)	(603)	(13)	(16)	(1,068)	(1,699)	(459)	(35)	(23)	(506)	(1,024)

<b>PROFIT/(LOSS) FROM OPERATIONS</b>	<b>9,363</b>	<b>2,544</b>	<b>535</b>	<b>(2,011)</b>	<b>10,431</b>	<b>8,946</b>	<b>2,072</b>	<b>544</b>	<b>(1,296)</b>	<b>10,265</b>
Net impairment losses on non-financial assets	(25)	-	2	(1,026)	(1,050)	(37)	-	-	(1,511)	(1,549)
Other non-financial gains/(losses)	38	5	-	1,806	1,849	202	-	-	2,257	(2,459)
<b>PROFIT/(LOSS) BEFORE TAX</b>	<b>9,376</b>	<b>2,548</b>	<b>537</b>	<b>(1,231)</b>	<b>11,230</b>	<b>9,110</b>	<b>2,072</b>	<b>544</b>	<b>(550)</b>	<b>11,175</b>
Income tax	(2,066)	(684)	(144)	1,009	(1,884)	(2,334)	(523)	(163)	684	(2,336)
<b>PROFIT/(LOSS) FROM ORDINARY ACTIVITIES</b>	<b>7,311</b>	<b>1,865</b>	<b>393</b>	<b>(222)</b>	<b>9,346</b>	<b>6,776</b>	<b>1,548</b>	<b>381</b>	<b>134</b>	<b>8,840</b>
Profit/(loss) from discontinued operations	(13)	-	-	-	(13)	-	-	112	684	797
<b>CONSOLIDATED PROFIT/(LOSS) FOR THE YEAR</b>	<b>7,297</b>	<b>1,865</b>	<b>393</b>	<b>(222)</b>	<b>9,332</b>	<b>6,776</b>	<b>1,548</b>	<b>493</b>	<b>819</b>	<b>9,636</b>
Attributable to minority interests	422	11	22	1	456	457	9	45	65	576
<b>PROFIT ATTRIBUTABLE TO THE PARENT</b>	<b>6,875</b>	<b>1,854</b>	<b>371</b>	<b>(223)</b>	<b>8,876</b>	<b>6,319</b>	<b>1,539</b>	<b>448</b>	<b>754</b>	<b>9,060</b>

## **New Products and/or Activities.**

### ***Global New Products Committee (GNPC)***

Any new product or service that a Santander Group entity intends to market must be authorised by this committee.

In 2008 the committee held 15 meetings, at which a total of 190 products or product families were analysed.

A local new products committee is set up in each country in which an entity of the Group is based. Once a new product or service has undergone the required procedures, this committee must seek the approval of the global new products committee. In Spain, the functions of the local new products committee are discharged by the CGNP itself.

The areas represented on the global new products committee, which is chaired by the general secretary, are: Tax Advisory, Legal Advisory, Customer Care, Internal Audit, Commercial Banking, Global Corporate Banking, CIVIR/Integrated Risk Control, Compliance, the Controller's Unit, Financial Transactions and Markets, Operations and Services, Global Wholesale Banking Risks, Corporate Banking Risks and IFIs, Credit Risk, Market Risks, Risks -Systematic, Solvency Risk, Technology and Operational Risk, Santander Private Banking, Technology, Global Treasury, Universities and, lastly, the unit proposing the new product or a representative of the local new products committee.

Before a new product or service is launched, the aforementioned areas, together with any independent experts required to correctly evaluate the risks incurred (such as, for example, Money Laundering Prevention), conduct an exhaustive analysis of all the matters involved and express their opinion as to whether the product or service should be marketed.

On the basis of the documentation received, the global new products committee, after checking that all requirements for the approval of the new product or service have been met and considering the risk guidelines established by the Santander Group's risk committee, either approves, rejects or sets conditions for the proposed new product or service.

The global new products committee pays particular attention to the suitability of the new product or service for the environment in which it is to be marketed. To this end, it places particular emphasis on ensuring that:

- Each product or service is sold by people who know how to sell it;
- Customers know what they are investing in and are aware of the risk involved in the particular product or service, and this can be evidenced by supporting documentation;
- The product or service fits the customer's risk profile;
- Each product or service is sold where its sale is possible, not only from a legal or tax standpoint (i.e. it complies with the legal or tax regime of the country in question), but also with regard to the local financial culture; and
- When a given product or service is approved, maximum placement limits are set.

### **Procedures manual for the sale of financial products (the Manual)**

This manual, which has been used at Banco Santander since 2004 in the retail sale of financial products in Spain, was fully updated in 2007 as a result of the entry into force on 1 November of Directive 2004/39 on Markets in Financial Instruments (**MiFID**), which establishes new requirements governing the sale of financial products.

This manual is applied to investment services for financial products, including: fixed-income or equity securities or other financial instruments, money market instruments, shares or units in collective investment undertakings, traded derivatives, OTC derivatives and atypical financial contracts. Nevertheless, the GNPC may opt to include other financial products within the scope of the procedures manual, as was the case with structured deposits, savings and investment insurance, and pension plans.

The manual starts out with a segmentation of customers and products and establishes various categories of commercial treatment, which basically depend on the type of service to be provided. The combination of these

elements (customer category, product type and commercial treatment) produces a matrix that determines the mechanism to be applied (advisability test, suitability test) in order to assess a customer's suitability for a given product, and to establish the warnings that should be given to the customer.

The customer and product segmentation is the result of uniting the internal classification already used by Santander prior to MiFID (internal customer segmentation and product segmentation into green, yellow or red products) with that established by MiFID (segmentation of customers into retail clients, professional clients and eligible counterparties, and product segmentation into complex and non-complex products), giving rise to a level of protection that surpasses the minimum required under MiFID.

The various types of commercial treatment, arranged on a scale of descending involvement of the Bank, are as follows: (i) advised sale, which includes, in turn, portfolio advice and management; and (ii) non-advised sale, which encompasses marketing and mere performance of the sale.

In 2008, 164 products subject to this manual were submitted for approval. Although most of these products were investment funds, authorisation was also granted for the marketing of other kinds of products, such as warrants, derivatives, structured deposits and savings and investment insurance.

Of these 164 products, 80 were new products submitted to the global new products committee and 84 were existing products submitted to the Office for the Manual (a specific body created to oversee implementation of the manual forms part of the compliance department). Of the 164 products, 5 were not approved because of their high reputational risk. Of the 159 products approved, 33 were not assigned a specific colour, a different colour being assigned on the basis of the target customers. The remaining 126 products were categorised as follows: 47 were classified as green products (37%), 43 as yellow products (34%) and 36 as red products (29%). The red, yellow and green colours are assigned, not only on the basis of the risk of loss inherent in a product, but also taking into account the relative degree of difficulty experienced by the public in understanding its features.

Of the 159 products approved, 86 were classified under MiFID as complex products and 57 as non-complex products. The remaining 16 products are savings or investment insurance or pension plans subject to the manual but not governed by MiFID and, therefore, they are not classified as complex or non-complex.

#### **Principal Markets in which the Guarantor competes.**

The Group is one of the principal financial groups in the Spanish banking sector. At 31 December 2008 it was the leading Spanish banking group in terms of total assets, customer lending, on balance sheet customer funds, net worth and profits.

The information sourced from the annual report of Banco Bilbao Vizcaya Argentaria, S.A. ("BBVA") contained in this section "Business Overview—Principal Markets in which the Guarantor competes" has been accurately reproduced and, as far as the Issuer or the Guarantor is aware and is able to ascertain from information published by BBVA, no facts have been omitted which would render the reproduced information inaccurate or misleading.

(*)	SANTANDER GROUP	BBVA
	(MILLIONS OF EUROS)	
Total assets	1,049,632	542,650
Gross customer lending	633,814	342,671
On Balance Sheet Customer Funds (1)	694,055	376,380
Book net worth (2)	66,869	26,586
Consolidated profit for the year	9,332	5,385
Profit attributed to the Group	8,876	5,020

(*)	SANTANDER GROUP (**)	BBVA
Banking branch network (3)	13,390	7,787
Workforce	170,961	108,972
RATIOS:		

-ROE	17.07	21.5
-Efficiency	41.86	40.9
-Level of default	2.04	2.12
-Coverage for default	91	91

(\*) According to data published by the Group or BBVA, as the case may be, in their respective annual reports.

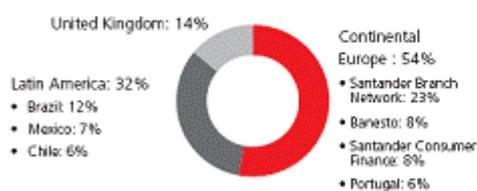
(\*\*) The amounts contained in this column, which have been taken from the 2008 Annual Report of the Guarantor, are unaudited.

- (1) On Balance Sheet Customer Funds = Customer Deposits + Debt Securities + Subordinated Debt + Insurance Liabilities.
- (2) Net of own shares and after applying profit and loss for the year. Does not include minority interests nor valuation adjustments.
- (3) In Spain and abroad.

The following charts illustrate the Group's attributable profit broken down by operative geographical segments and the Group's profit before taxes broken down by operative business segments for the 2008 financial year:

**DISTRIBUTION OF ATTRIBUTABLE PROFIT BY GEOGRAPHICAL SEGMENTS**

2008



(1) - W/o extraordinary capital gains and allowances

**DISTRIBUTION OF PROFIT BEFORE TAXES BY BUSINESS SEGMENTS**

2008



## Organisational Structure

Banco Santander, S.A. is the parent company of the Group which was comprised at 31 December 2008 of 831 companies that consolidate by the global integration method. In addition, there are 149 companies that are accounted for by the equity method.

The Guarantor is not dependent upon any other entity within the Group.

## Trend Information

There has been no material adverse change in the prospects of the Guarantor and its subsidiaries taken as a whole since 31 December 2008.

The global financial services sector is likely to remain competitive with a large number of financial service providers and alternative distribution channels. Additionally, consolidation in the sector (through mergers, acquisitions or alliances) is likely to occur as the other major banks look to increase their market share, combine with complementary businesses or strengthen their balance sheets. In addition, regulatory changes will take place in the future that the Guarantor expects will increase the overall level of regulation in the markets.

The following are the most important trends, uncertainties and events that are reasonably likely to have a material adverse effect on the Guarantor or that would cause the disclosed financial information not to be indicative of the Group's future operating results or of its financial condition:

- a continued downturn in the Spanish, U.K. and US real estate markets, and a corresponding increase in mortgage defaults;
- uncertainty regarding interest rates in the United States and other countries;
- uncertainties relating to economic growth expectations and interest rates cycles, especially in the United States, Spain, the United Kingdom, other European countries and Latin America, and the impact they

may have over the yield curve and exchange rates;

- the effect that the current global economic slowdown will have over Latin America and fluctuations in local interest and exchange rates;
- continued changes in the macroeconomic environment could cause further deterioration in the quality of the Group's customers' credit;
- continued instability and volatility in the financial markets;
- increases in the Group's cost of funding could adversely affect the Group's net interest margin as a consequence of timing differences in the repricing of the Group's assets and liabilities;
- a drop in the value of the euro relative to the U.S. dollar, the Sterling pound or Latin American currencies;
- inflationary pressures, because of the effect they may have in relation to increases of interest rates and decreases of growth;
- increased consolidation of the global financial services sector, which could further reduce the Group's spread;
- although it is foreseeable that entry barriers to domestic markets in Europe will eventually be lowered, the Group's possible plans of expansion into other markets could be affected by regulatory requirements of the national authorities of these countries;
- acquisitions or restructurings of businesses that do not perform in accordance with the Group's expectations or that subject the Group to previously unknown risks;
- increased regulations and government intervention prompted by the recent turmoil in global financial markets;
- the risk of further reductions in liquidity and increases of credit spreads as a consequence of the recent crisis in the financial markets, which could affect not only the Group's cost of funding but also the value of its proprietary portfolios and its assets under management; and
- future regulatory changes that may increase the overall level of regulation in the markets.

### Administrative, Management, and Supervisory Bodies

The Bylaws of the Guarantor (Article 41) provide that the maximum number of Directors is 22 and the minimum number 14.

The Board of Directors of the Guarantor is presently made up of 19 directors.

The following table displays the composition, position and structure of the Board of Directors and its Committees.

For this sole purpose, the business address of each of the persons listed below is: Ciudad Grupo Santander, Avenida de Cantabria s/n, 28660 Boadilla del Monte, Madrid.

