



# BPE FINANCIACIONES, S.A.

(Incorporated with limited liability under the laws of the Kingdom of Spain)

**€5,000,000,000**

## Euro Medium Term Note Programme

guaranteed by

**BANCO POPULAR ESPAÑOL, S.A.**

(Incorporated with limited liability under the laws of the Kingdom of Spain)

This document constitutes a base prospectus (the “**Base Prospectus**”) for the purposes of the Prospectus Directive as defined below. Under the Euro Medium Term Note Programme described in this Base Prospectus (the “**Programme**”), BPE Financiaciones, S.A. (the “**Issuer**”) may from time to time issue notes (“**Notes**”), subject to compliance with all relevant laws, regulations and directives. The Base Prospectus replaces the previous base prospectus in respect of the Programme dated 21 December 2010.

The payment of all amounts due in respect of the Notes will be unconditionally and irrevocably guaranteed by Banco Popular Español, S.A. (the “**Guarantor**” or the “**Bank**”), provided the Bank executes the relevant Final Terms in relation to the relevant Notes. The aggregate principal amount of Notes outstanding and guaranteed will not at any time exceed €5,000,000,000 (or the equivalent in other currencies).

This Base Prospectus has been approved by the Central Bank of Ireland (the “**Central Bank**”), as competent authority under Directive 2003/71/EC (the “**Prospectus Directive**”). The Central Bank only approves this Base Prospectus as meeting the requirements imposed under Irish and European Union law pursuant to the Prospectus Directive. This Base Prospectus comprises a base prospectus for the purposes of the Prospectus Directive and the Prospectus (Directive 2003/71/EC) Regulations 2005 and for the purpose of giving information with regard to the issue of Notes under the Programme during the period of twelve months after the date hereof. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its regulated market. The Programme also permits Notes to be issued on the basis that they will be admitted to listing, trading and/or quotation by such other or further listing authorities, stock exchanges and/or quotation systems as may be agreed with the Issuer.

**Such approval relates only to Notes which are to be admitted to trading on the regulated market of the Irish Stock Exchange or other regulated markets for the purposes of Directive 2004/39/EC or which are to be offered to the public in any Member State for the European Economic Area.**

**Tranches of Notes issued under the Programme may be rated or unrated. If a Tranche of Notes is rated, it will be specified in the relevant Final Terms if the relevant credit rating agency is or is not established in the European Union and whether such agency is or is not registered under the Regulation (EC) No 1060/2009 (as amended) of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.**

Arranger

BARCLAYS CAPITAL

Dealers

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.  
 BANCO POPULAR ESPAÑOL, S.A.  
 BARCLAYS CAPITAL  
 BNP PARIBAS  
 BOFA MERRILL LYNCH  
 CITIGROUP  
 COMMERZBANK  
 CRÉDIT AGRICOLE CIB  
 CREDIT SUISSE  
 DEUTSCHE BANK  
 DZ BANK AG

GOLDMAN SACHS INTERNATIONAL  
 HSBC  
 J.P. MORGAN  
 LANDESBANK BADEN-WÜRTTEMBERG  
 MORGAN STANLEY  
 NATIXIS  
 NOMURA  
 SANTANDER GLOBAL BANKING & MARKETS  
 SOCIÉTÉ GÉNÉRALE CORPORATE & INVESTMENT BANKING  
 THE ROYAL BANK OF SCOTLAND  
 UBS INVESTMENT BANK  
 UNICREDIT BANK

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

*This Base Prospectus should be read and construed together with any amendments or supplements hereto and with any other documents incorporated by reference herein and, in relation to any Tranche (as defined herein) of Notes, should be read and construed together with the relevant Final Terms (as defined herein).*

*The language of this Base Prospectus is English. Any foreign language text that is included with or within this document has been included for convenience purposes only and does not form part of the Base Prospectus.*

*The Issuer and the Guarantor have confirmed to the Dealers named under “Plan of Distribution” below that this Base Prospectus contains all information which is (in the context of the Programme, the issue, offering and sale of the Notes and the guarantee of the Notes) material; that such information is true and accurate in all material respects and is not misleading in any material respect; that any opinions, predictions or intentions expressed herein are honestly held or made and are not misleading in any material respect; that this Base Prospectus does not omit to state any material fact necessary to make such information, opinions, predictions or intentions (in the context of the Programme, the issue, offering and sale of the Notes and the guarantee of the Notes) not misleading in any material respect; and that all proper enquiries have been made to verify the foregoing.*

*No person has been authorised to give any information or to make any representation other than those contained in this Base Prospectus in connection with the issue or sale of the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Guarantor or any of the Dealers (as defined in “Plan of Distribution”). Neither the delivery of this Base Prospectus nor any sale made in connection herewith shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer or the Guarantor since the date hereof or the date upon which this document has been most recently amended or supplemented or that there has been no adverse change in the financial position of the Issuer or the Guarantor since the date hereof or the date upon which this document has been most recently amended or supplemented or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.*

*Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and any other terms and conditions not contained herein which are applicable to each Tranche (as defined under “Terms and Conditions of the Notes”) of Notes will be set out in the final terms (the “Final Terms”) which, with respect to Notes to be listed on the Irish Stock Exchange, will be delivered to the Central Bank on or before the date of issue of the Notes of such Tranche.*

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

*The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the “Securities Act”) and include Notes in bearer form that are subject to U.S. tax law requirements. Subject to certain exceptions, Notes may not be offered, sold or delivered within the United States or to U.S. persons. For a description of certain restrictions on offers and sales of Notes and on distribution of this Base Prospectus, see “Plan of Distribution”.*

*This Base Prospectus does not constitute an offer of, or an invitation by or on behalf of the Issuer, the Guarantor or the Dealers to subscribe for, or purchase, any Notes.*

*The Dealers have not separately verified the information contained in this Base Prospectus. None of the Dealers makes any representation, express or implied, or accepts any responsibility, with respect to the accuracy or completeness of any of the information in this Base Prospectus. Neither this Base Prospectus nor any other financial statements are intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation by the Issuer, the Guarantor or the Dealers that any recipient of this Base Prospectus or any other financial statements should purchase the Notes. Each potential purchaser of Notes should determine for itself the relevance of the information contained in this Base Prospectus and its purchase of Notes should be based upon such investigation as it deems necessary. None of the Dealers undertakes to review the financial condition or affairs of the Issuer or the Guarantor during the life of the arrangements contemplated by this Base Prospectus nor to advise any investor or potential investor in the Notes of any information coming to the attention of any of the Dealers.*

*The maximum aggregate principal amount of Notes outstanding at any one time under the Programme will not exceed €5,000,000,000 (and for this purpose, any Notes denominated in another currency shall be translated into*

*Euros at the date of the agreement to issue such Notes calculated in accordance with the provisions of the Dealer Agreement). The maximum aggregate principal amount of Notes which may be outstanding at any one time under the Programme may be increased from time to time, subject to compliance with the relevant provisions of the Dealer Agreement, as defined under “Plan of Distribution”.*

*In this Base Prospectus, unless otherwise specified or the context otherwise requires, references to a “Member State” are references to a Member State of the European Economic Area, references to “EUR”, “Euro” or “euro” are to the currency introduced at the start of the third stage of European economic and monetary union, and as defined in Article 2 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro, as amended, and to “U.S.\$”, “U.S. Dollars” and “dollars” are to the lawful currency of the United States of America.*

**IN CONNECTION WITH THE ISSUE OF ANY TRANCHE OF NOTES, THE DEALER OR DEALERS (IF ANY) NAMED AS THE STABILISING MANAGER(S) (OR PERSONS ACTING ON BEHALF OF ANY STABILISING MANAGER(S)) IN THE APPLICABLE FINAL TERMS MAY OVER ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. THERE IS NO ASSURANCE THAT THE STABILISING MANAGER(S) (OR PERSONS ACTING ON BEHALF OF A STABILISING MANAGER) WILL UNDERTAKE STABILISATION ACTION. ANY STABILISATION ACTION MAY BEGIN ON OR AT ANY TIME AFTER THE ADEQUATE PUBLIC DISCLOSURE OF THE FINAL TERMS OF THE OFFER OF THE RELEVANT TRANCHE OF NOTES IS MADE AND, IF BEGUN, MAY BE ENDED AT ANY TIME, BUT IT MUST END NO LATER THAN THE EARLIER OF 30 DAYS AFTER THE ISSUE DATE OF THE RELEVANT TRANCHE OF NOTES AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE RELEVANT TRANCHE OF NOTES. ANY STABILISATION ACTION OR OVER-ALLOTMENT MUST BE CONDUCTED BY THE RELEVANT STABILISING MANAGER(S) (OR PERSON(S) ACTING ON BEHALF OF ANY STABILISING MANAGER(S)) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.**

## ISSUE OF NOTES

Notes will be issued on a continuous basis in series (each a “**Series**”) having one or more issue dates and on terms otherwise identical (or identical other than in respect of the first payment of interest), the Notes of each Series being intended to be interchangeable with all other Notes of that Series. Each Series may be issued in tranches (each a “**Tranche**”) on different issue dates. The specific terms of each Tranche (which will be supplemented, where necessary, with supplemental terms and conditions and, save in respect of the issue date, issue price, first payment of interest and principal amount of the Tranche, will be identical to the terms of other Tranches of the same Series) will be set forth in a final terms to this Base Prospectus (a “**Final Terms**”) the form of which is set out in “Pro Forma Final Terms” below.

## DOCUMENTS INCORPORATED BY REFERENCE

The documents numbered (1) to (5) below have been filed with the Spanish Securities Market Commission (*Comisión Nacional del Mercado de Valores*) and English translations of those documents (which are direct and accurate translations of the Spanish originals) together with the documents numbered (6) below, which have been filed previously with the Central Bank, shall be deemed to be incorporated in, and to form part of, the Base Prospectus:

- (1) the audited consolidated annual accounts of the Guarantor for the years ended 31 December 2010 and 31 December 2009 prepared in accordance with International Financial Reporting Standards as adopted by the European Union (“**IFRS**”) together with the auditor’s reports thereon;
- (2) the audited consolidated half-yearly financial report of the Guarantor for the six month period ended 30 June 2011 prepared in accordance with IFRS together with the auditor’s report thereon;
- (3) the unaudited interim consolidated quarterly report of the Guarantor for the nine month period ended 30 September 2011 prepared in accordance with IFRS;
- (4) the audited unconsolidated annual accounts of the Issuer for the years ended 31 December 2010 and 31 December 2009 prepared in accordance with generally accepted accounting principles in Spain (“**Spanish GAAP**”) together with the auditor’s reports thereon;
- (5) the unaudited unconsolidated semi annual accounts of the Issuer for the six month period ended 30 June 2011 prepared in accordance with Spanish GAAP; and
- (6) the terms and conditions of the Notes contained in the previous base prospectuses dated 2 August 2007, pages 13-35 (inclusive), 29 August 2008, pages 14-36 (inclusive), 22 December 2009, pages 15-36 (inclusive) and 21 December 2010, pages 15-36 (inclusive) prepared by the Issuer in connection with the Programme.

Copies of this Base Prospectus (and any document incorporated by reference in this Base Prospectus) will be made freely available at the office of the Irish Listing Agent. Any information contained in any of the documents specified above which is not incorporated by reference in this Base Prospectus is either not relevant to investors or is covered elsewhere in this Base Prospectus.

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## SUMMARY

This summary must be read as an introduction to this Base Prospectus and any decision to invest in the Notes should be based on a consideration of this Base Prospectus as a whole, including the documents incorporated by reference. Following the implementation of the relevant provisions of the Prospectus Directive in each Member State of the European Economic Area, no civil liability will attach to the persons responsible for this summary in any such Member State solely on the basis of this summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of this Base Prospectus. Where a claim relating to the information contained in this Base Prospectus is brought before a court in a Member State of the European Economic Area, the plaintiff may, under the national legislation of the Member State where the claim is brought, be required to bear the costs of translating the Base Prospectus before the legal proceedings are initiated.

### Information relating to the Issuer

The Issuer: BPE Financiaciones, S.A.

The Issuer was incorporated on 19 February 2004 for an indefinite period of time as a limited liability company (*sociedad anónima*) under the laws of the Kingdom of Spain, with its registered office at calle José Ortega y Gasset 29, 28006 Madrid. The Issuer is registered in Volume 19.873, Book O, Folio 164, Section 8 and Sheet M-350196, Registration 1 of the Mercantile Registry (*Registro Mercantil*) of Madrid.

Business: The principal objects of the Issuer are set forth in Clause 2 of its Memorandum of Association and are the issuance of bonds (*bonos, obligaciones, pagarés, etc.*) and other financial instruments.

Directors: The Directors of the Issuer are as follows:

Name	Principal Occupation
María Raga García	Chairman
Rafael Galán Mas	Director
Carlos Ignacio Vivas Sotillos	Director
Aránzazu Ruiz Coteró	Director

### Information Relating to the Guarantor

The Bank and the Group: Banco Popular Español, S.A. was founded on 14 July 1926 for an undefined period of time as a limited liability corporation (*sociedad anónima*) as Banco Popular de los Previsores del Porvenir, adopting its current name in February 1947.

It is registered in Volume 174, Folio 44, Sheet 5458, Registration 1 of the Mercantile Registry of Madrid.

Its objects are to provide the widest possible services to its clients in all business services and banking matters.

The Bank's registered office is at C/Velázquez, 34, 28001, Madrid, Spain.

As at the date of this Base Prospectus, Allianz Group held 9.149 per cent. of the Bank's share capital. As at 31 December 2010 the Board of directors represented approximately 42.12 per cent., institutional investors approximately 26.52 per cent. and individual shareholders approximately 31.36 per cent. of the Bank's share capital.