Board of Directors	Executive Committee	Risk Committee	Audit and Compliance Committee	Appointments and Remuneration Committee	International Committee	Technology, Productivity and Quality Committee	Executive	External
Chairman Mr.	C				C	C		
Emilio Botín-Sanz de Sautuola y García de los Ríos								

First Deputy Chairman Mr. Fernando de Asúa Álvarez (3)		V		C				I
Second Deputy Chairman and Chief Executive Officer Mr. Alfredo Sáenz Abad								
Third Deputy Chairman Mr. Matías Rodríguez Inciarte			C					
Fourth Deputy Chairman Mr. Manuel Soto Serrano (3)								I
Members								
Assicurazioni Generali S.p.A. (represented by Mr. Antoine Bernheim)								P
Mr. Antonio Basagoiti García-Tuñón								I
Ms. Ana Patricia Botín-Sanz de Sautuola y O'Shea								
Mr. Javier Botín-Sanz de Sautuola y O'Shea (1)								P
Lord Burns (Terence)								E
Mr. Guillermo de la Dehesa Romero								I
Mr. Rodrigo Echenique Gordillo								E
Mr. Antonio Escámez Torres								I
Mr. Francisco Luzón López								
Mr. Abel Matutes Juan								I
(3)								
Mr. Juan Rodríguez Inciarte								
Mr. Luis Ángel Rojo Duque (3)			C					I

Mr. Luis Alberto Salazar-Simpson Bos (3)								I
Ms. Isabel Tocino Biscarolasaga								I
General Secretary and of the Board Mr. Ignacio Benjumea Cabeza de Vaca (2) (3)								
Deputy General Secretary and of the Board Mr. Jaime Pérez Renovales (2)								

C: Chairman, V: Vice Chairman, P: Proprietary, I: Independent, E: External, neither proprietary nor independent

- (1) External proprietary Director who represents in the Board of Directors the capital stock corresponding to the Marcelino Botín Foundation, Mr. Emilio Botín-Sanz de Sautuola y García de los Ríos, Ms. Ana Patricia Botín-Sanz de Sautuola y O'Shea, Mr. Emilio Botín-Sanz de Sautuola y O'Shea, Mr. Jaime Botín-Sanz de Sautuola y García de los Ríos, Ms. Paloma O'Shea Artiñano and his own.
- (2) Not Directors.
- (3) The members of the Audit and Compliance Committee are Fernando de Asúa Álvarez, Manuel Soto Serrano, Abel Matutes Juan, Luis Alberto Salazar-Simpson Bos, and its chairman is Luis Ángel Rojo Duque. The secretary (not a member) is Ignacio Benjumea Cabeza de Vaca.

### Principal Activities outside the Guarantor

The current Directors of the Guarantor at the date hereof carry out among others the following functions in other companies:

Directors	Company Name	Functions
Mr. Emilio Botín-Sanz de Sautuola y García de los Ríos	SHINSEI BANK, LIMITED	Director
Mr. Fernando de Asúa Álvarez	IBM ESPAÑA, S.A.	Honorary Chairman
	COMPAÑÍA ESPAÑOLA DE PETRÓLEOS, S.A. (CEPSA)	Director
	TÉCNICAS REUNIDAS, S.A.	Vice Chairman
	CONSTRUCTORA INMOBILIARIA URBANIZADORA VASCO-ARAGONESA, S.A.	Director

Mr. Alfredo Sáenz Abad	COMPAÑÍA ESPAÑOLA DE PETRÓLEOS, S.A. (CEPSA)	Vice Chairman	
	FRANCE TELECOM ESPAÑA, S.A.	Director	
Mr. Matías Rodríguez Inciarte	BANCO ESPAÑOL DE CRÉDITO, S.A.	Director	
	UCI, S.A.	Chairman	
	FINANCIERA PONFERRADA, S.A.	Director	
	GRUPO CORPORATIVO ONO, S.A.	Second Vice Chairman	
	OPERADOR DEL MERCADO IBERICO DE ENERGIA POLO ESPAÑOL, S.A.	Director	
	FUNDACIÓN PRÍNCIPE DE ASTURIAS	Chairman	
Mr. Manuel Soto Serrano	INDRA SISTEMAS, S.A.	Vice Chairman	
	GRUPO LAR INVERSIONES INMOBILIARIAS, S.A.	Director	
	CORPORACIÓN FINANCIERA ALBA, S.A.	Director	
	MERCAPITAL, S.L.	Chairman of the Advisory Committee	
	CARTERA INDUSTRIAL REA, S.A.	Director	
Mr. Antoine Bernheim <sup>(1)</sup>	ASSICURAZIONI GENERALI, S.p.A.	Chairman	
	INTESA SAN PAOLO S.p.A.	Vice Chairman of the Supervisory Board	
	ALLEANZA ASSICURAZIONI S.p.A	Vice Chairman	
	MEDIOBANCA – BANCA DI FINANZIARIO S.p.A	Director	
	LVMH	Vice Chairman	
	BOLLORÉ INVESTISSEMENT	Vice Chairman	
	GENERALI FRANCE	Director	
	GENERALI DEUTSCHLAND, AG	Director	
	GENERALI ESPAÑA HOLDING ENTIDADES DE SEGUROS, S.A.	Director	
	BSI	Director	
	GENERALI HOLDING VIENNA	Director	
	GRAAFSCHAP HOLLAND	Director	
	CHRISTIAN DIOR, S.A.	Director	
	EURAZEO	Member of the Supervisory Board	
	CIMENTA FRANCAIS	Director	
	HAVAS	Director	
	CHRISTIAN DIOR COUTURE	Director	
	GENERAL DEUTSCHLAND HOLDING AG	Director	
	Mr. Antonio Basagoiti García-Tuñón	FAES FARMA, S.A.	Vice Chairman
		PESCANOVA, S.A.	Director
A.T. KEARNEY		Member, External Advisory Committee	

Ms. Ana Patricia Botín-Sanz de Sautuola y O'Shea	BANCO ESPAÑOL DE CRÉDITO, S.A.	Executive Chairwoman
	ASSICURAZIONI GENERALI, S.p.A.	Director
Mr. Javier Botín-Sanz de Sautuola y O'Shea	M&B CAPITAL MARKETS, SOCIEDAD DE VALORES, S.A.	Chairman and Chief Executive Officer
	FUNDACIÓN MARCELINO BOTÍN	Member of the Board of Trustees
Lord Burns (Terence)	ABBEEY NATIONAL PLC	Chairman
	ALLIANCE & LEICESTER PLC	Chairman
	GLAS CYMRU (WELSH WATER)	Chairman
	PEARSON GROUP PLC	Director
Mr. Guillermo de la Dehesa Romero	AVIVA VIDA Y PENSIONES, S.A. DE SEGUROS Y REASEGUROS	Chairman
	CAMPOFRÍO FOOD GROUP, S.A.	Director
	GOLDMAN SACHS EUROPE LTD	Director
	AVIVA PLC	Director
Mr. Antonio Escámez Torres	SANTANDER CONSUMER FINANCE, S.A.	Chairman
	OPEN BANK SANTANDER CONSUMER, S.A.	Chairman
	ATTIJARIWafa BANK, SOCIÉTÉ ANONYME	Vice Chairman
	ARENA MEDIA COMMUNICATIONS ESPAÑA, S.A.	Chairman
	GRUPO KONECTANET, S.L. (2)	Vice Chairman
	FUNDACIÓN BANCO SANTANDER	Chairman
Mr. Francisco Luzón López	INDUSTRIA DE DISEÑO TEXTIL, S.A. (Inditex)	Director
Mr. Abel Matutes Juan	FIESTA HOTELS & RESORTS, S.L.	Chairman
	EURIZON FINANCIAL GROUP	Director
	FCC CONSTRUCCIÓN, S.A.	Director
	TUI AG	Member of the Supervisory Board
Mr. Juan Rodríguez Inciarte	SANTANDER CONSUMER FINANCE, S.A.	Director
	COMPAÑÍA ESPAÑOLA DE PETRÓLEOS, S.A. (CEPSA)	Director
	BANCO BANIF, S.A.	Director
	RFS HOLDINGS	Director
	ABN AMRO BANK, N.V.	Member of the Supervisory Committee
	ABN AMRO HOLDING N.V.	Member of the Supervisory Committee
	JCF SERVICES CO LLC.	Advisor
	SAAREMA INVERSIONES, S.A.	Chairman and Chief Executive Officer
	ABBEEY NATIONAL PLC	Vice Chairman
	ALLIANCE & LEICESTER PLC	Director
VISTA CAPITAL DE EXPANSION, S.A.	Director	

Mr. Luis Alberto Salazar-Simpson Bos	FRANCE TELECOM ESPAÑA, S.A.	Chairman
	CONSTRUCTORA INMOBILIARIA URBANIZADORA VASCO-ARAGONESA, S.A.	Chairman
	MUTUA MADRILEÑA AUTOMOVILÍSTA, SOCIEDAD DE SEGUROS A PRIMA FIJA	Director
	MUTUACTIVOS PENSIONES, S.A. SGPF	Director
Ms. Isabel Tocino Biscarolasaga	CLIMATE CHANGE CAPITAL	Director
	TELEMADRID	Director
	DIAGONAL GEST	Director

(1) Mr. Antoine Bernheim is the representative at the Guarantor's board of the company Director Assicurazioni Generali, S.p.A.

(2) Mr. Antonio Escámez Torres is an individual representative of Santander Consumer Finance in the board of directors and at the office of the Vice Chairman of GRUPO KONECTANET S.L.

There are no potential conflicts of interests between any duties owed to the Guarantor by the Directors and their private interests and/or other duties.

During the 2008 fiscal year there were 77 cases in which directors, including those who are members of senior management, abstained from participating and voting in the discussions of the board of directors or of the committees thereof.

The breakdown of the 77 cases is as follows: on 47 occasions, the conflicts arose from proposals for appointment and re-election, delegation of powers or revocation of delegated powers; on 24 occasions, the matter under consideration was the approval of the terms of remuneration and other terms and conditions of the contractual relationship of the Bank with the executive directors; on 5 occasions, the annual verification of the status of the directors made by the appointments and remuneration committee at its meeting of 12 March 2008 pursuant to article 6.3 of the Rules and Regulations of the Board; and on one occasion to record the congratulations of the executive committee to a director for an appointment.

### **Major Shareholders**

The Guarantor is not aware of any person which exerts or may exert control over the Guarantor within the terms of Article 4 of Ley 24/1988, de 28 de Julio, del Mercado de Valores (Law 24/1988 of 28 July of Securities Market).

The Guarantor is not aware of any arrangements the operation of which may at a date subsequent to that of the date hereof result in a change in control of the Guarantor.

### **Financial Information Concerning the Guarantor's Assets and Liabilities, Financial Position and Profits and Losses**

See paragraph 1 and 2 of "Documents Incorporated by Reference".

The Guarantor prepares audited consolidated and non-consolidated annual financial statements and has prepared unaudited summarised consolidated financial data of the Group for the 3 months ended 31 March 2009 which are incorporated by reference under paragraphs 1, 2 and 3 of "Documents Incorporated by Reference".

The consolidated and non-consolidated annual financial statements of the Guarantor for the 2008 and 2007 financial years were audited by the external audit firm Deloitte, S.L.

The information contained in "Business Overview" above is not audited and was obtained from the internal accounting records of the Guarantor, save for the summarised balance sheets and income statements of the various geographical segments (principal level) and the summarised income statements and other significant data of the business segments (secondary level), which have been audited and were obtained from the Guarantor's 2008 Annual Report and the Guarantor's 2007 Annual Report.

The information relating to the Group contained in the second table of "Business Overview – Principal Markets in

which the Guarantor competes" above is not audited and was obtained from the Guarantor's 2008 Annual Report.

No other information relating to the Guarantor in this Prospectus has been audited by Deloitte S.L.

The date of the most recent audited financial information of the Guarantor is 31 December 2008.

The audited consolidated and non-consolidated financial statements of the Guarantor for each of the years ended 31 December 2008 and 2007 have been filed with the Spanish securities market regulator.

### **Material Contracts**

During the past two years, neither the Issuer nor the Guarantor has been a party to any contracts that were not entered into in the ordinary course of business of the Issuer and the Guarantor and which was material to the Group as a whole, except for the investment in Sovereign and the transaction in relation to ABN AMRO, each as disclosed in "Recent Developments" below.

## LITIGATION AND GENERAL INFORMATION

### Legal Proceedings

There are no governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened or which the Guarantor is aware) which may have, or have had in the previous twelve months, significant effects on the Guarantor and/or the Group's financial position or profitability.

The following is a summary of certain legal proceedings affecting the Group. The Guarantor believes that it has made adequate reserves related to the costs anticipated to be incurred in connection with these and other legal proceedings and believes that liabilities related to such proceedings should not have a significant effect on the Guarantor and/or the Group's financial position or profitability.

***Wherever possible the proceedings listed below are quantified. However, in view of the inherent difficulty of predicting the outcome of contentious matters the Guarantor is sometimes unable to quantify the potential loss or practical consequences if a judgement were ordered against it and accordingly no specific amount is attributed to such claims.***

#### *Tax-related proceedings*

At present, and during the past twelve months, the main tax-related proceedings concerning the Group are as follows:

- A "Mandado de Segurança" was filed by Banco Santander, S.A. and other Group companies claiming their right to pay the Brazilian social contribution tax on net income at a rate of 8 per cent. In the case of Banco Santander, S.A., on 9 June 2008 a special and extraordinary appeal was filed at the Federal Supreme Court against the unfavourable judgment of the Federal Regional Court dated 14 January 2008. Banco Santander, S.A. awaits a decision in respect of this appeal.

In the case of Banco ABN AMRO Real, S.A., two "Mandados de Segurança" were filed; the first of these relates to an appeal was that filed at the Supreme Court and Federal Supreme Court and, the second to an appeal that was filed on February 12, 2008 at the Federal Regional Court in response to the unfavourable judgement handed down on 29 January 2008.

- A "Mandado de Segurança" was filed by Banco Santander, S.A. and other Group companies claiming their right to consider the social contribution tax on net income as deductible in the calculation of Brazilian corporation tax. In the case of Banco Santander, S.A., this action was declared unwarranted and an appeal was filed at the Federal Regional Court, requesting, as a precautionary remedy, stay of the claimability of the tax credit. Permission was granted to deposit the disputed amounts with the courts. On 1 October 2007, an unfavourable judgment was handed down by the Federal Regional Court, which was appealed by Banco Santander, S.A. (Brazil) through the presentation of "Embargos de Declaração" on 8 October 2007. On 6 March 2008 the Court rejected the "Embargos de Declaração" and dismissed the subsequent appeal. On 1 July 2008 a related special and extraordinary appeal was filed.

- A "Mandado de Segurança" was filed by Banco Santander, S.A. and other Group entities claiming their right to pay the Brazilian PIS and COFINS social contributions only on the income from the provision of services. In the case of Banco Santander, S.A., the "Mandado de Segurança" was declared unwarranted and an appeal was filed at the Federal Regional Court. On 13 September 2007, the Federal Regional Court found in favour of Banco Santander, S.A.. Unión Federal has filed an appeal against this judgment. In the case of Banco ABN AMRO Real, S.A., on 9 March 2007, the court found in favour of Banco AMRO Real, S.A.. Unión Federal has also lodged an appeal against this judgment.

- Legal proceedings were filed on 24 August 2000 by ABN AMRO Arrendamiento Mercantil, S.A. (*Arrendamiento Mercantil*) requesting the Income Tax deductibility of the depreciation and amortisation expense

in the same period in which an income on leasing transaction is recognised.

The entity had a favourable judgment handed down on 16 April 2008 which has been appealed against by the Brazilian tax authorities. A decision has yet to be made by the Federal Regional Court in respect of this appeal.

- Real Leasing, S.A., Arrendamiento Mercantil and Banco ABN AMRO Real, S.A. have filed various administrative and legal claims in connection with the deductibility of the provision for doubtful debts for 1995.

- Banco Santander, S.A. and other Group companies are involved in several administrative and legal proceedings against various municipalities that demand payment of the Service Tax on certain items of income from transactions not classified as provisions of services.

- A claim was filed against Abbey National Treasury Services plc by tax authorities abroad in relation to the refund of certain tax credits and other associated amounts. The legal advisers of Abbey National Treasury Services plc considered that the grounds to contest this claim were wellfounded, proof of which is that a favourable judgment was handed down at first instance in September 2006, although the judgment was appealed against by the tax authorities in January 2007. However, in December 2006 an unfavourable judgment for another taxpayer was handed down on another proceeding which might affect this case.

As of the date of this Prospectus, other less significant tax litigation was in progress.

#### *Non-tax-related proceedings*

At present, and during the last twelve months, the main non-tax-related proceedings concerning the Group are as follows:

- *Misselling*: claims associated with the sale by Abbey of certain financial products to its customers.

The provisions recorded by Abbey in this respect were calculated on the basis of the best estimate of the number of claims that will be received, of the percentage of claims that will be upheld and of the related amounts.

- LANETRO, S.A.: claim (ordinary lawsuit no. 558/2002) filed by LANETRO, S.A. against Banco Santander, S.A. at Madrid Court of First Instance no. 34, requesting that the Guarantor comply with the obligation to subscribe to €30.05 million of a capital increase at the plaintiff.

On 16 December 2003, a judgment was handed down dismissing the plaintiff's request. The subsequent appeal filed by LANETRO was upheld by a decision of the Madrid Provincial Appellate Court on 27 October 2006.

The Guarantor has filed extraordinary appeals on grounds of procedural infringements and has filed an extraordinary cassation appeal against the October 2006 decision.

- Ordinary proceedings were filed by Galesa de Promociones, S.A., against the Guarantor, at the Elche Court of First Instance no. 5, Alicante (proceeding no.1946/2008). The claim requests damages amounting to €51,396,971.43 as a result of a judgment handed down by the Supreme Court on 24 November 2004 setting aside a summary mortgage proceeding filed by the Guarantor against the plaintiff company, which concluded in the foreclosure by the Guarantor of the mortgaged properties and their subsequent sale by the Bank to third-party buyers. The judgment of the Supreme Court ordered the reversal of the court foreclosure proceeding prior to the date on which the auctions were held, a circumstance impossible to comply with due to the sale of the properties by the Bank to the aforementioned third parties, which prevented the reincorporation of the properties to the debtor company's assets and their re-auction.

The damages claimed have been broken down as follows: (i) €18,428,076.43 relating to the value of the property auctioned; (ii) €32,608,895 relating to the loss of profit on the properties lost by the plaintiff, which prevented the plaintiff company from continuing its business activity as a property developer; and (iii) €360,000 relating to the loss of rental income.

On 31 October 2008 a summons to answer and oppose the claim, was served on the Bank and the Bank has answered and opposed the plaintiff's requests on a timely basis, filing, at the same time, a counterclaim against Galesa de Promociones, S.A. for the amount owed to the Bank, basing its calculation on the difference between the value of the properties and the amount of the loan.

Galesa de Promociones, S.A. replied to the counterclaim on 12 January 2009 and the parties' pretrial hearing took place on 7 April 2009. The hearing has been scheduled to take place on 30 September 2009.

- A declaratory large claims action has been brought at Madrid Court of First Instance no. 19 (case no. 87/2001) in connection with a claim filed by Inversión Hogar, S.A. against the Guarantor. This claim sought the termination of a settlement agreement entered into between the Guarantor and the plaintiff on 11 December 1992.

On 19 May 2006, a judgment was handed down at first instance, whereby the agreement was declared to be terminated and the Guarantor was ordered to pay €1.8 million, plus the related legal interest since February 1997, to return a property that was given in payment under the aforementioned agreement, to pay an additional €72.9 million relating to the replacement value of the assets foreclosed, and subsequently sold, by the Guarantor, and to pay all the related court costs. The Guarantor and Inversión Hogar, S.A. filed appeals against the judgment.

On 30 July 2007, the Madrid Provincial Appellate Court handed down a decision upholding in full the appeal filed by the Guarantor, revoking the ruling issued at first instance and dismissing the appeal filed by Inversión Hogar, S.A. On completion of the clarification procedure, as it had announced previously, Inversión Hogar, S.A. filed an appeal against the aforementioned decision at the Civil Chamber of the Supreme Court, which has been granted leave to proceed by the Madrid Provincial Appellate Court at the preliminary admission for consideration stage.

- Complaint in an ordinary proceeding has been filed by Inés Arias Domínguez and a further 17 persons against Santander Investment, S.A. at Madrid Court of First Instance no. 13 (case no. 928/2007) seeking damages of approximately €43 million, plus interest and costs. The plaintiffs, who are former shareholders of Yesocentro S.A. (Yesos y Prefabricados del Centro, S.A.) allege that Santander Investment, S.A. breached the advisory services agreement entered into on 19 October 1989 between the former Banco Santander de Negocios, S.A. and the plaintiffs, the purpose of which was the sale of shares owned by the plaintiffs to another company called Invercámara, S.A.

This complaint was duly contested by Santander Investment, S.A. on 5 November 2007. The preliminary hearing was set for 28 April 2008, although it was subsequently postponed until a related claim is resolved.

In a decision issued by the Madrid Court of First Instance no. 13 on 11 September 2008, the proceeding in connection with the civil preliminary ruling was stayed. The plaintiffs have appealed the decision and the Bank responded to and opposed the plaintiff's appeal on 16 December 2008.

- On 6 February 2008, Banco Santander, S.A. filed a request for arbitration with the Secretary of the Spanish Arbitration Court against the business entity Gaesco Bolsa, Sociedad de Valores, S.A., in respect of the claim for €66,418,077.27 that the latter owes Banco Santander, S.A. as a result of the early termination of the financial transaction framework agreement entered into by the aforementioned company and Banco Santander, S.A. and the financial transactions set out in the agreement. On 12 May 2009, an arbitral ruling was handed down admitting Banco Santander's request and dismissing the counterclaim filed by GAESCO.

- Former Banespa employees: claim filed in 1998 by the association of retired Banespa employees (AFABESP) on behalf of its members, requesting the payment of a half-yearly bonus initially envisaged in the entity's by-laws in the event that the entity obtained a profit and that the distribution of this profit were approved by the Board of Directors. The bonus was not paid in 1994 and 1995 since the bank did not make a profit and partial payments were made from 1996 to 2000 in variable percentages as agreed by the Board of Directors, the aforementioned clause being eliminated from the by-laws in 2001. In September 2005 the Regional Labor Court ordered Banco Santander Banespa, S.A. to pay the half-yearly bonus and the bank lodged an appeal at the High Labor Court. A decision was handed down on 25 June 2008, ordering the bank to pay the half-yearly bonus from 1994 onwards for a maximum amount equivalent to that of the share in profits. The related appeals against this

decision will be filed at the High Labor Court and at the Federal Supreme Court, as applicable.

- Absorption of Banco Noroeste by Banco Santander Brasil: Three claims have been filed by minority shareholders of the former Banco Noroeste requesting, in addition to compensation for damage and losses, the annulment of the shareholders' meeting that approved the merger between Banco Noroeste and Banco Santander Brasil, arguing that when the merger took place they should have been offered a market value that would have enabled them to decide whether or not to sell their shares at that value.

In the three cases, judgments were handed down at first instance, one of which found in favour of the bank and the other two against it. In the latter two cases the shareholders' meeting was not declared null and void but rather the bank was ordered to pay compensation. Appeals were filed against these judgments.

The Sao Paulo Court of Justice has recently handed down joint judgments on three appeals at second instance, considering that Santander should have duly prepared a valuation report using the disposal value method, thereby establishing that the minority shareholders be indemnified.

In the case of the shareholders that sold their shares, the Court indicated that they should receive the difference between the value at which they sold their shares (equity value) and market value (calculated as the disposal value) at that time, plus interest. In the case of the shareholders that did not sell, the Court considers that they should receive the market value at that time plus interest, less the present value of their shares. Unlike the judgments handed down at first instance, lost profit and *damnum emergens* were excluded and the amount of lawyers' fees was reduced. An appeal against this judgment will be filed at higher courts.

- Bernard L. Madoff Investment Securities LLC: In relation to the alleged fraud committed by Bernard L. Madoff and the firm Bernard L. Madoff Investment Securities LLC, please see the Recent Developments section below.

- Lehman Brothers: In relation to the bankruptcy of Lehman Brothers, please see the Recent Developments section below.

#### *Disposition of previously reported litigation*

The following is a description of the developments in 2008 in relation to the small claims proceeding at Elche Court of First Instance no. 4 (case no. 419/1994) in connection with a claim filed by Galesa de Promociones, S.A.:

Galesa de Promociones, S.A. requested the Court to annul a previous legal foreclosure proceeding brought by the Guarantor against the plaintiff in 1992, which culminated in the foreclosure of certain properties that were subsequently sold by auction.