Business: The Bank and its consolidated subsidiaries (the "**Group**") occupy third place in the national league table of Spanish banking groups as regards volume of assets, and is in fifth place if saving banks are also included. At 30 June 2011 the Group's total assets amounted to €130,398 million and its consolidated income for the year ended 31 December 2010 amounted to €604 million and its consolidated net profit for the six months to 30 June 2011 stood at €307 million.

Directors and Employees:	<p>The Group's business concentrates on domestic retail banking, being the business of savings and loans the most important. It also provides through its specialised subsidiaries, factoring, investment management, mutual and pension funds, stock broking, life insurance and mortgage lending.</p> <p>The members of the Board of Directors of the Bank as of the date of this Base Prospectus are as follows:</p> <p>Ángel Carlos Ron Guimil (President)  Francisco Aparicio Valls (Secretary)  Roberto Higuera Montejo (Vice President)  Luis Herrando Prat de la Riba (Vice President)  Asociación de Directivos de BPE (represented by Francisco Aparicio Valls)  Américo Ferreira de Amorim  Eric Gancedo Holmer  Ana Maria Molins Lopez-Rodo  Helena Revoreda Delveccio  Alain Fradin  Miguel Nigorra Oliver  José Ramón Rodríguez García  Nicolás Osuna García  Sindicatura de Accionistas de BPE (represented by Carlos Figuera García)  Miguel Ángel de Solís Martínez-Campos  Vicente Tardío Barutel  Allianz S.E. (represented by Jan-Olof Richard)  Unión Europea de Inversiones, S.A. (represented by Jorge Oroviogicoechea)</p>
<b>Description of the Programme</b>	
Description:	Guaranteed Euro Medium Term Note Programme
Arranger:	Barclays Bank PLC
Dealers:	<p>Banco Bilbao Vizcaya Argentaria, S.A., Banco Popular Español, S.A., Banco Santander, S.A., Barclays Bank PLC, BNP PARIBAS, Citigroup Global Markets Limited, Commerzbank Aktiengesellschaft, Crédit Agricole Corporate and Investment Bank, Credit Suisse Securities (Europe) Limited, Deutsche Bank AG, London Branch, DZ BANK AG Deutsche Zentral-Genossenschaftsbank, Frankfurt am Main, Goldman Sachs International, HSBC Bank plc, J.P. Morgan Securities Ltd., Landesbank Baden-Württemberg, Merrill Lynch International, Morgan Stanley &amp; Co. International plc, Natixis, Nomura International plc, Société Générale, The Royal Bank of Scotland plc, UBS Limited and UniCredit Bank AG.</p>
Fiscal Agent:	The Bank of New York Mellon
Registrar:	The Bank of New York Mellon (Luxembourg) S.A.
Listing and admission to trading:	<p>Application has been made for Notes issued under the Programme to be admitted to the Official List and to trading on the regulated market of the Irish Stock Exchange. The Notes may also be listed on such other or further stock exchange(s) within the European Union ("EU") as may be agreed between the Issuer and the relevant Dealer in relation to each Series.</p> <p>Unlisted Notes will not be issued under the Programme.</p>
Size:	Up to €5,000,000,000 (or the equivalent in other currencies at the date of issue) aggregate principal amount of Notes outstanding at any one time.
Currencies:	Notes may be denominated in Euro or U.S. dollars or in any other currency or currencies of an OECD country, subject to compliance with all applicable



	<p>legal and/or regulatory and/or central bank requirements. Payments in respect of Notes may, subject to such compliance, be made in and/or linked to, any currency or currencies other than the currency in which such Notes are denominated.</p>
Maturities:	<p>Any maturity greater than one year, subject to compliance with all relevant laws, regulations, central bank requirements and directives. Subordinated Notes will have a maturity of not less than five years or as otherwise permitted by applicable Spanish law or by <i>Banco de España</i>.</p>
Denomination:	<p>No Notes may be issued under the Programme which (a) have a minimum denomination of less than €100,000 (or nearly equivalent in another currency) or (b) carry the right to acquire shares (or transferable securities equivalent to shares) issued by the Issuer or by any entity to whose group the Issuer belongs. Subject thereto, Notes will be issued in such denominations as may be specified in the relevant Final Terms, subject to compliance with all applicable legal and/or regulatory and/or central bank requirements.</p>
Method of Issue:	<p>The Notes will be issued on a syndicated or non-syndicated basis. The Notes will be issued in one or more Series (which may be issued on the same date or which may be issued in more than one Tranche on different dates). The Notes may be issued in Tranches on a continuous basis with no minimum issue size, subject to compliance with all applicable laws, regulations and directives. Further Notes may be issued as part of an existing Series.</p>
Form of Notes:	<p>Notes may be issued in registered form, without interest coupons (“<b>Registered Notes</b>”), or in bearer form, with or without interest coupons (“<b>Bearer Notes</b>”).</p> <p>Bearer Notes will, unless otherwise specified, only be sold outside the United States to non-U.S. persons in reliance on Regulation S and will, unless otherwise specified in the applicable Final Terms, initially be represented by a Temporary Global Note without interest coupons attached, deposited: (a) in the case of a global note which is not intended to be issued in new global note form (a “<b>Classic Global Note</b>” or “<b>CGN</b>”), as specified in the relevant Final Terms, with or on behalf of a Common Depositary located outside the United States for Euroclear and Clearstream, Luxembourg; or (b) in the case of a global note which is intended to be issued in new global note form (a “<b>New Global Note</b>” or “<b>NGN</b>”), as specified in the relevant Final Terms, with a common safekeeper for Euroclear and/or Clearstream, Luxembourg. Interests in a Temporary Global Note will be exchangeable (i) for interests in a permanent global Note in bearer form, without coupons (a “<b>Permanent Global Note</b>”). Bearer Notes will not be exchangeable for Registered Notes. Registered Notes will not be exchangeable for Bearer Notes.</p>
Issue Price:	<p>Notes may be issued at their principal amount or at a discount or premium to their principal amount. Partly-paid Notes may also be issued, the Issue Price of which will be payable in two or more instalments. The price and amount of Notes to be issued under the Programme will be determined by the Issuer and each relevant Dealer at the time of issue in accordance with prevailing market conditions.</p>
Fixed Interest Rate Notes:	<p>Fixed interest will be payable in arrear on the date or dates in each year specified in the relevant Final Terms.</p>
Floating Rate Notes:	<p>Floating Rate Notes will bear interest set separately for each Series by reference to EURIBOR, LIBOR, LIBID or LIMEAN (or such other benchmark as may be specified in the relevant Final Terms) as adjusted for any applicable margin. Interest periods will be specified in the relevant Final Terms.</p>

Variable Coupon Amount Notes:	The Final Terms issued in respect of each issue of variable coupon amount Notes will specify the basis for calculating the amounts of interest payable, which may be by reference to equity, an index or a formula or as otherwise provided in the relevant Final Terms.
Interest Periods and Interest Rates:	The length of the interest periods for the Notes and the applicable interest rate or its method of calculation may differ from time to time or be constant for any Series. Notes may have a maximum interest rate, a minimum interest rate, or both. All such information will be set out in the relevant Final Terms.
Variable Redemption Amount Notes:	The Final Terms issued in respect of each issue of variable redemption amount Notes will specify the basis for calculating the redemption amounts payable, which may be by reference to equity, an index or a formula or as otherwise provided in the relevant Final Terms.
Redemption by Instalments:	The Final Terms issued in respect of each issue of Notes which are redeemable in two or more instalments will set out the date on which, and the amounts in which, such Notes may be redeemed.
Other Notes:	Terms applicable to high interest Notes, low interest Notes, step-up Notes, step-down Notes, dual currency Notes, reverse dual currency Notes, optional dual currency Notes, partly-paid Notes and any other type of Note which the Issuer, and any Dealer or Dealers may agree to issue under the Programme will be set out in the relevant Final Terms or in a drawdown prospectus.
Optional Redemption:	The Final Terms issued in respect of each issue of Notes will state whether such Notes may be redeemed prior to their stated maturity at the option of the Issuer (either in whole or in part) and/or the holders, and if so the terms applicable to such redemption. Subordinated Notes may not be redeemed until five years after the issue date (or otherwise as permitted by applicable law) and such redemption is subject to the prior consent of <i>Banco de España</i> .
Status of the Notes and the Deed of Guarantee:	Senior Notes and the guarantee in respect of them will constitute unsubordinated and unsecured obligations of the Issuer and the Guarantor, respectively, and Subordinated Notes and the guarantee in respect of them will constitute subordinated obligations of the Issuer and the Guarantor, respectively, all as described in “Terms and Conditions of the Notes — Status”.
Negative Pledge:	Applicable exclusively to Senior Notes. The Senior Notes will contain a negative pledge as more fully set out in “Terms and Conditions of the Notes — Negative Pledge”.
Cross Default:	The Notes will contain a cross default in respect of Relevant Indebtedness of the Issuer and the Guarantor as more fully set out in “Terms and Conditions of the Notes — Events of Default”.
Early Redemption:	Except as provided in “Optional Redemption” above, Notes will be redeemable at the option of the Issuer prior to maturity only for tax reasons.
Withholding Tax:	Payments in respect of Notes will be made 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 Guarantor will (subject to certain exceptions described below) pay such additional amounts as will result in the holders of Notes or Coupons receiving such amounts as they would have received in respect of such Notes or Coupons had no such withholding or deduction been required. In addition to certain customary exceptions, no such additional amounts

shall be payable to: (a) Individual holders who are resident in Spain; (b) Holders in respect of whom the Issuer or the Guarantor does not receive such information (which may include a tax residence certificate) concerning such Holder's identity and tax residence as it may require in order to comply 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 inversión, recursos propios y obligaciones de información de los intermediarios financieros*) as amended ("Law 13/1985") and any implementing legislation; and (c) if the Spanish tax authorities make the determination described in Condition 9 (vi) (see "Terms and Conditions of the Notes — Taxation" and "Taxation and Disclosure of Information in Connection with Payments").

Disclosure of Identity of Holders:

Under Spanish Law 13/1985 and Royal Decree 1065/2007, each as amended, the Issuer and the Guarantor are required to provide to the Spanish tax authorities certain information relating to the Notes.

If the Fiscal Agent fails to provide the Issuer or, as the case may be, the Guarantor with the required information described under "Taxation and Disclosure of Information in Connection with Payments", the Issuer or the Guarantor (as the case may be) will be required to withhold tax and may pay income in respect of the relevant Instruments net of the Spanish withholding tax applicable to such payments (currently at the rate of 19 per cent.).

A summary of those procedures is set out in "Taxation and Disclosure of Information in Connection with Payments – the Kingdom of Spain".

Holders must seek their own advice to ensure that they comply with all applicable procedures and to ensure that correct tax treatment of their Notes. None of the Issuer, the Guarantor, the Arranger, the Dealers, the Registrars and the Clearing Systems assume any responsibility therefore.

Governing Law:

English, save for the issue of the Notes, including their legal nature and status, the capacity of the Issuer and Guarantor, the relevant corporate resolutions, the appointment of the Commissioner, the constitution of the Syndicate of Noteholders and status of the payment obligations under the Deed of Guarantee, which are governed by the laws of Spain.

Listing:

This Base Prospectus has been approved by the Central Bank as competent authority under the Prospectus Directive. The Central Bank only approves this Base Prospectus as meeting the requirements imposed under Irish and European Union law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its regulated market, as specified in the relevant Final Terms. As specified in the relevant Final Terms, a Series of Notes may or may not be listed on the Irish Stock Exchange and/or admitted to listing, trading and/or quotation by any other listing authority, stock exchange and/or quotation system, within the EU.

Selling Restrictions:

United States, United Kingdom, Spain, France and Italy. See "Plan of Distribution".

In connection with the offering and sale of a particular Tranche of Notes, additional selling restrictions may be imposed which will be set out in the relevant Final Terms.

Risk Factors:

Prospective investors should understand the risks of investing in any type of Note before they make their investment decision. They should make their own independent decision to invest in any type of Note and as to whether an investment in such Note is appropriate or proper for them based upon their own judgment and upon advice from such advisers as they consider necessary.

For a description of certain risks involved in investing in the Notes, see “Risk Factors”.

Risk factors are designed both to protect investors from investments from which they are not suitable and to set out the financial risks associated with an investment in a particular type of Note.

Representation of holders of the Notes:

The Fiscal Agency Agreement contains provisions for convening the Syndicate of holders of Notes to consider any matter affecting their interests.

Rating:

Tranches of Notes may be rated or unrated and if rated, such ratings will be specified in the relevant Final Terms and it shall also be specified if the relevant credit rating agency is or is not established in the European Union and whether such agency is or is not registered under the Regulation (EC) No 1060/2009 (as amended) of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.

**A rating is not a recommendation to buy, sell or hold Notes and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.**

## RISK FACTORS

Prospective investors should read the entire Base Prospectus. Certain capitalised terms used in this section are defined in the Conditions and/or will be defined in the applicable Final Terms. Investing in the Notes involves certain risks, as more fully set out below. Prospective investors should consider, among other things, the following:

*Each of the Issuer and the Bank believe that the following factors may affect its ability to fulfil its obligations under the Notes. Most of these factors are contingencies which may or may not occur and each of the Issuer and the Bank is not in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, factors which are material for the purpose of assessing the market risks associated with the Notes are also described below.*

*Each of the Issuer and the Bank believes that the factors described below represent the principal risks inherent in investing in the Notes, but the inability of the Bank to pay interest, principal or other amounts on or in connection with the Notes may occur for other reasons and the Bank does not represent that the statements below regarding the risks of holding the Notes are exhaustive. Prospective investors should also read the detailed information set out elsewhere in this Base Prospectus and reach their own views prior to making any investment decision.*

*Potential Noteholders (as defined herein) are alerted to the statements under “Taxation and Disclosure of Information in connection with Payments” regarding the tax treatment in the Kingdom of Spain of income in respect of Notes and to the disclosure requirements imposed on the Issuer or, as the case may be, the Guarantor. In particular, income in respect of the Notes will be subject to withholding tax if certain information regarding the Notes is not received by the Issuer or, as the case may be, the Guarantor as described herein.*

*Defined terms used in the statements below have the meanings assigned to them elsewhere in this Base Prospectus, including in “Conditions of the Notes”.*

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

#### *Dependence on other Group members*

The Issuer is a finance vehicle established by the Guarantor for the purpose of issuing the Notes and on-lending the proceeds within the Group. The Issuer is therefore dependent upon other members of the Group paying interest on and repaying their loans in a timely fashion. Should any Group member fail to pay interest on or repay any loan in a timely fashion this could have a material adverse effect on the ability of the Issuer to fulfil its obligations under the Notes and that is the reason why the Notes are guaranteed. By virtue of its dependence on other Group members, each of the risks described below that affect the Guarantor will also indirectly affect the Issuer.