The judgments handed down at first and second instance were in the Guarantor's favour. The appeal filed by Galesa de Promociones, S.A. at the Supreme Court was upheld by virtue of a decision on 24 November 2004, which ordered the reversal of the legal foreclosure proceeding to before the date on which the auctions were held. On 8 June 2006, Galesa de Promociones, S.A. filed a claim for the enforcement of the decision handed down by the Supreme Court, requesting that the Guarantor be ordered to pay € 56 million, the estimated value of the properties, plus a further € 33 million for loss of profit. The Guarantor challenged this claim on the grounds that the Supreme Court decision could not be enforced—since no order had been pronounced against the Guarantor, but rather a proceeding had merely been annulled—and it also argued that the damages requested would have to be ruled upon by an express court decision, which had not been pronounced.

The Elche Court of First Instance, by virtue of an order dated 18 September 2006, found in favour of the Guarantor, and referred the plaintiff to the appropriate ordinary proceeding for the valuation of the aforementioned damages.

Galesa de Promociones, S.A. filed an appeal for reconsideration, which was dismissed by a resolution on November 11, 2006. Galesa de Promociones, S.A. filed an appeal against this resolution at the Alicante Provincial Appellate Court. This appeal was in turn contested by the Bank and a favourable judgment was

handed down.

*Other Litigation*

In addition to the matters described above, the Guarantor and its subsidiaries are from time to time subject to certain claims and parties to certain legal proceedings incidental to the normal course of the Group's business, including, in connection with the Group's lending activities, relationships with the Group's employees and other commercial or tax matters. In view of the inherent difficulty of predicting the outcome of legal matters, particularly where the claimants seek very large or indeterminate damages, or where the cases present novel legal theories, involve a large number of parties or are in early stages of discovery, the Guarantor cannot state with confidence what the eventual outcome of these pending matters will be, what the timing of the ultimate resolution of these matters will be or what the eventual loss, fines or penalties related to each pending matter may be. The Guarantor believes that it has made adequate reserves related to the costs anticipated to be incurred in connection with these various claims and legal proceedings and believes that liabilities related to such claims and proceedings should not have, in the aggregate, a material adverse effect on the Group's business, financial condition, or results of operations. However, in light of the uncertainties involved in such claims and proceedings, there is no assurance that the ultimate resolution of these matters will not significantly exceed the reserves currently accrued by the Guarantor; as a result, the outcome of a particular matter may be material to the Guarantor's operating results for a particular period, depending upon, among other factors, the size of the loss or liability imposed and the level of the Guarantor's income for that period.

As of the date of this Prospectus, other less significant non-tax-related proceedings were in progress.

As of the date of this Prospectus, the Group has recorded provisions that it believes reasonably cover any contingencies that might arise from these tax-related and non-tax-related proceedings.

## RECENT DEVELOPMENTS

### Capital Increase

On 9 November 2008, the Bank's executive committee, availing itself of the authorisation granted to the board of directors by the shareholders at the extraordinary general meeting of the Bank held on 27 July 2007 (which included the power of delegation in favour of the executive committee) and of the resolution of the Bank's board of directors of the same date, in which the powers received by the board in the aforementioned extraordinary general meeting were delegated in favour of the executive committee, resolved to increase capital, thereby recognising Banco Santander's shareholders' preemptive subscription rights, at a ratio of one new share for each four outstanding old shares of the Bank. When the pre-emptive subscription period ended on 27 November 2008 all the new shares had been subscribed.

On 3 December 2008, the capital increase carried out by the Bank was fully paid up. The operation consisted of a capital increase for a total par value of seven hundred and ninety-nine million, four hundred and five thousand, nine hundred and forty euros (EUR 799,405,940) and a total cash amount of seven thousand one hundred and ninety-four million, six hundred and fifty-three thousand, four hundred and sixty euros (EUR 7,194,653,460) through the issue of 1,598,811,880 book-entry shares of Banco Santander, with a par value of fifty euro cents (EUR 0.50) each, of the same class and series as the outstanding shares.

Following this capital increase and the capital increase carried out in connection with the acquisition of Alliance & Leicester, described below, the Bank's share capital at 31 December 2008 consisted of 7,994,059,403 shares with a total par value of EUR 3,997,029,701.50.

### RBS's European Consumer Finance Unit

On 1 July 2008, Santander Consumer Finance, S.A. acquired The Royal Bank of Scotland's ("RBS") continental European consumer finance business. The package includes activities in Germany, the Netherlands, Belgium and Austria. The acquisition has been carried out for a consideration of €306 million generating goodwill of €85 million.

The RBS European consumer finance business ("RBS ECF") has 2.3 million customers in Germany, the Netherlands, Belgium and Austria. RBS ECF makes instalment loans both directly and via partners. It is strongly represented in the credit card business, both in terms of individual and corporate customers, and provides consumer finance via retail chains. The business acquired in Germany was integrated into Santander Consumer Bank S.p.A. in December 2008.

### ABN AMRO Acquisition

On 20 July 2007, having obtained the regulatory authorisations required to publish the documentation on the takeover bid for ABN AMRO, Banco Santander, together with The Royal Bank of Scotland Group plc, Fortis N.V. and Fortis S.A./N.V. (together, "the Offering Banks" or the "Consortium") formally launched, through RFS Holdings B.V., the offer for all the ordinary shares, ADSs and previously convertible preference shares of ABN AMRO. The initial acceptance period of this offer ("the Offer") ended on 5 October 2007.

On 10 October 2007, the Offering Banks declared the Offer to be unconditional. At that date, the owners of 86% of the ordinary share capital of ABN AMRO had accepted the Offer (including certain shares that the Offering Banks already owned and had undertaken to contribute to RFS Holdings B.V.).

On this same date the commencement of an additional offer period was announced, during which the holders of ordinary shares and ADSs of ABN AMRO could sell them, under the same terms and conditions as those of the Offer, until 31 October 2007.

Once the aforementioned additional offer period had ended, the owners of 98.8% of the ordinary share capital of ABN AMRO (excluding its treasury shares) had definitively accepted the Offer.

At 31 December 2007, the investment made by Banco Santander amounted to €20,615 million and consisted of the Guarantor's 27.9% ownership interest in the share capital of RFS Holdings B.V., the holding entity of the shares of ABN AMRO.

Following all these actions, the spin-off of the business lines of ABN AMRO commenced with a view to their subsequent integration into each of the Offering Banks. The following corresponds to Santander: the Latin American Business Unit of ABN AMRO – basically Banco ABN AMRO Real S.A. ("Banco Real") in Brazil, the Banca Antoniana Popolare Veneta Spa Banking Group ("Antonveneta"), the cash relating to the sale of the consumer banking unit of ABN AMRO in the Netherlands -Interbank and DMC Consumer Finance-, plus 27.9% of the assets that were not allocated to any of the Offering Banks of the consortium and which are intended to be disposed of.

The spin-off process continued in 2008. Accordingly, on 4 March 2008, the Dutch Central Bank expressed its acceptance of the overall spinoff plan, and in July 2008 it approved the individual spin-off plan of Banco Real and the businesses in Brazil. Subsequently, the Brazilian Central Bank approved Santander's purchase transaction, thereby rendering it effective.

The Group's assets in Brazil will also comprise those corresponding to the asset management business of ABN AMRO in Brazil which were initially allocated to Fortis in the process of spinning off and integrating the assets of ABN AMRO which were acquired therefrom by the Bank in the first half of 2008 for €209 million.

As part of the separation of assets process, in December 2008 Banco Santander Uruguay acquired the assets and liabilities of ABN AMRO's Montevideo office, after which the businesses merged.

Also, on 30 May 2008 Banco Santander and Banca Monte dei Paschi di Siena completed the purchase and sale of Antonveneta (excluding Interbanca, its corporate banking subsidiary) for €9,000 million, in execution of the agreement announced on 8 November 2007 and subject only to the competent authorities' approval.

On 2 June 2008 Banco Santander announced that it had entered into a definitive agreement with General Electric whereby a GE group company would acquire Interbanca and the Bank would acquire the units of GE Money in Germany, Finland and Austria, its card units in the UK and Ireland and its car finance unit in the UK. The base price agreed for the two transactions is €1,000 million each, subject to various adjustments. These operations were concluded with the acquisition of GE Germany in the fourth quarter of 2008 and the acquisition of the remaining GE units and the sale of Interbanca in the first quarter of 2009.

In the third quarter of 2008, 45% of ABN AMRO Asset Management Italy SGR S.p.A. was sold to Banca Monte di Paschi di Siena for €35 million; the remaining 55% had already been acquired by the same company as a result of the purchase of Antonveneta.

The businesses shared by the members of the Consortium included subordinated liabilities issued by ABN AMRO. However, the liabilities which corresponded to Santander were transferred to RBS and Fortis at market value, generating a capital gain of €741 million for the Bank. This was recorded under "Profit from Financial Operations" in the 2008 profit and loss account.

On 22 September 2008 RFS completed the squeeze-out of ABN AMRO's minority shareholders by paying them €712 million. Since that date, RFS has been the sole shareholder of ABN AMRO. Due to its holding in RFS, Banco Santander had to pay €200 million to complete the process.

Banco Real was consolidated in the Group's accounts using the full integration method in the fourth quarter of 2008. The volume of assets brought to the Group by Banco Real is approximately €44,000 million at the exchange rate applicable at the 2008 year end.

The goodwill assigned to Banco Real following all the above operations at the 2008 year end adds up to €6,446 million.

In April 2009, ABN AMRO sold its branch in Asunción (Paraguay), after its conversion into a subsidiary, to Banco

Regional (40% owned by the Rabobank group) for € 42.2 million. This sale gave rise to a net gain of approximately € 5 million.

### **Santander Consumer USA Inc. (formerly Drive Consumer USA Inc.) ("Drive")**

In June 2008, the Group bought an additional 1% stake in Drive for U.S.\$17 million. The Group could buy the 9% stake still owned by the Chief Executive Officer of Drive between 2009 and 2013 at prices linked to the company's earnings performance.

### **Acquisition of Alliance & Leicester**

On 14 July 2008, Banco Santander and Alliance & Leicester reached an agreement in relation to the terms of a recommended acquisition by Banco Santander of the entire share capital, whether issued or yet to be issued, of Alliance & Leicester.

Under the terms of the agreement, the shareholders of Alliance & Leicester have received a Banco Santander share for each three shares of Alliance & Leicester. Prior to the share exchange date, Alliance & Leicester approved an interim dividend in cash amounting to 18 pence per share. In order to action the exchange, the shareholders of Banco Santander acting at the Extraordinary General Shareholders' Meeting held on 22 September 2008, agreed to increase the Bank's capital by a nominal amount of up to €71,688,495, through the issuance of a maximum of 143,376,990 ordinary shares with a nominal value of one-half (€0.5) per share.

#### Key features of the acquisition

- At the time of the announcement each Alliance & Leicester share was valued by the offer at 299 pence, and the total issued share capital, was valued at approximately £1,259 million (€1,579 million). The proposed exchange represented a premium of approximately 36.4% on the closing price at 11 July 2008. Considering the above interim dividend, the premium amounts to approximately 44.6% on the aforementioned closing price.
- The acquisition affords the integration of the ancillary businesses of Alliance & Leicester and Abbey National plc ("Abbey"), thereby strengthening the competitive positioning of the products and services offered by the Group and benefiting its customers. It can be expected that the combined group will also benefit in terms of increased efficiency and that the borrowing costs relating to Alliance & Leicester may be reduced over time from the current high levels.
- It will increase the critical mass of the Group's business in the UK market, as part of the Group's vertical strategy.
- In-market cost synergies through the Group's presence in the UK, estimated at £180 million per year (before tax) at the end of 2011.
- Complementary geographical nature of both distribution networks (Alliance & Leicester has a major presence in the Midlands, and Abbey in the London area).
- Abbey's expansion process in the SMEs and retail business will be speeded up 2-3 years.
- This transaction complies with the Santander Group's financial requirements. It is anticipated that it will accretive from 2009 onwards and that the ROI will be 19% in 2011. These estimates do not guarantee that Santander's EPS will necessarily reach or exceed the levels achieved in prior years.