### **Factors that may affect the Bank’s ability to fulfil its obligations under the Guarantee of the Notes**

#### *The Bank’s business is substantially dependent on the Spanish economy*

As the Bank’s activity is mainly concentrated in Spain, its performance is influenced by the cyclical nature of financial activity in that country, which is in turn impacted by both domestic and international economic and political events. There can be no assurance that any adverse changes that may affect the Spanish economy will not negatively affect the Bank’s financial position.

#### *Risks involved in the Bank’s activities*

The principal types of risk to which the banking activities of the Group (as defined below) are subject include the following:

*Credit Risk:* Credit risk can be defined as possible losses which may be generated by a potential default in whole or in part of obligations by a counterparty or debtor (including, but not limited to, an insolvency proceeding of a counterparty or debtor). These obligations arise in both the financial activities of the Group and its dealing and investment activities since they arise by means of loans, fixed interest or equity securities, derivative instruments or other types of products (for example, guarantees).

*Market Risk:* Market risk refers to the uncertainties to which the Group’s financial position and future income are exposed as a result of adverse movements in the prices of financial instruments with which the Group operates in its activities in financial and securities markets.

*Interest Rate Risk:* Overall balance sheet interest risk can be defined as the extent to which an institution may be affected by future movements which occur in market interest rates. The principal reasons for this risk derive

from the different speed and intensity with which changes in market interest rates are passed on to assets, liabilities and off-balance sheet positions based on the times when they fall due and repricing.

Short term effects are shown in the profit and loss account and in the medium term are manifested by movements in the financial value of assets and liabilities which form part of the balance sheet.

*Liquidity Risk:* Liquidity risk comprises uncertainties in relation to the Group's ability, under adverse conditions, to access funding necessary to cover its obligations to customers, meet the maturity of its liabilities and to satisfy capital requirements. It includes both the risk of unexpected increases in the cost of financing and the risk of not being able to structure the maturity dates of the Group's liabilities reasonably in line with its assets, as well as the risk of not being able to meet its payment obligations on time at a reasonable price due to liquidity pressures.

*Exchange Rate Risk:* The exchange rate risk consists of the potential losses which may occur as a result of adverse movements in exchange rates in respect of the different currencies in which the Group operates. The Issuer has adopted a policy of maintaining a low or very low profile in its exposure to this type of risk factor.

*Operational Risk:* Operational risk includes:

- (a) The business risk which may result from unforeseeable changes in external factors without sufficient time to make the structural changes necessary to adapt to them, and the risk that unforeseeable events occur which could lead to losses for the Group.
- (b) Transactional risks resulting from errors in execution, registration failure, deriving from the complexity of certain products, errors in delivery and/or liquidation and/or human error.
- (c) Risks in operational controls which include losses resulting from potential errors in transaction documentation, in obtaining the appropriate authorisations, fraud, lack of personnel training, failure to comply with limits or procedures laid down, failure of internal controls or unavailability of personnel.
- (d) Losses resulting from material loss and damage as well as extreme events, for example natural disasters.
- (e) Data processing risks, such as programming errors, systems failure and application design errors.
- (f) Legal risks, including the possibility that transactions may not be legally enforceable in the existing legal and/or regulatory framework, and also that change in law and regulations may negatively affect the situation of the Group.

*Other Risk Factors:* There are other risk factors linked to the evolution of the Spanish economy which could have an adverse effect on developments in the business and profitability of the Bank, which in particular include movements in employment and the housing market and growth in the economy in general.

*Increased exposure to the real estate market has made the Bank more vulnerable to market fluctuations in the price of real estate*

As a material portion of the Bank's loan portfolio is linked to the real estate market, it is exposed to market fluctuations in the price of real estate in various ways.

To begin with, mortgage loans are one of the Bank's main assets. Population increase, economic growth and the strength of the labor market in Spain, together with the decrease in interest rates within the EU, have led to an increase in demand for mortgage loans in the last few years. This has contributed to increased real estate prices in Spain, which, in turn, has led to speculation that there could be a significant downturn in the Spanish real estate market. A decrease in real estate prices, particularly coupled with an increase in interest rates or unemployment in Spain, could have a significant negative impact on the default rate of the Bank's mortgage portfolio.

Accordingly, a deterioration in the Spanish real estate market could materially adversely affect, the Bank's business, financial position and results of operations.

*Household and corporate indebtedness could endanger the Bank's asset quality and future revenues*

The indebtedness of Spanish households and firms has increased in recent years, which represents increased risk for the Spanish banking system. The increase of loans referenced to variable interest rates make debt service on such loans more vulnerable to changes in interest rates than in the past. The increase in households' and firms' indebtedness also limits their ability to incur additional debt, decreasing the number of new products the Bank may otherwise be able to sell them.

### *The Bank faces increasing competition in its business lines*

The markets in which the Bank operates are highly competitive. Financial sector reforms in Spain and in the European Union have increased competition among both local and foreign financial institutions, and the Bank believes that this trend will continue. Some of the Bank's competitors, including well-established domestic banks in each of the regional Spanish markets in which it operates, as well as international banks with operations in the regions in which the Bank operates, may have better banking relationships with corporate clients that comprise one of its target customer bases and may have greater resources.

These and other factors related to competition could have a material adverse effect on the Bank's ability to compete effectively in these markets, and could adversely affect its business, financial condition and results of operations.

In addition, the Bank faces increased pressure to meet rising customer demands to provide new banking products. There is no guarantee that the Bank's management and employees will succeed in adopting new work methods and approaches to customer service that will keep up with the pace of change in the current banking environment, which may adversely affect its ability to successfully compete in its primary markets.

Further, the number of banking transactions conducted over the internet in the markets in which the Bank operates has grown in recent years and is expected to grow further. The Bank may be unable to compete with other banks that offer more extensive online services to their customers than it currently offers to its customers. The Bank also faces competition from non-bank financial institutions and other entities, such as leasing companies, mutual funds, pension funds and insurance companies and, to a lesser extent, department stores (for some consumer finance products).

### *Acquisition of Banco Pastor*

On 10 October 2011, the Bank announced that it was in negotiations to acquire Banco Pastor S.A. ("**Banco Pastor**"). In negotiating and preparing the terms of the acquisition, the Bank may rely on certain information regarding Banco Pastor which may be inexact, incomplete or outdated. Furthermore, the Bank has made various assumptions regarding the future operations, profitability, asset quality and other matters relating to Banco Pastor which may prove to be incorrect. If the acquisition is successfully completed, there remains the risk that following the acquisition certain liabilities of Banco Pastor which were hidden or unknown at the time of acquisition are uncovered which may give rise to significant new contingencies or to contingencies in excess of the projections currently made by the Bank. In such cases the acquisition of Banco Pastor could have a material adverse effect on the business, prospects, results of operations and financial condition of the Bank and the Group.

The completion of the acquisition remains subject to negotiation and the fulfilment of certain conditions precedent and there is therefore a possibility that the acquisition may not be completed. Moreover, the acquisition may be subject to conditions imposed by the Spanish Central Bank (*Banco de España*) which conditions may render the acquisition unfeasible or unprofitable. Any such failure to complete the acquisition could have a material adverse effect on the business, prospects, results of operations and financial condition of the Bank and the Group.

### **Risks in Relation to the Banking Market generally**

*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.*

The global economy began to recover from severe recessionary conditions in mid-2009 and is currently in the midst of a moderate economic recovery. The sustainability of the moderate recovery is dependent on a number of factors that are not within the Group's control, such as a return to private sector job growth and investment, strengthening of housing sales and construction, continuation of the economic recovery globally, and the timing of the exit from government credit easing policies. The Group continues to face risks resulting from the aftermath of the severe recession generally and the moderate pace of the current recovery. A slowing or failure of the economic recovery could bring a return to some or all of the adverse effects of the earlier recessionary conditions.

Since the middle of 2007, there has been disruption and turmoil in financial markets around the world. In particular, in Spain there has been a dramatic decline in the housing market, with falling home prices and increasing foreclosures, high levels of unemployment and underemployment, and reduced earnings, or in some cases losses, for businesses across many industries, with reduced investments in growth.

This overall environment resulted in significant stress for the financial services industry, and led to distress in credit markets, reduced liquidity for many types of financial assets, including loans and securities, and concerns regarding the financial strength and adequacy of the capitalisation of financial institutions. Some financial

institutions around the world and in Spain in particular have failed, some have needed significant additional capital, and others have been forced to seek acquisition partners.

Reflecting concern about the stability of the financial markets generally and the strength of counterparties, as well as concern about their own capital and liquidity positions, many lenders and institutional investors reduced or ceased providing funding to borrowers. The resulting economic pressure on consumers and businesses and the lack of confidence in the financial markets exacerbated the state of economic distress and hampered, and to some extent continues to hamper, efforts to bring about and sustain an economic recovery.

These economic conditions have had an adverse effect on the Group's business and financial performance. The management of the Issuer expects these conditions to continue to have an ongoing negative impact on it and the rest of the Group. A slowing or failure of any economic recovery would likely aggravate the adverse effects of these difficult economic and market conditions on the Group and on others in the financial services industry.

In an attempt to prevent the failure of the financial system, Spain, the United States and other European governments have intervened on an unprecedented scale. In Spain, measures adopted by the government included increased consumer deposit guarantees, a program to guarantee the debt of certain financial institutions and a fund to purchase assets from financial institutions. Additionally, in 2009 the Spanish government created the Orderly Banking Restructuring Fund (“**FROB**”) to manage the restructuring processes of credit institutions and reinforce the equity of institutions undergoing integration. In the United States, the federal government took equity stakes in several financial institutions, implemented a program to guarantee the short-term and certain medium-term debt of financial institutions, increased consumer deposit guarantees, and brokered the acquisitions of certain struggling financial institutions, among other measures. In the United Kingdom, the government effectively nationalized some of the country's largest banks, 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.

Despite the extent of the aforementioned intervention, global investor confidence remains cautious. The world's largest developed economies, including the United States and United Kingdom, grew during 2010, although in most cases still at a slow pace. In addition, recent downgrades of the sovereign debt of Greece, Portugal and Spain have caused further volatility in the capital markets. 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 the Group, if at all. If capital markets financing ceases to become available, or becomes excessively expensive, the Group may be forced to raise the rates it 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 volume, and may also have an adverse effect on the Group's interest margins.

### **Risks in relation to the Group's operations**

*Changes in the regulatory framework, including increased regulation of the financial services industry in the jurisdictions where the Group operates could adversely affect its business.*

Extensive legislation affecting the financial services industry has recently been adopted in Spain, the United States, the European Union and other jurisdictions, and regulations are in the process of being implemented. In response to the recent financial crisis, the European Union commenced a process of reforms to contend with the deficiencies detected in prudential regulation. These reforms coincide with what was agreed within the framework of the G-20 and the Basel II amendment presently underway. Along these lines, European Parliament and Council Directive 2009/111/EC, of 16 September 2009 was also approved, amending directives 2006/48/EC, 2006/49/EC and 2007/64/EC with respect to banks affiliated to a central body, certain elements of capital, major risk, the supervisory system and crisis management. In Spain, Act 6/2011, of 11 April, was passed, with the object of commencing the transposition of the aforementioned Directive 2009/111/EC, as well as Royal Decree 2/2010, of 18 February, for the reinforcement of the financial system. In line with the new international capital standards established by the so-called Basel III accords, this Royal Decree toughens the capital requirements of credit institutions. In turn, the Bank of Spain issued Circular 9/2010 of December 22, 2010, which amends certain rules in order to establish more restrictive conditions regarding capital requirements for credit risk, credit risk mitigation techniques, securitisation and treatment of counterparty and trading book risk. The circular was issued following the passage of two EU Directives on risk management (Directive 2009/27/CE and Directive 2009/83/CE).

The European Union has created a European Systemic Risk Board to monitor financial stability and implemented rules that will increase capital requirements for certain trading instruments or exposures and impose compensation limits on certain employees located in affected countries. In addition, the European Union Commission is considering a wide array of other initiatives, including new legislation that will affect derivatives trading, impose surcharges on “globally” systemically important firms and possibly impose new levies on bank balance sheets.



In the United States, the Dodd-Frank Wall Street Reform and Consumer Protection Act was adopted in 2010 and will effect significant structural reforms to the financial services industry. This legislation provides for, among other things, the establishment of a Bureau of Consumer Financial Protection which will have broad authority to regulate the credit, savings, payment and other consumer financial products and services that the Group offers.

These and any additional legislative or regulatory actions in Spain, the European Union, the United States or other countries, and any required changes to the Group's business operations resulting from such legislation and regulations, could result in significant loss of revenue, limit the Group's ability to pursue business opportunities in which the Group might otherwise consider engaging, affect the value of assets that the Group holds, require the Group to increase its prices and therefore reduce demand for its products, impose additional costs on the Group or otherwise adversely affect its businesses. Accordingly, the Group cannot provide assurance that any such new legislation or regulations would not have a material adverse effect on its business, results of operations or financial condition in the future.

The Group may also face increased compliance costs and limitations on its 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 a material adverse effect on the Group's business.

### **Risk Factors Relating to the Notes**

#### *Some Notes may be subordinated to most of the Issuer's liabilities*

If in the case of any particular Tranche of Notes the relevant Final Terms specify that the Notes are subordinated obligations of the Issuer and the Issuer is declared insolvent and a winding up is initiated, it will be required to pay the holders of senior debt and meet its obligations to all its unsubordinated creditors in full before it can make any payments on the relevant Notes. Depending on the status of a particular Tranche of subordinated Notes, the Issuer may also be required to pay the holders of other subordinated debt instruments in full before it can make any payments on the relevant Notes. If this occurs, the Issuer may not have enough assets remaining after these payments to pay amounts due under the relevant Notes.

#### *There is no active trading market for the Notes*

Notes issued under the Programme will be new securities which may not be widely distributed and for which there is currently no active trading market (unless in the case of any particular Tranche, such Tranche is to be consolidated with and form a single series with a Tranche of Notes which is already issued). If the Notes are traded after their initial issuance, they may trade at a discount to their initial offering price, depending upon prevailing interest rates, the market for similar securities, general economic conditions and the financial condition of the Issuer and the Guarantor. Although application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its regulated market, there is no assurance that such application will be accepted, that any particular Tranche of Notes will be so admitted or that an active trading market will develop.

Accordingly, there is no assurance as to the development or liquidity of any trading market for any particular Tranche of Notes.

#### *The Notes may be redeemed prior to maturity*

Unless in the case of any particular Tranche of Notes the relevant Final Terms specify otherwise, in the event that the Issuer or the Guarantor would be obliged to increase the amounts payable in respect of any Notes due to any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Spain or any political subdivision thereof or any authority therein or thereof having power to tax, the Issuer may redeem all outstanding Notes in accordance with the Conditions.

If the Final Terms specify that the Notes are redeemable at the Issuer's option in certain other circumstances the Issuer may choose to redeem the Notes at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the relevant Notes.

*Because the Global Notes will be held by or on behalf of Euroclear and Clearstream, Luxembourg, investors will have to rely on their procedures for transfer, payment and communications with the Issuer and/or the Guarantor*

Notes issued under the Programme may be represented by one or more Global Notes. Such Global Notes will be deposited with a common depository for Euroclear and Clearstream, Luxembourg. Except in the circumstances described in the relevant Global Note, investors will not be entitled to receive definitive Notes.

Euroclear and Clearstream, Luxembourg will maintain records of the beneficial interests in the Global Notes. While the Notes are represented by one or more Global Notes, investors will be able to trade their beneficial interests only through Euroclear and Clearstream, Luxembourg.

While the Notes are represented by one or more Global Notes the Issuer and the Guarantor will discharge their payment obligations under the Notes by making payments to the common depository for Euroclear and Clearstream, Luxembourg for distribution to their account holders. A holder of a beneficial interest in a Global Note must rely on the procedures of Euroclear and Clearstream, Luxembourg to receive payments under the relevant Notes. The Issuer and the Guarantor have no responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Notes.

Holders of beneficial interests in the Global Notes will not have a direct right to vote in respect of the relevant Notes. Instead, such holders will be permitted to act only to the extent that they are enabled by Euroclear and Clearstream, Luxembourg to appoint appropriate proxies. Similarly, holders of beneficial interests in the Global Notes will not have a direct right under the Global Notes to take enforcement action against the Issuer or the Guarantor in the event of a default under the relevant Notes but will have to rely upon their rights under the Deed of Covenant.

*If Subordinated Notes are intended to be computed as own funds, their terms may need to be modified*

The regulatory capital regime established under Bank of Spain Circular 3/2008 of 22 May may necessitate the modification of certain of the terms and conditions applicable to Subordinated Notes set out under “Terms and Conditions of the Notes” to the extent that such Subordinated Notes are intended to be computed as own funds. In such event, the modifications will be set out in the applicable Final Terms. Such changes may prejudice the rights of holders of Subordinated Notes. In particular, Condition 11 (Events of Default) provides that the events or circumstances set out in that condition will be acceleration events unless otherwise specified in the applicable Final Terms. As a result, the Issuer may provide that certain events or circumstances are not considered acceleration events for a particular Series of Notes.

#### *General considerations*

Certain of the Dealers and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform services for, the Issuer and/or the Guarantor and their affiliates in the ordinary course of business. In addition, in the ordinary course of their business activities, the Dealers and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of the Issuer, the Guarantor or their affiliates. Certain of the Dealers or their affiliates that have a lending relationship with the Issuer and/or the Guarantor routinely hedge their credit exposure to the Issuer consistent with their customary risk management policies. Typically, such Dealers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes issued under the Programme. Any such short positions could adversely affect future trading prices of Notes issued under the Programme. The Dealers and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

***Reforms to Spanish banking legislation that result from the Basel III proposals could lead to Subordinated Notes being used to absorb losses of the Issuer or the Guarantor in certain circumstances.***

The Basel Committee on Banking Supervision (the “**Basel Committee**”) has proposed a number of fundamental reforms to the regulatory capital framework for internationally active banks, the principal elements of which are set out in its papers released on 16 December 2010 and on 13 January 2011 (the “**January 2011 Press Release**”).

The January 2011 Press Release states that the terms and conditions of all Additional Tier 1 and Tier 2 instruments must have a provision that requires such instruments, at the option of the relevant authority, to either

be written off or converted into ordinary shares upon the occurrence of a specified trigger event (a “**Non-Viability Event**”). The Non-Viability Event will be the earlier of (a) a decision that a write-off, without which the firm would become non-viable, is necessary; and (b) the decision to make a public sector injection of capital, without which the financial institution would become non-viable, as determined by the relevant authority.

However, the January 2011 Press Release also states that it is not necessary to include a Non-Viability Event in the contractual terms of the instruments if (a) the governing jurisdiction of the bank has in place laws that (i) require such instruments to be written off upon the occurrence of such trigger event, or (ii) otherwise require such instruments to fully absorb losses before tax payers are exposed to loss; (b) a peer group review confirms that the jurisdiction so conforms; and (c) it is disclosed by the relevant regulator and by the issuing bank, in issuance documents going forward, that such instruments are subject to such loss.

Although the Terms and Conditions of the Subordinated Notes do not contain a provision which requires them to be converted into equity or written off on the occurrence of a Non-Viability Event, and although they would not be required to do so pursuant to Spanish law at the date hereof, it is possible that there could be amendments to Spanish law that could result in such Subordinated Notes absorbing losses in the course of any resolution of the Issuer or the Guarantor. The application of any such legislation may have an adverse effect on the position of holders of Subordinated Notes.

Furthermore, there can be no assurance that, prior to its implementation in 2013, the Basel Committee will not amend the package of reforms described above. Further, the European Union and/or authorities in Spain may implement the package of reforms, including the terms which capital securities are required to have, in a manner that is different from that which is currently envisaged or may impose more onerous requirements on Spanish banks.

## **Risk Factors in case of issuing Structured Notes**

### ***General Considerations***

The Structured Notes involve a degree of risk, which may include interest rate, corporate, market, foreign exchange, time value and/or political risks as well as other risks and general risks applicable to the stock market (or markets) and capital markets which may be specified in the applicable Final Terms.

In order to realise a return upon an investment in the Structured Notes, an investor must have correctly anticipated the timing and magnitude of an anticipated increase or the absence of a decrease in the value of the Structured Notes relative to the Issue Price and must also be correct about when any change will occur. If the value of the Structured Notes does not increase, or decrease, as the case may be, before such Structured Notes are redeemed, part of the investor’s investment in such Structured Notes may be lost on such redemption. Other than in respect of Structured Notes which are redeemable prior to the Maturity Date at the option of the Noteholder, the only means by which a Noteholder can realise value from its Structured Notes prior to their Maturity Date is to sell such Structured Notes at their then market price in the secondary market (if available) (see “Possible Illiquidity of the Secondary Market” below).

The Issuer may issue Structured Notes under the Programme and as such potential investors should be aware that fluctuations in the value of the relevant index or basket of indices (including the prices of securities included in an index or basket of indices) will affect the value of single index notes and basket of indices notes. Fluctuations in the price of the relevant equity security or value of the basket of equity securities will affect the value of single currency notes, single currency basket notes and multiple currency basket notes. In both these cases and in the case of currency linked Notes, fluctuations in the value of the currency or currencies in or to which the Structured Notes or the underlying securities or index are denominated or linked will also affect the value of such Structured Notes. Also, due to the character of the particular markets on which most equity securities are traded, the absence of last sale information and the limited availability of quotations for such equity securities may make it difficult for many investors to obtain timely, accurate data for the price or yield of such equity securities.

The occurrence of certain events or circumstances, in each case as specified in the applicable Final Terms, will affect the value of credit linked notes and the Issuer’s obligation to pay principal may be replaced by an obligation to pay other amounts calculated by reference to the value of the reference obligation(s) and/or to deliver the reference obligation(s). The Issuer’s obligations in respect of credit linked Notes are not dependent on the existence of credit exposure of the relevant Issuer to a reference entity and the relevant Issuer need not itself suffer any loss nor provide evidence of any loss as a result of the occurrence of a credit event.

Fluctuations in the value of the relevant commodity will affect the value of commodity linked Notes.

The terms and conditions of the Structured Notes may include adjustment, early redemption and event of default/acceleration provisions and other terms which along with general market conditions and the financial

conditions of the Issuer of the Notes may affect the amounts due and payable under such debt securities and/or their Maturity Date. In these cases the Structured Notes may be affected and may, in some cases, result in the Structured Notes being redeemed early. Investors are advised to consider carefully the information set forth in the relevant Final Terms regarding such features.

Prospective investors in Structured Notes should understand the risks of transactions involving the relevant Notes and should reach an investment decision only after careful consideration of the suitability of such Structured Notes in the light of their particular financial circumstances, the information set forth herein and any other available information regarding the relevant Structured Notes. Where the Issuer is required to redeem the Structured Notes prior to the Maturity Date at the option of the Noteholders an investor should understand the consequences of liquidating any investment in the Notes by redeeming such investment as opposed to selling it. This includes knowing when the Structured Notes are redeemable and how to redeem them.

### ***Certain Factors Affecting the Value and Trading Price of Structured Notes***

Generally, Structured Notes offer investment diversification opportunities, but also pose some additional risks with regard to interim value. The interim value of the Structured Notes varies with the price and is affected by a number of other factors, including but not limited to:

- (i) market interest rates;
- (ii) fluctuations in currency exchange rates;
- (iii) fluctuations in commodities prices;
- (iv) the liquidity of the Structured Notes or any reference item(s) in the secondary market;
- (v) the time remaining to any redemption date or the maturity date; and
- (vi) economic, financial and political events in one or more jurisdictions, including factors affecting capital markets generally and the stock exchange(s) on which the Structured Notes may be traded.

There can be no assurance that a Noteholder will be able to sell any Structured Notes prior to maturity at a price equal to or greater than the market value of the Structured Notes on the Issue Date and such Holder may only be able to sell Structured Notes at a discount, which may be substantial.

### ***Hedging***

In connection with the offering of the Structured Notes, the Issuer, the Guarantor and/or any of its affiliates may enter into one or more hedging transactions with respect to any potential reference item(s) or related derivatives. In connection with such hedging activities or with respect to proprietary or other trading activities by the Issuer and/or any of its affiliates, the Issuer, the Guarantor and/or any of its affiliates may enter into transactions in the reference item(s) or related derivatives which may, but are not intended to, affect the market price, liquidity or value of the Structured Notes and which could be deemed to be adverse to the interest of the relevant Noteholders.

### ***Possible Illiquidity of the Secondary Market***

There can be no assurance as to how Structured Notes will trade in the secondary market or whether such market will be liquid or illiquid. The number of Structured Notes of any Series may be relatively small, further adversely affecting the liquidity of such Structured Notes. The Issuer may list Structured Notes on the Irish Stock Exchange or may issue Structured Notes which are not listed on any exchange. However, no assurance can be given that any secondary trading market will develop for the Structured Notes. If Structured Notes are not listed or traded on any exchange, pricing information for such Structured Notes may be more difficult to obtain and the liquidity of such Structured Notes may be adversely affected.

### ***Potential Conflicts of Interest***

The Issuer, the Guarantor and its affiliates may engage in trading and market-making activities and may potentially hold long or short positions in the relevant reference item(s) and other instruments or derivative products based on or related to the relevant reference item(s) for their proprietary accounts or for other accounts under their management. The Issuer, the Guarantor and their respective affiliates may also issue Structured Notes in respect of the relevant reference item(s) which are securities, or issue derivative instruments in respect thereof. To the extent that either of the Issuer, the Guarantor directly or through its affiliates, serves as issuer, agent, manager or underwriter of such securities or other instruments, its interests with respect to such products may be adverse to those of the Noteholders. The Issuer, the Guarantor or their affiliates may also act as underwriter in connection with future offerings of securities which comprise the reference items or may act as financial advisors to certain underlying

companies or reference entities. Such activities could present certain conflicts of interest, could influence the prices of such reference items and could adversely affect the value of the Structured Notes.

### ***Risks Relating to Law 22/2003 (Ley Concursal) dated 9 July 2003***

Law 22/2003 (Ley Concursal) dated 9 July 2003 (“**Law 22/2003**”), which came into force on 1 September 2004 supersedes all Spanish provisions prior to it which regulated the bankruptcy, insolvency (including suspension of payments) and any process affecting creditors’ rights generally, including the ranking of its credits.

Law 22/2003 provides, among other things, that: (i) any claim may become subordinated if it is not reported to the insolvency administrators (*administradores concursales*) within one month from the last official publication of the court order declaring the insolvency (if the insolvency proceeding is declared as abridged, the term to report may be reduced to fifteen days), (ii) provisions in a contract granting one party the right to terminate by reason only of the other’s insolvency may not be enforceable, and (iii) interest (other than interest accruing under secured liabilities up to an amount equal to the value of the asset subject to the security) shall cease to accrue as from the date of the declaration of insolvency and any amount of interest accrued up to such date (other than any interest accruing under secured liabilities up to an amount equal to the value of the asset subject to the security) shall become subordinated.