The acquisition was completed by means of a scheme of arrangement and was approved by the shareholders of Banco Santander (in relation to the capital increase) and of Alliance & Leicester. Additionally, the Scheme of Arrangement implementing the acquisition was approved by the appropriate British court and the relevant consents were granted by the UK Financial Services Authority (the "FSA") and the Bank of Spain (*Banco de España*).

The acquisition was completed on 10 October 2008, on which date 140,950,944 new shares in Banco Santander, with a value of €0.50 and an issue premium of €10.73 per share, were issued. The value of the increase (nominal value plus premium) was €1.583 million, generating goodwill of £442 million (€554 million at the exchange rate applicable on the date of the operation).

Alliance & Leicester provided total assets of approximately €79,000 million as at year-end, contributing no results for 2008.

### **Sale and Leaseback of Real Estate Assets**

On 12 September 2008, Banco Santander announced that it had completed with the consortium led by the U.K. property investor Propinvest the sale of the Santander Financial City and its simultaneous lease back for a period of 40 years, with the Bank also reserving a purchase option right at the end of such period.

The amount of the transaction was €1,900 million, as initially contemplated. The capital gains obtained by Santander from this sale are close to €600 million.

With this transaction, Banco Santander has concluded the process involving the sale of its own buildings in Spain which commenced in 2007 within the framework of the ABN AMRO acquisition transaction. The total sales amount to €4,434 million, with capital gains of approximately €1,680 million.

### **Bradford & Bingley's Direct Channels and Retail Deposits to Transfer to Abbey**

Following the announcement on 29 September 2008 by Her Majesty's Treasury ("HM Treasury") to take Bradford & Bingley into public ownership, the retail deposits, branch network and its related employees transferred to Abbey, a wholly-owned subsidiary of Banco Santander.

As outlined in the HM Treasury statement, all of Bradford & Bingley's customer loans and treasury assets, which include the £41 billion of mortgage assets, have been taken under public ownership.

The transfer to Abbey consists of:

- £20 billion retail deposit base with 2.7 million customers; and
- Bradford & Bingley's direct channels including 197 retail branches, 141 agencies (distribution outlets in 3rd party premises) and related employees.

The acquisition price was £612 million, including the transfer of £208 million of capital in off-shore companies. The goodwill assigned to this business is £160 million (€202 million at the exchange rate applicable on the date of the operation).

### **Acquisition of the outstanding 75.65% of Sovereign**

Banco Santander and Sovereign, the parent company of Sovereign Bank, announced on 13 October 2008 that Banco Santander will acquire Sovereign in a stock-for-stock transaction. Santander owned, as of the date of such announcement, 24.35% of Sovereign's ordinary outstanding shares. The Capital and Finance Committee, composed of independent directors of Sovereign, requested that Santander consider acquiring the remaining 75.65% of the company it did not currently own. The Capital and Finance Committee evaluated the transaction and recommended the transaction to the full Board.

Under the terms of the definitive transaction agreement, which was approved by the Executive Committee of Santander and unanimously approved by the non-Santander directors of Sovereign, Sovereign shareholders will receive 0.2924 Banco Santander ADSs for each share of Sovereign common stock they own (or 1 Banco Santander ADS for 3.42 Sovereign shares). Based on the closing stock price for Santander ADSs on 10 October 2008, the transaction has an aggregate value of approximately U.S.\$1.9 billion (EUR1.4 billion), or U.S.\$3.81 per share. The

transaction meets Santander's criteria for acquisitions, both strategically, by significantly enhancing the geographical diversification of the Group, and financially, with a projected net profit for Sovereign of U.S.\$750 million in 2011.

At the Extraordinary General Meeting on 26 January 2009, the shareholders of Banco Santander approved the capital increase in respect of the acquisition of 75.6% of Sovereign, agreed in October 2008, with 96.9% of the capital present and represented.

On 28 January 2009, the acquisition was approved by the General Shareholders' Meeting of Sovereign. On 30 January 2009, the acquisition of Sovereign was completed, making it a fully-owned affiliate of Santander, through the issuing of 0.3206 ordinary Banco Santander shares for every 1 ordinary share of Sovereign (equivalent to the approved exchange of 0.2924 ADSs adjusted in view of the dilution caused by the capital increase carried out in December 2008). For this purpose, 161,546,320 ordinary shares have been issued for an actual amount (nominal value plus premium) of €1,302,063,339.20.

### **Lehman Brothers ("Lehman")**

The Lehman Brothers bankruptcy was made public on 15 September 2008. Various customers of the Group were affected by this situation since they had invested in securities issued by Lehman or in other products which had such assets as their underlying.

On 12 November 2008, the Group announced the implementation of a solution (which was of a strictly commercial, exceptional nature and did not imply any admission of mis-selling) for holders of one of the products sold -Seguro Banif Estructurado- issued by the insurance company Axa Aurora Vida, which had as its underlying a bond issued and guaranteed by Lehman. The solution involved replacing the Lehman issuer risk with the issuer risk of Santander Group subsidiaries. The exchange period ended on 23 December 2008. As a result of the exchange, at year-end 2008 a loss was recognised in the consolidated income statement for the difference of EUR 46 million (EUR 33 million after tax) between the fair value of the bonds received and the bonds delivered in the exchange.

In February 2009 the Group offered a similar solution to other customers affected by the Lehman bankruptcy. The cost of this transaction, before tax, was EUR 143 million (EUR 100 million after tax), which was recognised in the consolidated income statement for 2008.

At the date of this Prospectus, it was known that certain claims had been filed against a Group company in relation to the marketing of the bonds referred to above. The Bank's directors and its legal advisers consider that the various Lehman products were sold in accordance with the applicable legal regulations in force at the time of each sale or subscription and that the fact that the Group acted as intermediary would not give rise to any liability in relation to the insolvency of Lehman. Accordingly, it was not necessary to recognise any liability in this connection in the consolidated financial statements.

### **Bernard L. Madoff Investment Securities LLC**

The intervention, on grounds of fraud, of Bernard L. Madoff Investment Securities LLC ("Madoff Securities") by the US Securities and Exchange Commission ("SEC") took place in December 2008. The exposure of customers of the Group through the subfund Optimal Strategic US Equity ("Optimal Strategic") was EUR 2,330 million, of which EUR 2,010 million related to institutional investors and international private banking customers, and the remaining EUR 320 million were in the investment portfolios of the Group's private banking customers in Spain, who were qualifying investors.

On 27 January 2009, the Group announced its decision to offer a solution to those of its private banking customers who had invested in Optimal Strategic and had been affected by the alleged fraud.

This solution, which was applied to the principal amount invested, net of redemptions, totalled EUR 1,380 million. It consisted of a replacement of assets whereby the private banking customers could exchange their investments in Optimal Strategic US for preferred participating securities to be issued by the Group for the aforementioned amount, with an annual coupon of 2% and a call option that can be exercised by the issuer in year ten. The pre-tax cost of

this transaction for the Group was EUR 500 million (EUR 350 million after tax), and this amount was recognised in the consolidated income statement for 2008.

The Group has at all times exercised due diligence in the management of its customers' investments in the Optimal Strategic fund, these products have always been sold in a transparent way in keeping with applicable legislation and established procedures. Accordingly, the decision to offer a solution was taken in view of the exceptional circumstances attaching to this case and based on solely commercial reasons, due to the interest the Group has in maintaining its business relationship with these customers.

At the time of the intervention, Madoff Securities was a broker-dealer authorised, registered and supervised by the SEC and was also authorised as an investment advisor by the US Financial Industry Regulatory Authority ("FINRA").

At the date of this Prospectus, it was known that certain claims had been filed in relation to this matter. The Santander Group is currently assessing the advisability of taking the appropriate legal action.

On 18 March 2009, the Group issued the preferred participating securities earmarked for the replacement of assets offered to the private banking customers affected by the intervention in Madoff and those affected by the Lehman bankruptcy who were not able to participate in the exchange made on 23 December 2008 (referred to above). The preferred participating securities have been listed on the London Stock Exchange since 23 March 2009. The level of acceptance of the exchange proposal was 94%.

On 26 May 2009, two funds managed by Optimal Investment Services, a wholly owned indirect subsidiary of Banco Santander, announced that they had entered into an agreement with Irving H. Picard, the trustee for the liquidation of Madoff Securities. Under the agreement, in exchange for the funds' payment of the reduced demands, the trustee will allow the funds' claims in the liquidation proceeding and reduce his clawback demands on the funds. The funds are Optimal Strategic US Equity Limited and Optimal Arbitrage Limited. These are the only Optimal Funds that had customer accounts at Madoff Securities.

The agreement provides that the funds' claims against Madoff Securities estate would be allowed in their full amounts, calculated on a cash-in, cash-out basis, of \$1,540,141,278 and \$9,807,768, respectively, and the funds would be entitled to Securities Investor Protection Corporation advances of \$500,000 each. The funds will pay 85% of the clawback claims that the trustee has asserted so far against the funds. The payments will total \$129,057,095 for Strategic US Equity and \$106,323,953 for Arbitrage.

Optimal and Santander would agree not to file any other claims against Madoff Securities estate. The agreement also contains an "equal treatment" provision, so that if the trustee settles similar clawback claims for less than 85%, the funds will receive a rebate of a portion of their payments to equalize the percentages applied to the funds.

The agreement followed the trustee's investigation of Optimal's conduct in dealing with Madoff Securities, including a review of Optimal's documents relating to due diligence conducted by Optimal, in which the Trustee concluded that their conduct does not provide grounds to assert any claim against the Optimal companies or any other entity of the Santander group (other than the clawback claims described above). The funds' potential clawback liability did not imply any wrongdoing by the funds.

The agreement contains releases of all clawback and other claims the trustee may have against the funds for any matters arising out of the funds' investments with Madoff Securities. The trustee's release would apply to all potential claims against other Optimal companies, Santander companies and their investors, directors, officers and employees who agree to release the trustee and the Madoff Securities estate, to the extent the claims arose out of the funds' dealings with Madoff Securities. It also releases both funds from potential clawback liability for any other withdrawals made by them.

Madoff Securities is currently undergoing liquidation under the Securities Investor Protection Act of 1970 in the United States Bankruptcy Court in New York. Madoff Securities' principal, Bernard L. Madoff, has pled guilty to conducting probably the largest Ponzi scheme in history. The agreement was approved by the United States Bankruptcy court in New York on 16 June 2009.

### **Sale of Porterbrook Leasing Company**

On 8 December 2008, Abbey National plc completed the disposal of Porterbrook Leasing Company Limited ("Porterbrook"), its leasing business, through the sale of all the shares of Porterbrook and its subsidiaries to a consortium of investors including Antin Infrastructure Partners (the infrastructure fund sponsored by BNP Paribas), Deutsche Bank and Lloyds TSB, and received approximately GBP 1,600 million in cash. This disposal gave rise to a gain of EUR 50 million (GBP 40 million).

### **Metrovacesa, S.A. ("Metrovacesa")**

On 20 February 2009 certain credit institutions, including Banco Santander, S.A. and Banco Español de Crédito, S.A., reached an agreement for the restructuring of Grupo Sanahuja's debt (the "Restructuring Agreement") under which they will receive shares representing 54.75% of Metrovacesa's share capital in accord and satisfaction for Grupo Sanahuja's debts.

The Restructuring Agreement also stipulates that the creditors will acquire an additional 10.77% of Metrovacesa's capital, which includes an additional disbursement of €214 million for Grupo Sanahuja (the Sanahuja family has been granted a four-year call option over these shares), as well as other terms relating to the management of the company.

Following the execution of the Restructuring Agreement, the Santander Group will have a 23.63% holding in Metrovacesa, S.A., with 5.38% of its 23.63% holding being subject to the option mentioned above.

### **Real Tokio Marine Vida e Previdencia S.A.**

On 10 March 2008, Santander announced that Banco Santander Brazil has agreed to acquire the 50% of the insurance company Real Tokio Marine Vida e Previdencia S.A. not already held by it from Tokyo Marine for 678 million Brazilian Reales (€225 million).

### **Interim Dividends**

In June 2008, the Board of Directors of the Bank approved a first dividend on account of the earnings for the 2008 financial year for a gross amount of €0.135234 per share which was paid on 1 August 2008.

As of 1 November 2008 the Bank has paid a second interim dividend on account of the earnings for the 2008 financial year, for a gross amount per share of €0.135234, 10% higher than the dividend paid in November of 2007 as the second interim dividend on account of the 2007 financial year.