### ***Taxation***

Potential purchasers of Structured Notes should be aware that stamp duty and other taxes and/or charges may be levied in accordance with the laws and practices in the countries where the Structured Notes are transferred and/or where any potential reference items are delivered.

The summaries set out under the heading “Taxation” in this document do not consider the tax treatment of payments in respect of Structured Notes. Potential purchasers of Structured Notes should note that the tax treatment of payments in respect of Structured Notes may be different (and in some cases significantly different) from that set out in those summaries. Potential purchasers of Structured Notes who are in any doubt as to their tax position should consult their own independent tax advisers. In addition, potential purchasers should be aware that tax regulations and their application by the relevant taxation authorities change from time to time. Accordingly, it is not possible to predict the precise tax treatment which will apply at any given time.

### ***Risks Relating to Withholding***

Under Spanish Law 13/1985 and Royal Decree 1065/2007, as amended, income payments in respect of the Notes will be made without withholding tax in Spain. The Issuer and the Guarantor are required pursuant to Spanish law to provide certain information regarding the Notes to the Spanish tax authorities. The Issuer, the Guarantor and the Fiscal Agent have arranged certain procedures to facilitate the collection of information concerning the Notes. The Issuer or the Guarantor (as the case may be) will withhold Spanish withholding tax from any payment in respect of any outstanding principal amount of the Notes (as applicable) as to which the required information has not been provided and will not gross up payments in respect of any such withholding tax. The Fiscal Agency Agreement provides that the Fiscal Agent will, to the extent applicable, comply with the relevant procedures to facilitate the collection of information concerning the Notes. The procedures may be modified, amended or supplemented, to, among other reasons, reflect a change in applicable Spanish law, regulation, ruling or interpretation thereof. Notwithstanding the above, in the case of Notes held by Spanish resident individuals (and, under certain circumstances by Spanish entities subject to corporate income tax) and deposited with a Spanish resident entity acting as depositary or custodian, payments in respect of such Notes may be subject to withholding by such depositary or custodian at the current rate of 19 per cent. See “Taxation and Disclosure of Information in Connection with Payments”.

### ***EU Savings Directive***

If a payment were to be made or collected through a Member State which has opted for a transitional withholding system as referred to below on page 77 under the heading “EU Savings Directive” and an amount of, or in respect of tax were to be withheld from that payment, neither the Issuer nor any paying agent nor any other person would be obliged to pay additional amounts with respect to any Note as a result of the imposition of such withholding tax. If a withholding tax is imposed on payment made by a paying agent, the Issuer will be required to maintain a paying agent in a Member State that will not be obliged to withhold or deduct tax pursuant to the Directive.

## TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions which, subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Final Terms, will be applicable to the Notes in definitive form (if any) issued in exchange for the Global Note(s) representing each Series and, subject further to simplification by deletion of non-applicable provisions, will be endorsed on such Bearer Notes or on the Certificates relating to such Registered Notes, details of the relevant Series being shown on the relevant Notes or Certificates and in the relevant Final Terms. References in the Conditions to “Notes” are to the Notes of one Series only, not to all Notes, which may be issued under the Programme.*

The Notes of each Tranche will, if so required by Spanish law, be issued by virtue of a public deed of issuance (the “**Public Deed of Issuance**”) to be executed before a Spanish notary public and to be registered with the Mercantile Registry of Madrid on or prior to the issue date, and which shall contain, among other information, the terms and conditions of the Notes. The Notes are issued pursuant to an amended and restated fiscal agency agreement dated 29 December 2011 (the “**Fiscal Agency Agreement**”) between BPE Financiaciones, S.A. as issuer (the “**Issuer**”), Banco Popular Español, S.A. as guarantor (the “**Guarantor**”), The Bank of New York Mellon as fiscal agent (the “**Fiscal Agent**”), paying agent (together with the Fiscal Agent and any additional or other paying agents in respect of the Notes from time to time appointed, the “**Paying Agents**”), transfer agent (together with any additional or other transfer agents in respect of the Notes from time to time appointed, the “**Transfer Agents**”) and The Bank of New York Mellon (Luxembourg) S.A. as registrar and transfer agent (the “**Registrar**”). The Guarantor has, for the benefit of the holders of the Notes from time to time, executed and delivered a deed of guarantee dated 21 December 2010 (the “**Deed of Guarantee**”) under which it has guaranteed the due and punctual payment of all sums from time to time payable by the Issuer under the Notes and the Deed of Covenant as and when the same shall become due and payable. The initial Calculation Agent(s) (if any) is specified on the Notes. The holders of the Notes (the “**Noteholders**”), the holders of the interest coupons (the “**Coupons**”) appertaining to interest bearing Notes in bearer form and, where applicable in the case of such Notes, talons for further Coupons (the “**Talons**”) (the “**Couponholders**”) and the holders of the instalment receipts (the “**Receipts**”) appertaining to the payment of principal by instalments are deemed to have notice of all of the provisions of the Fiscal Agency Agreement applicable to them.

Copies of the Fiscal Agency Agreement, the Deed of Covenant and the Deed of Guarantee are available for inspection at the specified offices of each of the Paying Agents.

Notes issued under the Programme are issued in series (each a “**Series**”) and each Series may comprise one or more tranches (each a “**Tranche**”) of Notes. Each Tranche is the subject of a Final Terms (the “**Final Terms**”) which supplements these terms and conditions (the “**Conditions**”). The terms and conditions applicable to any particular Tranche of Notes are these Conditions as supplemented, amended and/or replaced by the relevant Final Terms. In the event of any inconsistency between these Conditions and the relevant Final Terms, the relevant Final Terms shall prevail.

### 1. Definitions

In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

“**Business Day Convention**”, in relation to any particular date, has the meaning given in the relevant Final Terms and, if so specified in the relevant Final Terms, may have different meanings in relation to different dates and, in this context, the following expressions shall have the following meanings:

- (i) “**Following Business Day Convention**” means that the relevant date shall be postponed to the first following day that is a Relevant Business Day;
- (ii) “**Modified Following Business Day Convention**” or “**Modified Business Day Convention**” means that the relevant date shall be postponed to the first following day that is a Relevant Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Relevant Business Day;
- (iii) “**Preceding Business Day Convention**” means that the relevant date shall be brought forward to the first preceding day that is a Relevant Business Day;
- (iv) “**FRN Convention**”, “**Floating Rate Convention**” or “**Eurodollar Convention**” means that each relevant date shall be the date which numerically corresponds to the preceding such date in the calendar month which is the number of months specified in the relevant Final Terms as the Specified Period after the calendar month in which the preceding such date occurred provided, however, that:

- (A) if there is no such numerically corresponding day in the calendar month in which any such date should occur, then such date will be the last day which is a Relevant Business Day in that calendar month;
  - (B) if any such date would otherwise fall on a day which is not a Relevant Business Day, then such date will be the first following day which is a Relevant Business Day unless that day falls in the next calendar month, in which case it will be the first preceding day which is a Relevant Business Day; and if the preceding such date occurred on the last day in a calendar month which was a Relevant Business Day, then all subsequent such dates will be the last day which is a Relevant Business Day in the calendar month which is the specified number of months after the calendar month in which the preceding such date occurred; and
- (v) **“No Adjustment”** means that the relevant date shall not be adjusted in accordance with any Business Day Convention;

**“Calculation Agent”** means the Fiscal Agent or such other Person specified in the relevant Final Terms as the party responsible for calculating the Rate(s) of Interest and Interest Amount(s) and/or such other amount(s) as may be specified in the relevant Final Terms;

**“Calculation Amount”** has the meaning given in the relevant Final Terms;

**“Day Count Fraction”** means, in respect of the calculation of an amount for any period of time (the **“Calculation Period”**), such day count fraction as may be specified in these Conditions or the relevant Final Terms and:

- (i) if **“Actual/Actual (ICMA)”** is so specified, means:
  - (a) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
  - (b) where the Calculation Period is longer than one Regular Period, the sum of:
    - (A) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
    - (B) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (a) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year;
- (ii) if **“Actual/Actual (ISDA)”** is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (iii) if **“Actual/365 (Fixed)”** is so specified, means the actual number of days in the Calculation Period divided by 365;
- (iv) if **“Actual/360”** is so specified, means the actual number of days in the Calculation Period divided by 360;
- (v) if **“30/360”** is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows

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

where:

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

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

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

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

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

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

- (vi) if “**30E/360**” or “Eurobond Basis” is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

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

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

- (vii) if “**30E/360 (ISDA)**” is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

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

where:

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

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

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

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

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case **D<sub>1</sub>** will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case **D<sub>2</sub>** will be 30,

*provided, however*, that in each such case the number of days in the Calculation Period is calculated from and including the first day of the Calculation Period to but excluding the last day of the Calculation Period;

“**Early Redemption Amount (Tax)**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Final Terms;

“**Early Termination Amount**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, these Conditions or the relevant Final Terms;



“**Effective Date**” means, with respect to any Floating Rate to be determined on an Interest Determination Date, the date specified as such hereon or, if none is so specified the first day of the Interest Accrual Period to which such Interest Determination Date relates;

“**Euro-zone**” means the member states of the European Union that are participating in the third stage of European Monetary Union;

“**Final Redemption Amount**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Final Terms;

“**Fixed Coupon Amount**” has the meaning given in the relevant Final Terms;

“**Indebtedness**” means any obligation (whether present or future, actual or contingent) for the payment or repayment of money which has been borrowed or raised (including money raised by acceptances and leasing);

“**Interest Amount**” means, in relation to a Note and an Interest Period, the amount of interest payable in respect of that Note for that Interest Period;

“**Interest Commencement Date**” means the date of issue of the Notes (the “**Issue Date**”) or such other date as may be specified as the Interest Commencement Date in the relevant Final Terms;

“**Interest Determination Date**” means, with respect to an Interest Rate and Interest Period, the date specified as such hereon or, if none is so specified, (i) the first day of such Interest Period if the Relevant Currency is sterling (ii) or the day falling two Relevant Business Days in London prior to the first day of such Interest Period if the Relevant Currency is not sterling, or (iii) the day falling two TARGET2 Business Days prior to the first day of such Interest Period if the Relevant Currency is Euro;

“**Interest Payment Date**” means the date or dates specified as such in, or determined in accordance with the provisions of, the relevant Final Terms and, if a Business Day Convention is specified in the relevant Final Terms:

- (i) as the same may be adjusted in accordance with the relevant Business Day Convention; or
- (ii) if the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention and an interval of a number of calendar months is specified in the relevant Final Terms as being the Specified Period, each of such dates as may occur in accordance with the FRN Convention, Floating Rate Convention or Eurodollar Convention at such Specified Period of calendar months following the Interest Commencement Date (in the case of the first Interest Payment Date) or the previous Interest Payment Date (in any other case);

“**Interest Period**” means the period beginning on (and including) the Interest Commencement Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date;

“**Interest Period Date**” means each Interest Payment Date unless otherwise specified hereon;

“**Interest Rate**” means the rate of interest payable from time to time in respect of this Note and which is either specified, or calculated in accordance with the provisions, hereon;

“**ISDA Definitions**” means unless otherwise specified in the relevant Final Terms, the 2006 ISDA Definitions (as amended and updated as at the date of issue of the first Tranche of the Notes of the relevant Series (as specified in the relevant Final Terms) as published by the International Swaps and Derivatives Association, Inc;

“**Issue Date**” has the meaning given in the relevant Final Terms;

“**Margin**” has the meaning given in the relevant Final Terms;

“**Maturity Date**” has the meaning given in the relevant Final Terms;

“**Maximum Redemption Amount**” has the meaning given in the relevant Final Terms;

“**Minimum Redemption Amount**” has the meaning given in the relevant Final Terms;

“**Optional Redemption Amount (Call)**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Final Terms;

“**Optional Redemption Amount (Put)**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the relevant Final Terms;

“**Optional Redemption Date (Call)**” has the meaning given in the relevant Final Terms;

**“Optional Redemption Date (Put)”** has the meaning given in the relevant Final Terms;

**“Participating Member State”** means a Member State of the European Union which adopts the euro as its lawful currency in accordance with the Treaty establishing the European Communities, as amended;

**“Payment Business Day”** means a day (other than a Saturday or a Sunday) on which banks are open for general business in the relevant place of presentation for payment of debt securities and for dealings in foreign currencies, in such jurisdictions as shall be specified as **“Business Day Jurisdictions”** hereon and:

- (i) (in the case of a payment in a currency other than Euro) where payment is to be made by transfer to an account maintained with a bank in the relevant currency, a day on which dealings in foreign currencies may be carried on in the relevant currency in the principal financial centre of the country of such currency; or
- (ii) (in the case of a payment in Euro) where payment is to be made by transfer to an account, a day on which the TARGET2 System is operating.

**“Person”** means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having a separate legal personality;

**“Principal Financial Centre”** means, in relation to any currency, the principal financial centre for that currency provided, however, that:

- (i) in relation to Euro, it means the principal financial centre of such Member State of the European Communities as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Calculation Agent; and
- (ii) in relation to Australian dollars, it means either Sydney or Melbourne and, in relation to New Zealand dollars, it means either Wellington or Auckland; in each case as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Calculation Agent;

**“Redemption Amount”** means, as appropriate, the Final Redemption Amount, the Early Redemption Amount (Tax), the Optional Redemption Amount (Call), the Optional Redemption Amount (Put), the Early Termination Amount or such other amount in the nature of a redemption amount as may be specified in, or determined in accordance with the provisions of, the relevant Final Terms;

**“Reference Banks”** has the meaning given in the relevant Final Terms or, if none, four (or if the principal Financial Centre is Helsinki, five) major banks selected by the Calculation Agent in the market that is most closely connected with the Reference Rate;

**“Reference Rate”** has the meaning given in the relevant Final Terms;

**“Regular Period”** means:

- (i) in the case of Notes where interest is scheduled to be paid only by means of regular payments, each period from and including the Interest Commencement Date to but excluding the first Interest Payment Date and each successive period from and including one Interest Payment Date to but excluding the next Interest Payment Date;
- (ii) in the case of Notes where, apart from the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where **“Regular Date”** means the day and month (but not the year) on which any Interest Payment Date falls; and
- (iii) in the case of Notes where, apart from one Interest Period other than the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where **“Regular Date”** means the day and month (but not the year) on which any Interest Payment Date falls other than the Interest Payment Date falling at the end of the irregular Interest Period;

**“Relevant Business Day”** means:

- (i) in the case of a specified currency other than Euro and/or one or more specified financial centres, a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in the principal financial centre for that currency and/or each of the financial centres so specified; and/or
- (ii) in the case of Euro a day on which the TARGET2 System is operating; and/or

- (iii) in the case of a specified currency and for one or more specified financial centres, a day (other than a Saturday or a Sunday) in which commercial banks and foreign exchange markets settle payments in the specified currency or, if none is specified, generally in each of the financial centres so specified;

“**Relevant Currency**” means the currency specified as such hereon or, if none is specified, the currency in which the Notes are denominated;

“**Relevant Date**” means, in relation to any payment, whichever is the later of (a) the date on which the payment in question first becomes due and (b) if the full amount payable has not been received by the Fiscal Agent on or prior to such due date, the date on which (the full amount having been so received) notice to that effect has been given to the Noteholders;

“**Relevant Financial Centre**” has the meaning given in the relevant Final Terms;

“**Relevant Screen Page**” means the page, section or other part of a particular information service (including, without limitation, Reuters) specified as the Relevant Screen Page in the relevant Final Terms, or such other page, section or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the Person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate;

“**Relevant Time**” has the meaning given in the relevant Final Terms;

“**Specified Denomination(s)**” has the meaning given in the relevant Final Terms;

“**Specified Currency**” has the meaning given in the relevant Final Terms;

“**Specified Duration**” means, with respect to any Floating Rate to be determined on an Interest Determination Date, the duration specified hereon or, if none is specified, a period of time equal to the relative Interest Accrual Period, ignoring any adjustment pursuant to a Business Day Convention;

“**Specified Period**” has the meaning given in the relevant Final Terms;

“**Structured Notes**” means debt securities in which the repayment of interest, and sometimes principal, is tied to movements in an underlying index or formula, prices of securities or commodities, currency exchange rates or other factors;

“**Subordinated Issuer**” means such issuer as may accede to the Programme as issuer of Subordinated Notes;

“**Subsidiary**” means, at any particular time, any company which is then directly or indirectly controlled, or more than 50 per cent. of whose issued equity share capital (or equivalent) is then beneficially owned, by the first person and/or one or more of its subsidiaries. For a company to be “controlled” by another means that the other (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise) has the power to appoint and/or remove all or the majority of the members of the board of directors or other governing body of that company or otherwise controls or has the power to control the affairs and policies of that company;

“**TARGET Business Day**” means a day on which the TARGET2 System is operating; and

“**TARGET2 System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System which utilises a single shared platform and was launched on 19 November 2007.

## 2. Form, Denomination and Title

The Notes are issued in bearer form (“**Bearer Notes**”) or in registered form (“**Registered Notes**”), in each case in the Denomination(s) shown thereon.

*All Registered Notes shall have the same Denomination.*

Bearer Notes are issued with Coupons (and, where appropriate, a Talon) attached, save in the case of Notes which do not bear interest in which case references to interest (other than in relation to interest due after the Maturity Date), Coupon and Talons in these Conditions are not applicable. Any Bearer Note the principal amount of which is redeemable in instalments is issued with one or more Receipts attached.

Registered Notes are represented by registered certificates (“**Certificates**”), each Certificate representing a holding of one or more Registered Notes by the same holder.

Title to the Bearer Notes and the Receipts, Coupons and Talons shall pass by delivery. Title to the Registered Notes shall pass by registration in the register which the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Fiscal Agency Agreement. Except as ordered by a court of competent jurisdiction or as

required by law, the holder of any Note, Receipt, Coupon or Talon shall be deemed to be and may be treated as the absolute owner of such Note, Receipt, Coupon or Talon, as the case may be, for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not such Note, Receipt, Coupon or Talon shall be overdue and notwithstanding any notice of ownership, theft or loss thereof or any writing thereon made by anyone.

In these Conditions, “**holder**” (in relation to a Note, Receipt, Coupon or Talon) means the bearer of any Bearer Note, Receipt, Coupon or Talon or the person in whose name a Registered Note is registered (as the case may be) and capitalised terms have the meanings given to them herein, the absence of any such meaning indicating that such term is not applicable to the Notes.

All capitalised terms which are not defined in these conditions will have the meanings given to them in the relevant Final Terms. Those definitions will be endorsed on the Definitive Notes.

### **3. Transfers of Registered Notes**

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

One or more Registered Notes may be transferred upon the surrender of the Certificate representing such Registered Notes to be transferred, together with the form of transfer endorsed on such Certificate duly completed and executed, at the specified office of the Registrar or any Transfer Agent. In the case of a transfer of part only of a holding of Registered Notes represented by one Certificate, a new Certificate in respect of the balance not transferred will be issued to the transferor. In the case of a transfer of Registered Notes to a person who is already a holder of Registered Notes, a new Certificate representing the enlarged holding shall only be issued against surrender of the Certificate representing the existing holding.

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

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

#### **(c) Delivery of new Certificates**

Each new Certificate to be issued pursuant to Conditions 3(a), (b) or (c) will, within three business days (being a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the Transfer Agent or the Registrar to whom such request for exchange or form of transfer shall have been delivered) of receipt of such request for exchange or form of transfer, be available for delivery at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom such delivery shall have been made or, at the option of the holder making such delivery as aforesaid and as specified in the relevant request for exchange or form of transfer, be mailed at the risk of the holder entitled to the new Certificate to such address as may be specified in such request for exchange or form of transfer.

#### **(d) Exchange free of charge**

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

#### **(e) Closed periods**

No holder of a Note may require the transfer of a Registered Note to be registered (i) during the period of 15 days ending on the due date for redemption of that Note, (ii) during the period of 15 days prior to any date on which Notes may be redeemed by the Issuer at its option pursuant to Condition 7(e) or (iii) after any such Note has been drawn for redemption in whole or in part.

#### 4. Guarantee and Status

##### (a) Status of Senior Notes

If this Condition 4(a) is specified in the final Terms as being applicable, the Notes shall be “**Senior Notes**”. The Senior Notes and the Receipts and Coupons relating thereto constitute direct, unconditional, unsubordinated and (without prejudice to the provisions of Condition 5) unsecured obligations of the Issuer and rank *pari passu* and rateably without any preference among the obligations of the Issuer in respect of other Senior Notes of the same Series of the Issuer and (subject to any applicable statutory exceptions and without prejudice as aforesaid) at least *pari passu* with all other present and future unsecured and unsubordinated obligations of the Issuer.

In the event of insolvency (*concurso*) of the Issuer, under Law 22/2003 claims relating to Senior Notes (unless they qualify by law as subordinated credits under Article 92 of Law 22/2003) will be ordinary credits (*créditos ordinarios*) as defined in Law 22/2003. Ordinary credits rank below credits against the insolvency state (*créditos contra la masa*) and credits with a privilege (*créditos privilegiados*). Ordinary credits rank above subordinated credits and the rights of shareholders. Accrued and unpaid interests due in respect of the Senior Notes at the commencement of an insolvency proceeding (*concurso*) of the Issuer will qualify as subordinated credits.

##### (b) Senior Guarantee

This Condition 4(b) is applicable to Senior Notes only. The Guarantor has unconditionally and irrevocably guaranteed the due payment of all sums expressed to be payable by the Issuer under the Senior Notes, Receipts and Coupons on an unsubordinated basis. The obligations of the Guarantor in respect of Senior Notes constitute direct, unconditional, unsubordinated and (without prejudice to Condition 5) unsecured obligations of the Guarantor and rank *pari passu* without any preference in respect of its guarantee of other Notes of the same Series and (subject to any statutory exceptions and without prejudice as aforesaid) rank at least *pari passu* with all other present and future unsecured and unsubordinated obligations of the Guarantor.

In the event of insolvency (*concurso*) of the Guarantor, under Law 22/2003, claims relating to Senior Notes (unless they qualify by law as subordinated credits under Article 92 of Law 22/2003) will be ordinary credits (*créditos ordinarios*) as defined in Law 22/2003. Ordinary credits rank below credits against the insolvency state (*créditos contra la masa*) and credits with a privilege (*créditos privilegiados*). Ordinary credits rank above subordinated credits and the rights of shareholders and creditors of the Guarantor which are characterised as holders of equity (*otros acreedores a título asimilable al de aportación de capital*).

##### (c) Status of Subordinated Notes

If this Condition 4(c) is specified in the Final Terms as being applicable, the Notes shall be “**Subordinated Notes**”. The Subordinated Notes and the Receipts and Coupons relating thereto constitute direct, unconditional, subordinated and unsecured obligations of the Issuer and rank *pari passu* without any preference in respect of other Notes of the same Series and (subject to any applicable statutory exceptions) with all other present and future subordinated obligations of the Issuer, other than subordinated obligations that are expressed to rank junior to the subordinated notes.

In the event of insolvency (*concurso*) of the Issuer, under Law 22/2003, claims relating to the Subordinated Notes will fall within the category of “subordinated debts” (*créditos subordinados*), as defined in Law 22/2003. The obligations of the Issuer under the Subordinated Notes, whether on account of principal, interest or otherwise, are subordinated to all other unsubordinated obligations of the Issuer. After payment in full of unsubordinated debts, under article 92 of Law 22/2003, the Issuer will meet such subordinated debts in the order established in Law 22/2003.

Subordinated Notes may be computed by the Guarantor as regulatory capital (*recursos propios*) of the Guarantor pursuant to the relevant provisions in current Spanish law relating to equity and consolidated groups of financial institutions: Law 13/1985 of 25 May, Law 13/1992 of 1 June, Royal Decree 216/2008 of 15 February and *Banco de España* Circular 3/2008 of 22 May, all the above as amended and restated (or such provisions as may replace, supplement or implement the foregoing in the future).

##### (d) Subordinated Guarantee

This Condition 4(d) is applicable to Subordinated Notes only. The obligations of the Guarantor under the Guarantee in respect of Subordinated Notes constitute direct, unconditional, subordinated and unsecured obligations of the Guarantor and (subject to any applicable statutory exceptions) rank *pari passu* without any preference in respect of other Notes of the same Series and rank *pari passu* with all other present and future subordinated

obligations of the Guarantor, other than subordinated obligations that are expressed to rank junior to the Guarantor's obligations under the Guarantee.

In the event of insolvency (*concurso*) of the Guarantor, under Law 22/2003, claims relating to the Subordinated Guarantee will fall within the category of "subordinated debts" (*créditos subordinados*, as defined in Law 22/2003).

After payment in full of unsubordinated debts, under article 92 of Law 22/2003, the Guarantor will meet such subordinated debts in the order established in Law 22/2003.

**(e) Noteholder Acknowledgement of Ranking**

Holders of Notes acknowledge that all Senior Notes issued or to be issued by BPE Financiaciones, S.A. shall rank *pari passu* among themselves, and (as the case may be) all Subordinated Notes issued or to be issued by BPE Financiaciones, S.A. under the Programme shall rank *pari passu* among themselves, in each case regardless of their respective issue date.

**5. Negative Pledge**

(a) So long as any of the Senior Notes, Receipts or Coupons remain outstanding (as defined in the Agency Agreement):

- (i) neither the Issuer of the Senior Notes nor the Guarantor will create or permit to subsist any mortgage, charge, pledge, lien or other form of encumbrance or security interest ("**Security**") upon the whole or any part of its undertaking, assets or revenues present or future to secure any Relevant Indebtedness, or guarantee of the Relevant Indebtedness of the Issuer or the Guarantor;
- (ii) the Guarantor will procure that no Relevant Subsidiary of the Guarantor creates or permits to subsist any Security upon the whole or part of the undertaking, assets or revenues present or future, to secure any Relevant Indebtedness or guarantee of the Guarantor, such Relevant Subsidiary or any other Person,

without, at the same time or prior thereto, securing the Issuer's obligations under the Senior Notes, Receipts and Coupons or as the case may be the Guarantor's obligations under the Senior Notes are secured equally and rateably therewith or providing such other security for the Senior Notes as may be approved by a resolution of the relevant Syndicate of holders of the Senior Notes.

(b) Nothing in this Condition shall prevent either the Issuer or the Guarantor from creating or having outstanding any Security upon the whole of, any part of its undertaking, assets or revenues present or future which:

- (i) arises by operation of law and in the ordinary course of business;
- (ii) is created over assets purchased by the Guarantor or any of its Subsidiaries which (a) is created or arises or, in the case of real estate, exists at the time of the purchase of such assets and (b) secures solely all or part of the unpaid balance of the purchase price of such assets;
- (iii) created pursuant to any securitisation, asset-backed financing of like arrangement, including, but not limited to issues of participaciones preferentes, cédulas hipotecarias, bonos hipotecarios, participaciones hipotecarias, certificados de participaciones hipotecarias, cédulas territoriales, in accordance with normal practice in Spain and whereby the Relevant Indebtedness (or any guarantee or other obligation in any Relevant Indebtedness) secured by such Security or having the benefit of such secured guarantee or other obligations is limited to the value of such undertaking, assets or revenues.