As of 1 February 2009 the Bank paid a third interim dividend on account of the earnings for the 2008 financial year, for a gross amount of €0.12294 per share. This is the same as the dividend paid in February of 2008 as the third interim dividend on account of the 2007 financial year.

On 23 March 2009 the Board of Directors of the Bank approved a fourth dividend on account of the earnings for the 2008 Financial Year, for an amount of €0.25737 per share, which has been paid from 1 May 2009.

On 1 August 2009, the Guarantor will pay the first dividend on account of the earnings for the 2009 financial year for a gross amount of € 0.135234 per share.

### **Sale of holding in Compañía Española de Pétroleos, S.A. ("CEPSA")**

On 31 March 2009, Santander Group announced that it had reached an agreement with the International Petroleum Investment Company of the Emirate of Abu Dhabi for the sale to the latter of its 32.5% stake in Cepsa, at a price of EUR 33 per share, which if completed would be reduced by the amount of any dividends paid, prior to the closing of the transaction, charged to the 2009 financial year. With this transaction, the historical annual return for Santander Group derived from its investment in Cepsa has been 13%. The sale has no impact on Santander Group's

earnings since this holding in Cepsa has been entered in the accounts under the equity method.

The transaction is subject to certain conditions, which include the obtaining of the appropriate regulatory authorisations and the closing of the financing.

#### **Sale of holding in France Telecom España, S.A.**

On 29 April 2009, Santander announced that it has reached an agreement with the company Atlas Services Nederland BV (a 100%-owned affiliate of France Telecom) on the sale of the 5.01% share package held by Grupo Santander in France Telecom España, S.A. for an amount of EUR 377.6 million.

#### **Sale of holding in Banco de Venezuela, S.A. Banco Universal ("Banco Venezuela")**

On 22 May 2009, Santander announced that it had reached an agreement in principle for the sale of its holding in Banco de Venezuela to the Republic of Venezuela for 1,050 million dollars. On 6 July 2009 Banco Santander, S.A. announced that it had closed the sale of its stake in Banco de Venezuela to Bank for Economic and Social Development of Venezuela (*Banco de Desarrollo Económico y Social de Venezuela*), a public institution of the Bolivarian Republic of Venezuela for \$1,050 million, of which \$ 630 million have been paid on this date and the remainder will be payable in October and December 2009.

#### **Update on Santander's Results for the Second Quarter**

The Bank's second quarter results, which are expected to be released in full on July 29, 2009 have developed according to expectations. The net attributable profit accumulated in the six months ended on 30 June, 2009 is fully consistent with Santander's goal of maintaining in 2009 the net ordinary profit achieved by the Group in 2008 (€8,876 mm). Profits continue to be steady and recurrent throughout the quarters. Second quarter results do not incorporate any meaningful extraordinary item. Through organic capital growth, the Group's core capital ratio is expected to have increased from the 7.3% reported at the end of the first quarter, at the pace previously communicated to the market (approximately 10-15 bps per quarter).

As stated at the Group's recent Annual General Meeting of shareholders, asset quality deterioration is slowing down, and the Bank continues to expect non performing loans (**NPLs**) of the Spanish business around 3.5% by year end 2009. The integration of Alliance & Leicester and Bradford & Bingley in the UK, of Banco Real in Brazil, and of Sovereign Bancorp in the US are proceeding according to Santander's expectations as previously communicated to the market.

## **USE OF PROCEEDS**

The Bank intends to use the net proceeds from the sale of the Preferred Securities for general corporate purposes and to improve the efficiency of the capital base of the Group. The Issuer will deposit with the Bank the net proceeds from the sale of the Preferred Securities on a subordinated and permanent basis, and the Bank intends to use those monies for general corporate purposes with any specific allocation of such proceeds to depend on the amount of proceeds then needed, on whether other funds are then available and on how much those funds cost. If the net proceeds are not used immediately, they will be temporarily invested by the Bank to reduce the Group's short-term indebtedness.

## SELECTED CONSOLIDATED FINANCIAL INFORMATION

### Selected Consolidated Financial Information

The selected consolidated financial information presented below has been extracted or derived from our:

- audited consolidated financial statements as of and for the years ended 31 December 2008, 2007 and 2006, prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (“IFRS-IASB”).
- unaudited summarised consolidated financial data of the Group for the 3 month period ended 31 March 2009 (the **March 2009 Summarised Consolidated Financial Data**).
- unaudited summarised consolidated financial data of the Group for the 3 month period ended 31 March 2008 (the **March 2008 Summarised Consolidated Financial Data**).

You should read this selected information in conjunction with, and it is qualified in its entirety by reference to, the above listed consolidated financial statements, all of which are included in our 2008 Annual Report incorporated by reference herein to the extent described under ‘Documents Incorporated by Reference’.

Results for past periods are not necessarily indicative of results that may be expected for any future period.

### Consolidated Income Statement Data:

	Year ended December 31,			Period ended March 31,	
	2008	2007	2006	2009 (unaudited)	2008 (unaudited)
	(in thousands of euros , except percentages and per share data)				
Interest and similar income	56,207,656	46,312,706	37,239,602	14,384,434	12,153,657
Interest expense and similar charges	(38,035,863)	(31,359,417)	(25,118,665)	(8,150,469)	(8,163,967)
<b>Interest income / charges</b>	<b>18,171,793</b>	<b>14,953,289</b>	<b>12,120,937</b>	<b>6,233,965</b>	<b>3,989,690</b>
Income from equity instruments	552,809	422,618	412,714	87,215	61,910
Income from companies accounted for using the equity method	797,300	441,457	426,921	(11,217)	341,260
Fee and commission income	9,942,097	9,479,986	8,288,580	2,603,606	2,439,067
Fee and commission expense	(1,491,491)	(1,439,811)	(1,264,385)	(393,263)	(365,971)
Gains/losses on financial assets and liabilities (net)	2,963,672	2,331,696	2,062,471	1,094,677	673,599
Exchange differences (net)	579,827	650,734	96,635	(225,724)	145,336
Other operating income	9,440,461	6,741,246	6,076,845	1,763,485	2,379,034
Other operating expenses	(9,232,417)	(6,503,829)	(5,839,785)	(1,698,888)	(2,309,396)
<b>Total income</b>	<b>31,724,051</b>	<b>27,077,386</b>	<b>22,380,933</b>	<b>9,453,856</b>	<b>7,354,529</b>
Administrative expenses	(11,979,348)	(11,018,329)	(9,969,171)	(3,690,949)	(2,789,971)
<i>Personnel expenses</i>	<i>(6,963,855)</i>	<i>(6,551,201)</i>	<i>(5,967,873)</i>	<i>(2,110,960)</i>	<i>(1,666,243)</i>
<i>Other general expenses</i>	<i>(5,015,493)</i>	<i>(4,467,128)</i>	<i>(4,001,298)</i>	<i>(1,579,989)</i>	<i>(1,123,728)</i>
Depreciation and amortization	(1,269,527)	(1,267,880)	(1,146,547)	(389,281)	(307,674)
Provisions (net)	(1,699,114)	(1,023,563)	(1,079,337)	(177,846)	(238,924)
Impairment losses on financial assets (net)	(6,345,433)	(3,502,604)	(2,480,993)	(2,247,361)	(1,134,611)
Impairment losses on other assets (net)	(1,049,704)	(1,548,610)	(20,781)	(11,660)	(12,987)
Gains/(losses) on disposal of assets not classified as non-current assets held for sale	118,046	1,815,867	352,120	(97,253)	9,736
Gains/(losses) on non-current assets held for sale not classified as discontinued operations	1,730,781	642,974	959,162	(7,483)	(14,255)
<b>Operating profit/loss before tax</b>	<b>11,229,752</b>	<b>11,175,241</b>	<b>8,995,386</b>	<b>2,832,023</b>	<b>2,865,843</b>
Income tax	(1,884,223)	(2,335,686)	(2,254,598)	(622,398)	(530,702)
<b>Profit for the period from continuing operations</b>	<b>9,345,529</b>	<b>8,839,555</b>	<b>6,740,788</b>	<b>2,209,625</b>	<b>2,335,141</b>
Profit from discontinued operations (net)	(13,115)	796,595	1,504,965	(14,448)	626
<b>Consolidated profit for the period</b>	<b>9,332,414</b>	<b>9,636,150</b>	<b>8,245,753</b>	<b>2,195,177</b>	<b>2,335,767</b>
<i>Profit for the period attributable to the parent</i>	<i>8,876,414</i>	<i>9,060,258</i>	<i>7,595,947</i>	<i>2,095,793</i>	<i>2,206,126</i>
<i>Profit attributable to minority interests</i>	<i>456,000</i>	<i>575,892</i>	<i>649,806</i>	<i>99,384</i>	<i>129,641</i>

*Per share information:*

Average number of shares (thousands) (1)	7,271,470	6,801,899	6,701,728	8,477,060	7,147,929
Basic earnings per share (in euros)	1.2207	1.3320	1.1334	0.2472	0.3086
Basic earnings per share continuing operation (in euros)	1.2229	1.2279	0.9442	0.2472	0.3086
Diluted earnings per share (in euros)	1.2133	1.3191	1.1277	0.7064	0.7110
Diluted earnings per share continuing operation (in euros)	1.2155	1.2160	0.9394	0.2460	0.3066
Dividends paid (in euros) (2)	0.63	0.61	0.49	-	-
Dividends paid (in US\$)	0.88	0.89	0.64	-	-

**Consolidated Balance Sheet Data:**

	Year ended December 31,			Period ended March 31,	
	2008	2007	2006	2009 (unaudited)	2008 (unaudited)
	(in thousands of euros , except percentages and per share data)				
<b>Total assets</b>	<b>1,049,631,550</b>	<b>912,914,971</b>	<b>833,872,715</b>	<b>1,115,365,270</b>	<b>920,524,014</b>
Loans and advances to credit institutions (net) (3)	78,792,277	57,642,604	69,757,056	77,806,993	71,064,140
Loans and advances to customers (net) (3)	626,888,435	571,098,513	527,035,514	685,497,229	576,785,611
Investment Securities (net) (4)	124,673,342	132,035,268	136,760,433	138,655,812	119,570,327
Investments: Associates	1,323,453	15,689,127	5,006,109	224,372	4,105,126
Contingent liabilities (net)	65,323,194	76,216,585	58,769,309	67,263,619	65,873,259
<b>Liabilities</b>					
Deposits from central banks and credit institutions (5)	129,877,370	112,897,308	113,038,061	136,124,514	102,055,186
Customer deposits (5)	420,229,450	355,406,519	330,947,770	477,014,865	358,167,823
Debt securities (5)	236,403,290	233,286,688	203,742,817	228,890,791	235,702,892
<b>Capitalization</b>					
Guaranteed Subordinated debt excluding preferred securities and preferred shares (6)	15,747,915	16,742,134	11,186,480	15,968,694	16,280,978
Secured Subordinated debt	-	-	-	-	-
Other Subordinated debt	14,452,488	11,666,663	12,399,771	15,993,651	12,481,137
Preferred securities (6)	7,621,575	7,261,382	6,836,570	6,702,376	6,942,171
Preferred shares (6)	1,051,272	522,558	668,328	1,153,525	489,557
Minority interest (including net income of the period)	2,414,606	2,358,269	2,220,743	2,620,445	2,446,252
Stockholders' equity (7)	57,586,886	55,199,882	44,851,559	59,243,463	51,666,472
Total capitalization	98,874,742	93,750,888	78,163,451	101,682,154	90,306,567
Stockholders' Equity per Share (7)	7.92	8.12	6.69		
<b>Other managed funds</b>					
Mutual funds	90,305,714	119,210,503	119,838,418	89,115,829	122,812,161
Pension funds	11,127,918	11,952,437	29,450,103	10,566,922	11,536,718
Managed portfolio	17,289,448	19,814,340	17,835,031	16,611,712	17,380,650
Savings -insurance policies	12,338,405	9,008,968	6,384,994	12,970,157	9,820,635
Total other managed funds	131,061,485	159,986,248	173,508,546	129,264,620	161,550,164
<b>Consolidated Ratios</b>					
Profitability Ratios:					
Net Yield (8)	2.10%	1.92%	1.76%	n/a	n/a
Return on average total assets (ROA)	1.00%	1.10%	1.01%	0.82%	1.01%
Return on average stockholders' equity (ROE)	17.07%	21.91%	21.39%	13.25%	17.40%
Capital Ratio:					
Average stockholders' equity to average total assets	5.55%	4.71%	4.36%	5.88%	5.49%
Ratio of earnings to fixed charges (9)					
Excluding interest on deposits	1.55%	1.64%	1.74%	1.84%	1.59%
Including interest on deposits	1.27%	1.34%	1.34%	1.35%	1.30%
<b>Credit Quality Data (excluding country risk)</b>					
Allowances for impaired balances (*) (excluding country risk)	12,862,981	9,302,230	8,626,937	15,165,897	10,792,339
Allowances for impaired balances (*) as a percentage of total loans and contingent liabilities	1.83%	1.42%	1.45%	1.98%	1.66%
Impaired balances (*) (10)	14,190,813	6,178,655	4,607,547	18,967,529	8,047,031
Impaired balances (*) as a percentage of total loans and contingent liabilities	2.02%	0.94%	0.78%	2.49%	1.24%
Allowances for impaired balances (*) as a percentage of impaired balances (*)	90.64%	150.55%	187.23%	79.96%	134.12%
Net loan and contingent liabilities charge-offs as a percentage of total loans and contingent liabilities	0.55%	0.41%	0.31%	0.20%	0.11%

(\*) Balances of loans and contingent liabilities

- (1) Average number of shares has been calculated on the basis of the weighted average number of shares outstanding in the relevant year/period, net of treasury stock.
- (2) The board of directors has proposed to the stockholders at the annual general meeting that a dividend of €0.6508 per share be paid out of our profit for 2008. In accordance with IAS 33, for comparative purposes, dividends per share paid disclosed in the table above took into account the adjustment arising from the capital increase with pre-emptive

subscription rights carried out in December 2008. As a result of this adjustment, the dividend per share for 2008 amounts to €0.6325. On March 31, 2009 and March 31, 2008 there were no dividends paid on account of the 2009 and 2008 profits, respectively.