(c) For the purposes of this Condition:

"**Group**" means the Guarantor and its consolidated subsidiaries;

"**Person**" means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having a separate legal personality;

"**Relevant Indebtedness**" means any Indebtedness in the form of, or represented by, bonds, notes, debentures or other securities which are for the time being, or are capable of being, quoted, listed or ordinarily dealt in on any stock exchange, over-the-counter or other securities market (for which purpose any such bonds, notes, debentures or other securities shall be deemed not to be capable of being so quoted, listed or ordinarily dealt in if the terms of the issue thereof expressly so provide), having an original maturity of more than the one year from its date of issue;

"**Relevant Subsidiary**" means, at any time, a Subsidiary of the Guarantor (a) whose net assets represent not less than 10 per cent. of the net consolidated assets of the Group as calculated by reference to the then latest audited accounts (or, as the case may be, consolidated accounts) of such Subsidiary and the then latest audited

consolidated accounts of the Group or (b) whose gross revenues represent not less than 10 per cent. of the net consolidated gross revenues of the Group as calculated by reference to the then latest audited accounts (or, as the case may be, consolidated accounts) of such Subsidiary and the then latest audited consolidated accounts of the Group.

## **6. Interest Provisions**

### **(a) Fixed Rate Note Provisions**

(i) *Application:* This Condition 6(a) (Fixed Rate Note Provisions) is applicable to the Notes only if the Fixed Rate Note Provisions are specified in the relevant Final Terms as being applicable.

(ii) *Accrual of interest:* The Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 8 (*Payments and Talons*). Each Note will cease to bear interest from the due date for final redemption unless, upon due presentation, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 6(a) (as well after as before judgment) until whichever is the earlier of (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (B) the day which is seven days after the Fiscal Agent or Registrar (as the case may be) has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).

(iii) *Fixed Coupon Amount:* The amount of interest payable in respect of each Note for any Interest Period shall be the relevant Fixed Coupon Amount and, if the Notes are in more than one Specified Denomination, shall be the relevant Fixed Coupon Amount in respect of the relevant Specified Denomination.

(iv) *Calculation of interest amount:* The amount of interest payable in respect of each Note for any period for which a Fixed Coupon Amount is not specified shall be calculated by applying the Rate of Interest to the Calculation Amount, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards) and multiplying such rounded figure by a fraction equal to the Specified Denomination of such Note divided by the Calculation Amount. For this purpose a “sub-unit” means, in the case of any currency other than Euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of Euro, means one cent.

### **(b) Floating Rate Note and Index-Linked Interest Note Provisions**

(i) *Application:* This Condition 6(b) (*Floating Rate Note and Index-Linked Interest Note Provisions*) is applicable to the Notes only if the Floating Rate Note Provisions or the Index-Linked Interest Note Provisions are specified in the relevant Final Terms as being applicable.

(ii) *Accrual of interest:* The Notes bear interest from the Interest Commencement Date at the Rate of Interest payable in arrear on each Interest Payment Date, subject as provided in Condition 8 (*Payments and Talons*). Each Note will cease to bear interest from the due date for final redemption unless, upon due presentation, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition (as well after as before judgment) until whichever is the earlier of (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (B) the day which is seven days after the Fiscal Agent or Registrar (as the case may be) has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).

(iii) *Screen Rate Determination:* If Screen Rate Determination is specified in the relevant Final Terms as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be determined by the Calculation Agent on the following basis:

- (A) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (B) in any other case, the Calculation Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (C) if, in the case of (i) above, such rate does not appear on that page or, in the case of (ii) above, fewer than two such rates appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Calculation Agent will:

- (1) request the principal Relevant Financial Centre office of each the Reference Banks to provide a quotation of the Reference Rate at approximately the Relevant Time on the Interest Determination Date to prime banks in the Relevant Financial Centre interbank market in an amount that is representative for a single transaction in that market at that time; and
  - (2) determine the arithmetic mean of such quotations; and
- (D) if fewer than two such quotations are provided as requested, the Calculation Agent will determine the arithmetic mean of the rates (being the nearest to the Reference Rate, as determined by the Calculation Agent) quoted by major banks in the Principal Financial Centre of the Specified Currency, selected by the Calculation Agent, at approximately 11.00 a.m. (local time in the Principal Financial Centre of the Specified Currency) on the first day of the relevant Interest Period for loans in the Specified Currency to leading European banks for a period equal to the relevant Interest Period and in an amount that is representative for a single transaction in that market at that time,

and the Rate of Interest for such Interest Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined; *provided, however*, that if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Rate of Interest applicable to the Notes during such Interest Period will be the sum of the Margin and the rate or (as the case may be) the arithmetic mean last determined in relation to the Notes in respect of a preceding Interest Period.

(iv) *ISDA Determination*: If ISDA Determination is specified in the relevant Final Terms as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be the sum of the Margin and the relevant ISDA Rate where “**ISDA Rate**” in relation to any Interest Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Calculation Agent under an interest rate swap transaction if the Calculation Agent were acting as Calculation Agent for that interest rate swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (A) the Floating Rate Option (as defined in the ISDA Definitions) is as specified in the relevant Final Terms;
- (B) the Designated Maturity (as defined in the ISDA Definitions) is a period specified in the relevant Final Terms; and
- (C) the relevant Reset Date (as defined in the ISDA Definitions) is either (X) if the relevant Floating Rate Option is based on the London inter-bank offered rate (LIBOR) for a currency, the first day of that Interest Period or (Y) in any other case, as specified in the relevant Final Terms.

(v) *Index-Linked Interest*: If the Index-Linked Interest Note Provisions are specified in the relevant Final Terms as being applicable, the Rate(s) of Interest applicable to the Notes for each Interest Period will be determined in the manner specified in the relevant Final Terms.

(vi) *Maximum or Minimum Rate of Interest*: If any Maximum Rate of Interest or Minimum Rate of Interest is specified in the relevant Final Terms, then the Rate of Interest shall in no event be greater than the maximum or be less than the minimum so specified.

(vii) *Calculation of Interest Amount*: The Calculation Agent will, as soon as practicable after the time at which the Rate of Interest is to be determined in relation to each Interest Period, calculate the Interest Amount payable in respect of each Note for such Interest Period. The Interest Amount will be calculated by applying the Rate of Interest for such Interest Period to the Calculation Amount, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards) and multiplying such rounded figure by a fraction equal to the Specified Denomination of the relevant Note divided by the Calculation Amount. For this purpose a “sub-unit” means, in the case of any currency other than Euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of Euro, means one cent.

(viii) *Calculation of other amounts*: If the relevant Final Terms specifies that any other amount is to be calculated by the Calculation Agent, the Calculation Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Calculation Agent in the manner specified in the relevant Final Terms.

(ix) *Publication*: The Calculation Agent will cause each Rate of Interest and Interest Amount determined by it, together with the relevant Interest Payment Date, and any other amount(s) required to be determined by it together



with any relevant payment date(s) to be notified to the Paying Agents and each listing authority, stock exchange and/or quotation system (if any) by which the Notes have then been admitted to listing, trading and/or quotation as soon as practicable after such determination but (in the case of each Rate of Interest, Interest Amount and Interest Payment Date) in any event not later than the first day of the relevant Interest Period. Notice thereof shall also promptly be given to the Noteholders. The Calculation Agent will be entitled to recalculate any Interest Amount (on the basis of the foregoing provisions) without notice in the event of an extension or shortening of the relevant Interest Period.

(x) *Notifications etc:* All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition by the Calculation Agent will (in the absence of manifest error) be binding on the Issuer, the Guarantor, the Paying Agents, the Noteholders and the Couponholders and (subject as aforesaid) no liability to any such Person will attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions for such purposes.

**(c) Dual Currency Note Provisions**

(i) *Application:* This Condition 6(c) (*Dual Currency Note Provisions*) is applicable to the Notes only if the Dual Currency Note Provisions are specified in the relevant Final Terms as being applicable.

(ii) *Rate of Interest:* If the rate or amount of interest falls to be determined by reference to an exchange rate, the rate or amount of interest payable shall be determined in the manner specified in the relevant Final Terms.

**7. Redemption, Purchase and Options**

*Subordinated Notes may not be redeemed without the consent of Banco de España and, in any event, such Notes may not be redeemed within a period of five years from their issue date.*

**(a) Final Redemption**

Unless previously redeemed, purchased and cancelled as provided below, each Note will be redeemed at its Redemption Amount (which, unless otherwise provided, is its principal amount) on the Maturity Date. Subordinated Notes qualifying as regulatory capital (*recursos propios*) in accordance with Spanish law and *Banco de España* requirements will have a maturity of not less than five years or as otherwise permitted by Spanish legislation or regulation or requirements of any applicable regulatory authority.

**(b) Redemption for taxation reasons**

The Notes may (subject in the case of Subordinated Notes to the prior consent of Banco de España) be redeemed at the option of the Issuer in whole, but not in part, on any Interest Payment Date or, if so specified hereon, at any time, on giving not less than 30 nor more than 60 days' notice to the holders of Notes (which notice shall be irrevocable), at their Early Redemption Amount (Tax), (together with interest accrued to the date fixed for redemption), if (i) the Issuer (or, if the Senior Guarantee or the Subordinated Guarantee were called, the Guarantor) has or will become obliged to pay additional amounts as provided or referred to in Condition 9 as a result of any change in, or amendment to, the laws or regulations of Ireland or the Kingdom of Spain or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date, and (ii) such obligations cannot be avoided by the Issuer (or the Guarantor, as the case may be) taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer (or the Guarantor, as the case may be) would be obliged to pay such additional amounts if a payment in respect of the Notes (or either Guarantee, as the case may be) were then due. Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by a director of the Issuer (or the Guarantor, as the case may be) stating that the Issuer (or the Guarantor, as the case may be) is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer (or the Guarantor, as the case may be) so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer (or the Guarantor, as the case may be) has or will become obliged to pay such additional amounts as a result of such change or amendment.

In the case of Subordinated Notes, redemption for tax reasons is subject to the prior consent of Banco de España and may not take place within a period of five years of their date of issue or of the date of disbursement if disbursement does not take place at issuance (unless otherwise permitted by Spanish legislation or regulation or requirements of any applicable regulatory authority).

**(c) Purchases**

The Issuer, the Guarantor and any of the Guarantor's Subsidiaries may at any time purchase Senior Notes and/or Subordinated Notes, (provided that all unmatured Receipts and Coupons and unexchanged Talons appertaining thereto are attached or surrendered therewith) in the open market or otherwise at any price.

In the case of Subordinated Notes qualifying as regulatory capital (*recursos propios*) in accordance with the requirements of Spanish law and *Banco de España*, such purchase shall take place in accordance with the requirements of Spanish legislation or regulation or requirements of any applicable regulatory authority from time to time in force.

**(d) Redemption at the Option of the Issuer and Exercise of Issuer's Options**

(i) If Issuer Call is specified in the applicable Final Terms, subject to paragraph (v) below, the Issuer may on giving irrevocable notice to the holders of Notes of not less than 30 days nor more than 60 days, redeem, or exercise any Issuer's option in relation to, all or, if so provided, some of the Notes in the principal amount or integral multiples thereof and on the date or dates so provided. Any such redemption of Notes shall be at their Optional Redemption Amount (Call) together with interest accrued to the date fixed for redemption.

(ii) All Notes in respect of which any such notice is given shall be redeemed, or the Issuer's option shall be exercised, on the date specified in such notice in accordance with this Condition.

(iii) In the case of a partial redemption or a partial exercise of an Issuer's option the notice to holders of Notes shall also contain the serial numbers of the Notes to be redeemed, which shall have been drawn in such place as the Fiscal Agent may approve and in such manner as it deems appropriate, subject to compliance with any applicable laws and listing authority, stock exchange and/or quotation system requirements.

(iv) Notes to be redeemed, which shall have been drawn in such place as the Fiscal Agent may approve and in such manner as it deems appropriate, subject to compliance with any applicable laws and listing authority, stock exchange and/or quotation system requirements.

(v) In the case of Subordinated Notes qualifying as regulatory capital (*recursos propios*) in accordance with the requirements of Spanish law and *Banco de España*, redemption at the option of the Issuer is subject to the prior consent of *Banco de España* and may not take place within a period of five years from their date of issue or from their date of disbursement if disbursement does not take place at issuance (unless otherwise permitted by Spanish legislation or regulation or requirements of any applicable regulatory authority).

**(e) Redemption at the Option of Noteholders and holders' Exercise of Noteholders Options**

(i) If Investor Put is specified in the applicable Final Terms, subject to paragraph (iii) below, the Issuer shall, at the option of the holder of any such Note, redeem such Note on the date or dates so provided at its Optional Redemption Amount (Put) together with interest accrued to the date fixed for redemption.

(ii) To exercise such option or any other option of a holder of Notes which may be set out hereon the holder must deposit such Note with any Paying Agent (in the case of Bearer Notes) or the Certificate representing such Note(s) with the Registrar or any Transfer Agent (in the case of Registered Notes) at its specified office, together with a duly completed option exercise notice ("**Exercise Notice**") in the form obtainable from any Paying Agent, the Registrar or any Transfer Agent (as applicable) within the Option Period of a holder of Notes (as specified in the relevant Final Terms). Such Exercise Notice must be deposited in accordance with the Notice period specified in the relevant Final Terms. Such Notice period shall not be less than 15 business days. No Note or Certificate so deposited and option exercised may be withdrawn (except as provided in the Fiscal Agency Agreement) without the prior consent of the Issuer.

**(f) Redemption by Instalments**

Unless previously redeemed, purchased and cancelled as provided in this Condition 7, each Note which provides for Instalment Dates and Instalment Amounts will be partially redeemed on each Instalment Date at the Instalment Amount specified on it, whereupon the outstanding principal amount of such Note shall be reduced by the Instalment Amount for all purposes.