- (3) Equals the sum of the amounts included under the headings "Financial assets held for trading", "Other financial assets at fair value through profit or loss" and "Loans and receivables" as stated in our consolidated financial statements.
- (4) Equals the amounts included as "Debt instruments" and "Other equity instruments" under the headings "Financial assets held for trading", "Other financial assets at fair value through profit or loss", "Available-for-sale financial assets" and "Loans and receivables" as stated in our consolidated financial statements.
- (5) Equals the sum of the amounts included under the headings "Financial liabilities held for trading", "Other financial liabilities at fair value through profit or loss" and "Financial liabilities at amortized cost" as stated in our consolidated financial statements.
- (6) In our consolidated financial statements, preferred securities and preferred shares are included under "Subordinated liabilities".
- (7) Equals the sum of the amounts included at the end of each year as "Own funds" and "Valuation adjustments" as stated in our consolidated financial statements. We have deducted the book value of treasury stock from stockholders' equity.
- (8) Net yield is the total of net interest income (including dividends on equity securities) divided by average earning assets. We do not have data to calculate net yield for interim periods.
- (9) For the purpose of calculating the ratio of earnings to fixed charges, earnings consist of income from continuing operations before taxation and minority interests plus fixed charges and after deduction of the unremitted pre-tax income of companies accounted for by the equity method. Fixed charges consist of total interest expense, including or excluding interest on deposits as appropriate, and the proportion of rental expense deemed representative of the interest factor. Fixed charges include dividends and interest paid on preferred shares.
- (10) Impaired loans reflect Bank of Spain classifications. Such classifications differ from the classifications applied by U.S. banks in reporting loans as non-accrual, past due, restructured and potential problem loans.

## TAXATION

*The following is a general description of certain Spanish tax considerations relating to the Preferred Securities. It does not purport to be a complete analysis of all tax considerations relating to the Preferred Securities. Prospective purchasers of Preferred Securities should consult their own 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 Spain of acquiring, holding and disposing of Preferred Securities and receiving any payments under the Preferred Securities. This summary is based upon the law as in effect on the date of this Prospectus and is subject to any change in law that may take effect after such date.*

*Also investors should note that the appointment by an investor in Preferred Securities, or any person through which an investor holds Preferred Securities, of a custodian, collection agent or similar person in relation to such Preferred Securities in any jurisdiction may have tax implications. Investors should consult their own tax advisers in relation to the tax consequences for them of any such appointment.*

### **EU Savings Tax Directive**

Under EC Council Directive 2003/48/EC on the taxation of savings income, each Member State is required to provide to the tax authorities of another Member State details of payments of interest or other similar income paid by a person within its jurisdiction to, or collected by such a person for, an individual resident in that other Member State; however, for a transitional period, Austria, Belgium and Luxembourg may instead apply a withholding system in relation to such payments, deducting tax at rates rising over time to 35 per cent. The transitional period is to terminate at the end of the first full fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments.

On 15 September 2008 the European Commission issued a report to the Council of the European Union on the operation of the Directive, which included the Commission's advice on the need for changes to the Directive. On 13 November 2008 the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. If any of those proposed changes are made in relation to the Directive, they may amend or broaden the scope of the requirements described above.

A number of non-EU countries, and certain dependent or associated territories of certain Member States, have agreed to adopt similar measures (either provision of information or transitional withholding) in relation to payments made by a person within its jurisdiction to, or collected by such a person for, an individual resident in a Member State. In addition, the Member States have entered into provision of information or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a person in a Member State to, or collected by such a person for, an individual resident in one of those territories.

### **Taxation in the Kingdom of Spain**

#### ***Introduction***

This information has been prepared in accordance with the following Spanish tax legislation in force at the date of this Prospectus:

- (a) of general application, Additional Provision Two of Spanish Law 13/1985, of 25 May on investment ratios, own funds and information obligations of financial intermediaries, as amended by Law 19/2003, of 4 July on legal rules governing foreign financial transactions and capital movements and various money laundering prevention measures, Law 23/2005, of 18 November on certain tax measures to promote the productivity and Law 4/2008, of 23 December, abolishing the Wealth Tax levy, generalising the Value Added Tax monthly refund system and introducing other amendments to the tax legal system as well as Royal Decree 1065/2005, of 27 July, approving the General Regulations of the tax inspection and management procedures and developing the common rules of the procedures to apply taxes;
- (b) for individuals with tax Residence in Spain which are Individual Income Tax (IRPF) taxpayers, Law 35/2006, of 28 November, on Individual Income Tax and partial amendment of Corporate Income Tax Law, Non Residents Income Tax Law and Wealth Tax Law, (the **Individual Income Tax Law**), and Royal Decree 439/2007, of 30 March promulgating the Individual Income Tax Regulations along with

Law 19/1991, of 6 June on Wealth Tax as amended by Law 4/2008, of 23 December, abolishing the Wealth Tax levy, generalising the Value Added Tax monthly refund system and introducing other amendments to the tax legal system and Law 29/1987, of 18 December on Inheritance and Gift Tax;

- (c) for legal entities resident for tax purposes in Spain which are Corporate Income Tax taxpayers, Royal Legislative Decree 4/2004, of 5 March promulgating the Consolidated Text of the Corporate Income Tax Law, and Royal Decree 1777/2004, of 30 July promulgating the Corporate Income Tax Regulations (the **Corporate Income Tax Regulations**); and
- (d) for individuals and entities who are not resident for tax purposes in Spain which are non-resident income tax taxpayers, Royal Legislative Decree 5/2004, of 5 March promulgating the Consolidated Text of the Non-Resident Income Tax Law, and Royal Decree 1776/2004, of 30 July promulgating the Non-Resident Income Tax Regulations, along with Law 19/1991, of 6 June on Wealth Tax as amended by Law 4/2008, of 23 December, abolishing the Wealth Tax levy, generalising the Value Added Tax monthly refund system and introducing other amendments to the tax legal system and Law 29/1987, of 18 December on Inheritance and Gift Tax.

Whatever the nature and residence of the holder of Preferred Securities, the acquisition and transfer of the Preferred Securities will be exempt from indirect taxes in Spain, for example, exempt from Transfer Tax and Stamp Duty, in accordance with the Consolidated Text of such tax promulgated by Royal Legislative Decree 1/1993, of 24 September and exempt from Value Added Tax, in accordance with Law 37/1992, of 28 December regulating such tax.

## **1. Individuals with Tax Residence in Spain**

### **1.1 Individual Income Tax (*Impuesto sobre la Renta de las Personas Físicas*)**

Both Distributions periodically received and income deriving from the transfer, redemption or repayment of the Preferred Securities constitute a return on investment obtained from the transfer of own capital to third parties in accordance with the provisions of Section 25 of the Individual Income Tax Law, and therefore will form part of the so called savings income tax base pursuant to the provisions of the aforementioned Law. Accordingly, such income will be subject to the flat 18 per cent. rate applicable to savings income.

### **1.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Individuals with tax residence in Spain under an obligation to pay Wealth Tax must take into account the amount of the Preferred Securities which they hold as at 31 December in each year when calculating their wealth tax liabilities.

However, Law 4/2008 has amended Law 19/1991 introducing a credit of 100 per cent. over the tax due and removing the obligation to file Wealth Tax declaration as from 1 January 2008.

Due to this amendment to Law 19/1991, Spanish resident individuals are not effectively subject to Wealth Tax.

### **1.3 Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**

Individuals with tax residence in Spain who acquire ownership or other rights over any Preferred Securities by inheritance, gift or legacy will be subject to Inheritance and Gift Tax in accordance with the applicable regional or national rules.

## **2. Legal Entities with Tax Residence in Spain**

### **2.1 Corporate Income Tax (*Impuesto sobre Sociedades*)**

Both Distributions periodically received and income deriving from the transfer, redemption or repayment of the Preferred Securities constitute a return on investments for tax purposes obtained from the transfer to third parties of own capital and must be included in profit and taxable income of legal entities with tax residence in Spain for Corporate Income Tax purposes in accordance with the rules for this tax.

In accordance with Section 59.s) of the Corporate Income Tax Regulations there is no obligation to make a withholding on income obtained by Spanish Corporate Income Tax taxpayers (which for the sake of clarity, include Spanish tax resident investment funds and Spanish tax resident pension funds) from financial assets traded on organised markets in OECD countries. Applications will be made for the

Preferred Securities to be admitted to listing on the Official List of the FSA and to trading on the London Stock Exchange's regulated market and they will therefore, upon admission to trading on the London Stock Exchange's regulated market, fulfil the requirements laid down by the legislation for exemption from withholding. The General Directorate for Taxation (*Direction General de Tributos* - "DGT"), on 27 July 2004, issued a reply to a consultation indicating that in the case of issues made by entities resident in Spain, such as the Issuer, application of the exemption requires that the Preferred Securities be placed outside Spanish territory in another OECD country. The Issuer considers that the issue of the Preferred Securities falls within this exemption as the Preferred Securities are to be sold outside Spain and in the international capital markets and none of the entities placing the Preferred Securities is resident in Spain.

Consequently, the Issuer will not make any withholding on Distributions to Spanish Corporate Income Tax taxpayers that provide the relevant information to qualify as such. If the Spanish tax authorities maintain a different opinion on this matter however, the Issuer will be bound by that opinion and with immediate effect, make the appropriate withholding and the Issuer will not, as a result, be under any obligation to pay additional amounts.

No reduction percentage will be applied. (Please see "Disclosure of Holder Information in Connection with Payments of Distributions" below).

## **2.2 *Wealth Tax (Impuesto sobre el Patrimonio)***

Legal entities are not subject to Wealth Tax.

## **2.3 *Inheritance and Gift Tax (Impuesto sobre Sucesiones y Donaciones)***

Legal entities with tax residence in Spain which acquire ownership or other rights over the Preferred Securities by inheritance, gift or legacy are not subject to Inheritance and Gift Tax and must include the market value of the Preferred Securities in their taxable income for Spanish Corporate Income Tax purposes.

## **3. *Individuals and Legal Entities with no tax residence in Spain***

### **3.1 *Non-resident Income Tax (Impuesto sobre la Renta de no Residentes)***

#### **(a) *With permanent establishment in Spain***

Ownership of the Preferred Securities by investors who are not resident for tax purposes in Spain will not in itself create the existence of a permanent establishment in Spain.

If the Preferred Securities form part of the assets of a permanent establishment in Spain of a person or legal entity who is not resident in Spain for tax purposes, the legal rules applicable to income deriving from such Preferred Securities are the same as those previously set out for Spanish Corporate Income Tax taxpayers.

#### **(b) *With no permanent establishment in Spain***

Both Distributions periodically received and income deriving from the transfer, redemption or repayment of the Preferred Securities, obtained by individuals or entities who have no tax residence in Spain, being Non-resident Income Tax taxpayers with no permanent establishment in Spain, are exempt from such Non-resident Income Tax.

Law 4/2008 amends, among other things, Additional Provision Two of Law 13/1985, which was the source of the obligation on Spanish issuers or their parent companies to report to the Spanish tax authorities on the identity and residence of holders of their debt securities. This reporting obligation was typically satisfied, in part, by the collection of certain information from investors at the time of each payment of interest or principal. Spanish issuers, Euroclear and Clearstream, Luxembourg (among others) developed certain procedures to enable the timely delivery of such information.

Law 4/2008 removes the obligation on Spanish issuers or their parent companies to provide to the Spanish tax authorities the relevant information concerning holders who are not resident in Spain. The amended wording of Additional Provision Two of Law 13/1985, therefore, continues to apply the reporting obligation only in respect of Spanish resident holders (individual and corporate) and

non-resident holders operating through a permanent establishment in Spain.

The implementation of the changes contemplated by Law 4/2008 is subject to the adoption of relevant secondary legislation. At the date of this Prospectus, such secondary legislation had not yet been adopted.

Pending the enactment of such secondary legislation, and in accordance with the consultation from the General Directorate of Taxation dated 20 January 2009, the current procedures relating to the identity of holders of the Preferred Securities (detailed under **Disclosure of holders of the Preferred Securities** information in connection with payments of Distributions below) as laid down in section 44 of Royal Decree 1065/2007, remain applicable irrespective of whether or not the holders of the Preferred Securities are resident in Spain, and both Euroclear and Clearstream, Luxembourg, and any other relevant clearing system require compliance with such obligations.

If these information obligations are not complied with in the manner indicated the Issuer will apply a withholding, currently at the rate of 18 per cent. and the Issuer will not, as a result, be under any obligation to pay additional amounts.

### **3.2 *Wealth Tax (Impuesto sobre el Patrimonio)***

Law 4/2008 has amended Law 19/1991 introducing a credit of 100 per cent. over the tax due and removing the obligation to file Wealth Tax declaration as from 1 January 2008.

Due to this amendment to Law 19/1991, non-resident individuals are not effectively subject to Wealth Tax.

Non-resident legal entities are not subject to Wealth Tax.

### **3.3 *Inheritance and Gift Tax (Impuesto sobre Sucesiones y Donaciones)***

Individuals who do not have tax residence in Spain who acquire ownership or other rights over the Preferred Securities by inheritance, gift or legacy, and who reside in a country with which Spain has entered into a double tax treaty in relation to Inheritance Tax will be subject to the relevant double tax treaty.

If the provisions of the foregoing paragraph do not apply, such individuals will be subject to Inheritance and Gift Tax in accordance with the applicable regional and national legislation.

Non-resident entities which acquire ownership or other rights over the Preferred Securities by inheritance, gift or legacy are not subject to Inheritance and Gift Tax. They will be subject to Non-resident Income Tax. If the entity is resident in a country with which Spain has entered into a double tax treaty, the provisions of the treaty will apply. In general, treaties provide for the taxation of this type of income in the country of residence of the beneficiary.

## **4. *Disclosure of holder information in connection with payments of Distributions***

*The European Clearing Systems are currently in discussions to harmonise the procedure for the provision of information as required by Spanish laws and regulations. The following is a summary only and is subject to the European Clearing Systems' discussions as well as to further clarification from the Spanish tax authorities regarding such laws and regulations. Holders of Preferred Securities must seek their own advice to ensure that they comply with all procedures to ensure correct tax treatment of their Preferred Securities. None of the Issuer, the Guarantor, the Paying Agent or the European Clearing Systems assume any responsibility therefore.*

### **4.1 *Legal Entities with tax residence in Spain subject to Spanish Corporate Income Tax***

In accordance with procedures established in the Agency Agreement, the Paying Agent must receive a list of those holders that are Spanish Corporate Income Tax taxpayers specifying the name, address, tax identification number, ISIN code of the Preferred Securities, number of Preferred Securities held at each Distribution Payment Date, gross income and amount withheld, substantially in the form set out below (see Annex III below).

#### 4.2 *Individuals and Legal Entities with no tax residence in Spain*

The information obligations to be complied with in order to apply the exemption are those laid down in sub-section 44(1) of Royal Decree 1065/2007 being the following:

A return must be made to the Spanish tax authorities specifying the following information with respect to the Preferred Securities:

- (a) the identity and country of residence of the recipient of the income. When the income is received on behalf of a third party, the identity and country of residence of that third party
- (b) the amount of income received; and
- (c) details identifying the Preferred Securities.

In accordance with sub-section 44(2) of Royal Decree 1065/2007, for the purpose of preparing the return referred to in sub-section 44(1), the following documentation must be obtained on each payment of income evidencing the identity and residence of each holder of Preferred Securities:

- (a) if the non-resident holder of Preferred Securities acts on its own account and is a central bank, other public institution or international organisation, a bank or credit institution or a financial entity, including collective investment institutions, pension funds and insurance entities, resident in an OECD country or in a country with which Spain has entered into a double tax treaty subject to a specific administrative registration or supervision scheme, the entity in question must certify its name and tax residence in the manner laid down in Annex I of the Order of 16 September 1991 (see Annex I below);
- (b) in the case of transactions in which any of the entities indicated in the foregoing paragraph a) acts as intermediary, the entity in question must, in accordance with the information contained in its own records, certify the name and tax residence of each holder of Preferred Securities in the manner laid down in Annex II of the Order of 16 September 1991 (see Annex II below);
- (c) in the case of transactions which are channelled through a securities clearing and deposit entity recognised for these purposes by Spanish law or by that of another OECD member country, the entity in question must, in accordance with the information contained in its own records, certify the name and tax residence of each holder of Preferred Securities in the manner laid down in Annex II of the Order of 16 September 1991 (see Annex II below);
- (d) in other cases, residence must be evidenced by submission of the residence certificate issued by the tax authorities of the country of residence of the holder of Preferred Securities. These certificates will be valid for one year as from the date of issue.

In accordance with sub-section 44(3), for the purpose of implementing the exemption provided for, the following procedure must be followed: on the due date of each Distribution the Issuer must transfer the net amount to the entities referred to in paragraphs (a), (b) and (c) resulting from applying the general withholding rate (currently 18 per cent.) to the whole of the Distribution. If the certificates referred to are received prior to the Distribution Payment Date, the Issuer will pay the amounts withheld to the extent that they correspond with the information provided. In the case of both paragraph 4.1 and paragraph 4.2 above, in order for a beneficial owner to benefit from an exemption from withholding, the above documentation should be received by the Paying Agent in accordance with the procedures established in the Agency Agreement, which may be inspected during normal business hours at the specified office of the Paying Agent.

If the Paying Agent does not receive complete documentation in respect of an eligible holder of Preferred Securities by the Distribution Date, such holder may obtain a quick refund of the full amount of withholding tax by ensuring that the documentation described above is received by the Paying Agent no later than 10:00 am (CET) on the second Business Day prior to the 10th calendar day of the month following the relevant Distribution Date (or if such date is not a Business Day, the Business Day immediately preceding such date) (the **Quick Refund Deadline**).

Holders of Preferred Securities entitled to a refund but in respect of whom the Paying Agent does not receive relevant documentation on or before a Quick Refund Deadline may seek a full refund of withholding tax directly with the Spanish tax authorities.





RELACIÓN ADJUNTA A CUMPLIMENTAR:  
TO BE ATTACHED:

**Identificación de los valores:**  
Identification of the securities

**Listado de titulares:**  
List of beneficial owners:

**Nombre/País de residencia/Importe de los rendimientos**  
Name/Country of residence/Amount of income



RELACIÓN ADJUNTA A CUMPLIMENTAR:  
TO BE ATTACHED

**Identificación de los valores:**  
Identification of the securities

**Razón social/Domicilio/Número de identificación fiscal/Número de valores/Importe de los rendimientos.**  
Name/Domicile/Fiscal Identification Number/Number of securities/Amount of income.

## GENERAL INFORMATION

1. The creation and issue of the Preferred Securities was authorised by the sole shareholder's resolution of the Issuer dated 7 July 2009 as amended, in relation to the Series 8 Preferred Securities, by the sole shareholder's resolution of the Issuer dated 20 July 2009 and the resolution of the meeting of the Board of Directors (*Consejo de Administración*) of the Issuer dated 7 July 2009 as amended, in relation to the Series 8 Preferred Securities, by the resolution of the meeting of the Board of Directors of the Issuer dated 20 July 2009. The Guarantee of each series of Preferred Securities has been authorised by a resolution of the Executive Committee of the Guarantor dated 20 July 2009.
2. The Preferred Securities have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The address of Euroclear is 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is 42 Avenue JF Kennedy, L-1855, Luxembourg. The ISIN for the Series 8 Preferred Securities is XS0441528949 and the common code for the Series 8 Preferred Securities is 044152894. The ISIN for the Series 9 Preferred Securities is XS0441528600 and the common code for the Series 9 Preferred Securities is 044152860. The Clearing Systems are expected to follow certain procedures to facilitate to the Issuer, the Guarantor and the Paying Agent the collection of the details referred to above from holders of the Preferred Securities. If any Clearing System is, in the future, unable to facilitate the collection of such information, it may decline to allow the Preferred Securities to be cleared through such Clearing System and this may affect the liquidity of the Preferred Securities. Provisions have been made for the Preferred Securities, in such a case, to be represented by definitive Preferred Securities. The procedures agreed and fully described in the Paying Agency Agreement may be amended to comply with Spanish laws and regulations and operational procedures of the Clearing Systems.
3. The Issuer does not intend to provide any post-issuance information in relation to the issue of the Preferred Securities.
4. The yield on the Series 8 Preferred Securities until the First Call Date is 11.3 per cent. per annum. The yield on the Series 9 Preferred Securities until the First Call Date is 10.5 per cent. per annum.
5. The total expenses related to the admission of the Preferred Securities to the Official List of the UK Listing Authority and to trading on the London Stock Exchange's regulated market equal approximately GBP 11,375.
6. So far as the Issuer or Guarantor is aware, no person involved in the offer of the Preferred Securities has an interest material to the offer.
7. There has been no significant change in the financial or trading position of the Group since 31 March, 2009, being the date of the most recently published unaudited summarised consolidated financial data of the Group.
8. During the past two years, the Bank has not been a party to any contracts that were not entered into in the ordinary course of business of the Bank and which was material to the Group as a whole, except as disclosed in "Recent Developments" above.
9. Copies and, where appropriate, English translations of the following documents may be inspected during normal business hours at the office of the Paying Agent at One Canada Square, London E14 5AL, at the registered office of the Issuer and the head office of the Guarantor (being Ciudad Grupo Santander, Avenida de Cantabria s/n, 28660 Boadilla del Monte, Madrid, Spain):
  1. *the estatutos* (by-laws) of each of the Issuer and of the Guarantor;
  2. this Prospectus, together with any supplements thereto;
  3. the Paying Agency Agreement relating to the Preferred Securities;

4. the documents listed under “Documents Incorporated by Reference”;
5. the Public Deed of Issuance relating to the Preferred Securities; and
6. the Guarantees.

**REGISTERED OFFICE OF THE ISSUER**

**Santander Finance Preferred, S.A. Unipersonal**

Ciudad Grupo Santander  
Avda. de Cantabria s/n  
28660 Boadilla del Monte  
Madrid  
Spain

**REGISTERED OFFICE OF THE GUARANTOR**

**Banco Santander, S.A.**

Paseo de Pereda 9-12  
39004 Santander  
Spain

**HEAD OFFICE OF THE GUARANTOR**

**Banco Santander, S.A.**

Ciudad Grupo Santander  
Avda. de Cantabria s/n  
28660 Boadilla del Monte  
Madrid  
Spain

**PAYING AGENT**

**The Bank of New York Mellon, London Branch**

One Canada Square  
London E14 5AL  
UK

**LEGAL ADVISERS**

*To the Issuer and the Guarantor as to  
Spanish law and English law*

**Allen & Overy**

Pedro de Valdivia 10  
28001 Madrid  
Spain

**Allen & Overy LLP**

One Bishops Square  
London E1 6AD  
United Kingdom

**AUDITORS OF THE ISSUER AND THE GUARANTOR**

**Deloitte S.L.**

Plaza Pablo Ruiz Picasso, 1  
Torre Picasso  
28020 Madrid  
Spain