**(g) Cancellation**

All Notes purchased by or on behalf of the Issuer, the Guarantor or any of the Guarantor's subsidiaries may be surrendered for cancellation, in the case of Bearer Notes, by surrendering each such Note together with all unmatured Receipts and Coupons and all unexchanged Talons to the Fiscal Agent and, in the case of Registered

Notes, by surrendering the Certificate representing such Notes to the Registrar and, in each case, if so surrendered, will, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with all unmatured Receipts and Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer and the Guarantor in respect of any such Notes shall be discharged.

## **8. Payments and Talons**

### **(a) Bearer Notes**

Payments of principal and interest in respect of Bearer Notes will, subject as mentioned below, be made against presentation and surrender of the relevant Receipts (in the case of payments of Instalment Amounts other than on the due date for redemption and provided that the Receipts are presented for payment together with its relative Note), Notes (in the case of all other payments of principal and, in the case of interest, as specified in Condition 8 (f)(vi)) or Coupons (in the case of interest, save as specified in Condition 8(f)(ii)), as the case may be, at the specified office of any Paying Agent outside the United States by a cheque payable in the currency in which such payment is due drawn on, or, at the option of the holder, by transfer to an account denominated in that currency with, a bank in the principal financial centre of that currency; and in the case of Euro, by cheque drawn on, or by transfer to, a Euro account to which Euro may be credited or transferred as specified by the payee.

### **(b) Registered Notes**

(i) Payments of principal (which for the purposes of this Condition 8(b) shall include final Instalment Amounts but not other Instalment Amounts) in respect of Registered Notes will be made against presentation and surrender of the relevant Certificates at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in paragraph (ii) below.

(ii) Interest (which for the purpose of this Condition 8(b) shall include all Instalment Amounts other than final Instalment Amounts) on Registered Notes will be paid to the person shown on the Register at the close of business on the fifteenth day before the due date for payment thereof (the “**Record Date**”). Payments of interest on each Registered Note will be made in the currency in which such payments are due by cheque drawn on a bank in the principal financial centre of the country of the currency concerned or, if the currency is Euro, in such financial centre or centres in the Euro-zone as designated by the Registrar and mailed to the holder (or to the first named of joint holders) of such Note at its address appearing in the Register maintained by the Registrar. Upon application by the holder to the specified office of the Registrar or any Transfer Agent before the Record Date and subject as provided in paragraph (a) above, such payment of interest may be made by transfer to an account in the relevant currency designated by the holder with a bank in the principal financial centre of the country of that currency or, if the currency is Euro, in such financial centre in the Euro-zone notified to the Registrar by such holder.

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

Notwithstanding the foregoing, if any Bearer Notes are denominated in U.S. dollars, payments in respect thereof may be made at the specified office of any Paying Agent in New York City in the same manner as aforesaid if (i) the Issuer shall have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment of the amounts on the Notes in the manner provided above when due, (ii) payment in full of such amounts at all such offices is illegal or effectively precluded by exchange controls or other similar restrictions on payment or receipt of such amounts and (iii) such payment is then permitted by United States law, without involving, in the opinion of the Issuer, any adverse tax consequence to the Issuer.

### **(d) Payments Subject to Law, etc**

All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives, but without prejudice to the provisions of Condition 8. No commission or expenses shall be charged to the holders of Notes or Couponholders in respect of such payments.

### **(e) Appointment of Agents**

The Fiscal Agent, the Paying Agents, the Registrar, Transfer Agents and the Calculation Agent initially appointed by the Issuer and their respective specified offices are listed below. The Fiscal Agent, the Paying Agents, the Registrar, Transfer Agents and the Calculation Agent act solely as agents of the Issuer and the Guarantor and do not assume any obligation or relationship of agency or trust for or with any holder. The Issuer and the Guarantor reserve the right at any time to vary or terminate the appointment of the Fiscal Agent, any other Paying Agent, the

Calculation Agent, the Registrar or any Transfer Agent and to appoint additional or other agents provided that the Issuer will at all times maintain (i) a Fiscal Agent, (ii) a Registrar in relation to Registered Notes, (iii) a Transfer Agent in relation to Registered Notes, (iv) a Calculation Agent where the Conditions so require one, (v) Paying Agents having a specified office in at least two major European cities, (vi) a Paying Agent in an EU Member State that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced to confirm to, such Directive and (vii) if and for so long as the Notes are admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system, such other agents as are required by such listing authority, stock exchange and/or quotation system.

In addition, the Issuer shall forthwith appoint a Paying Agent in New York in respect of any Notes denominated in U.S. dollars in the circumstances described in paragraph (c) above.

Notice of any such change or any change of any specified office will promptly be given to the holders of Notes in accordance with Condition 15.

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

(i) Unless the Notes provide that the relative Coupons are to become void upon the due date for redemption of those Notes, Bearer Notes should be surrendered for payment together with all unexpired Coupons (if any) appertaining thereto, failing which an amount equal to the face value of each missing unexpired Coupon (or, in the case of payment not being made in full, that proportion of the amount of such missing unexpired Coupon which the sum of principal so paid bears to the total principal due) will be deducted from the Redemption Amount due for payment. Any amount so deducted will be paid in the manner mentioned above against surrender of such missing Coupon within a period of 10 years from the Relevant Date for the payment of such principal (whether or not such Coupon has become void pursuant to Condition 10).

(ii) If the relevant Notes so provide, upon the due date for redemption of any Bearer Note, unexpired Coupons relating to such Note (whether or not attached) shall become void and no payment shall be made in respect of them.

(iii) Upon the due date for redemption of any Bearer Note, any unexchanged Talon relating to such Note (whether or not attached) shall become void and no Coupon shall be delivered in respect of such Talon.

(iv) Upon the due date for redemption of any Bearer Note which is redeemable in instalments, all Receipts relating to such Note having an Instalment Date failing on or after such due date (whether or not attached) shall become void and no payment shall be made in respect of them.

(v) Where any Bearer Note which provides that the relative Coupons are to become void upon the due date for redemption of those Notes is presented for redemption without all unexpired Coupons and any unexchanged Talon relating to it, and where any Bearer Note is presented for redemption without any unexchanged Talon relating to it, redemption shall be made only against the provisions of such indemnity as the Issuer may require.

(vi) If the due date for redemption of any Note is not a due date for payment of interest, interest accrued from the preceding due date for payment of interest or the Interest Commencement Date, as the case may be, shall only be payable against presentation (and surrender if appropriate) of the relevant Bearer Note or Certificate representing it, as the case may be. Interest accrued on a Note which only bears interest after its Maturity Date shall be payable on redemption of such Note against presentation of the relevant Note or Certificate representing it, as the case may be.

**(g) Talons**

On or after the Interest Payment Date for the final Coupon forming part of a Coupon sheet issued in respect of any Bearer Note, the Talon forming part of such Coupon sheet may be surrendered at the specified office of the Fiscal Agent in exchange for a further Coupon sheet (and if necessary another Talon for a further Coupon sheet) (but excluding any Coupons which may have become void pursuant to Condition 10).

**(h) Non-Business Days**

If any date for payment in respect of any Note, Receipt or Coupon is not a Payment Business Day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment.

## 9. Taxation

All payments of principal and interest in respect of the Notes, the Receipts and the Coupons by the Issuer or (as the case may be) the Guarantor under the Deed of Guarantee will be made 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 authority 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 Guarantor will pay such additional amounts as may be necessary in order that the net amounts received by the holders and the Couponholders after such withholding or deduction shall equal the respective amounts of principal and interest which would have been received in respect of the Notes, Receipts or (as the case may be) Coupons, in the absence of such withholding or deduction; except that no additional amounts shall be payable with respect to any payment in respect of any Note, Receipt or Coupon or (as the case may be) under the Deed of Guarantee:

- (i) to, or to a third party on behalf of, a holder who is subject to such taxes, duties, assessments or governmental charges in respect of such Note or Coupon by reason of his having some connection with the Kingdom of Spain otherwise than merely by holding the Note, Receipt or Coupon;
- (ii) to, or to a third party on behalf of, a holder in respect of whom the Issuer or the Guarantor does not receive such full details concerning the Notes as it requires in order to comply with Spanish tax reporting obligation; or
- (iii) presented for payment more than 30 days after the Relevant Date except to the extent that the holder thereof would have been entitled to such additional amount on presenting the same for payment on the thirtieth such day;
- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (v) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note or Coupon to another Paying Agent in a Member State of the European Union;
- (vi) to, or to a third party on behalf of, a Spanish-resident corporate entity if the Spanish tax authorities determine that the Notes do not comply with exemption requirements specified in the Reply to Consultation of the General Directorate for Taxation (*Dirección General de Tributos*) dated 27 July 2004 and require a withholding to be made.

*As used in these Conditions, “Relevant Date” in respect of any Note, Receipt or Coupon means the date on which payment in respect thereof first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date on which notice is duly given to the Noteholders in accordance with Condition 15 that, upon further presentation of the Note, Receipt or Coupon being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation. References in these Conditions to (i) “principal” shall be deemed to include any premium payable in respect of the Notes, all Instalment Amounts, Redemption Amounts, Amortised Face Amounts and all other amounts in the nature of principal payable pursuant to Condition 7 or any amendment or supplement to it, (ii) “interest” shall be deemed to include all Interest Amounts and all other amounts payable pursuant to Condition 6 or any amendment or supplement to it and (iii) “principal” and/or “interest” shall be deemed to include any additional amounts which may be payable under this Condition. See “Taxation — Disclosure of Noteholder Information in connection with Interest Payments” for a fuller description of certain tax considerations (particularly in relation to Noteholders which are resident in Spain) relating to the Notes.*

## 10. Prescription

Claims against the Issuer and the Guarantor for payment in respect of the Notes, Receipts and Coupons (which, for this purpose shall not include Talons) shall be prescribed and become void unless made within ten years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect thereof.

## 11. Events of Default

If any of the following events (each an “Event of Default”) occurs and is continuing, the Commissioner, acting upon a resolution of the Syndicate of Holders of the Notes or any Holder of a Note of any Series (provided such holders does not contravene any resolution of the Syndicate) may give written notice to the Issuer and the

Guarantor that the Notes of such Series or of such Holder, as the case may be, are immediately repayable, whereupon the Redemption Amount of such Notes together with accrued interest to the date of payment shall (when permitted by applicable Spanish law) become immediately due and payable (provided however, that paragraphs (a) and (c) below and any other paragraph below specified in the applicable Final Terms shall not constitute an Event of Default in relation to Subordinated Notes):

- (a) *Non-Payment:* default is made for more than 14 days (in the case of interest) or 7 days (in the case of principal) in the payment on the due date of interest or principal in respect of any of the Notes; or
- (b) *Breach of Other Obligations:* the Issuer or the Guarantor does not perform or comply with any one or more of its other obligations under or in respect of the Notes, the Agency Agreement or the Deed of Guarantee which default is incapable of remedy or is not remedied within 30 days after notice of such default shall have been given to the Fiscal Agent at its specified office by any Noteholder; or
- (c) *Cross-Default:* (i) any Indebtedness of the Issuer or the Guarantor or any of the Guarantor's Subsidiaries becomes (or becomes capable of being declared) due and payable prior to its stated maturity otherwise than at the option of the Issuer or, as the case may be, the Guarantor, or (ii) any Indebtedness is not paid when due or, as the case may be, within any applicable grace period, or (iii) the Issuer or the Guarantor or any of the Guarantor's Subsidiaries fails to pay when due any amount payable by it under any present or future guarantee for, or indemnity in respect of, any Indebtedness provided that the aggregate amount of the Indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this paragraph (c) have occurred equals or exceeds Euro 30,000,000 or its equivalent in other currencies; or
- (d) *Enforcement Proceedings:* a distress, attachment, execution or other legal process which is material in the context of the issue and offering of the Notes is levied, enforced or sued out on or against any part of the property, assets or revenues of the Issuer or the Guarantor or any of the Guarantor's Subsidiaries and is not discharged or stayed within 90 days; or
- (e) *Security Enforced:* any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or the Guarantor or any of the Guarantor's Subsidiaries which is material in the context of the issue and offering of the Notes becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, manager or other similar person); or
- (f) *Insolvency etc.:* (a) the Issuer or the Guarantor or any of the Guarantor's Subsidiaries becomes insolvent or is unable to pay its debts as they fall due or (b) an administrator, liquidator or a similar officer under applicable (insolvency) law of the Issuer or the Guarantor or any of the Guarantor's Subsidiaries or the whole or any part of the undertaking, assets and revenues of the Issuer or the Guarantor or any of the Guarantor's Subsidiaries is appointed (or application for any such appointment is made); or
- (g) *Readjustment:* the Issuer or the Guarantor or any of the Guarantor's Subsidiaries takes any action for a readjustment or deferment of any of its obligations or makes a general assignment or an arrangement or composition with or for the benefit of its creditors or declares a moratorium in respect of any of its indebtedness or any guarantee given by it; or
- (h) *Cessation of Business:* the Issuer or the Guarantor or any of the Guarantor's Subsidiaries ceases or threatens to cease to carry on all or any substantial part of its business; or
- (i) *Application of Priorities:* any other proceeding is commenced which requires the application of priorities provided by applicable Spanish law; or
- (j) *Winding-up:* an order is made or an effective resolution passed for the winding-up or dissolution or administration of the Issuer or the Guarantor or any of the Guarantor's Subsidiaries, or the Issuer or the Guarantor or any of the Guarantor's Subsidiaries shall cease or through an official action of its board of directors threaten to cease to carry on all or a substantial part of its business or operations, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) on terms approved by an Extraordinary Resolution of the Noteholders or (ii) in the case of a Subsidiary, whereby the undertaking and assets of the Subsidiary are transferred to or otherwise vested in the Issuer or the Guarantor (as the case may be) or another of the Guarantor's Subsidiaries; or
- (k) *Ownership:* the Issuer ceases to be wholly-owned and controlled by the Guarantor; or

- (l) *Authorisation and Consents*: any action, condition or thing (including the obtaining or effecting of any necessary consent, approval, authorisation, exemption, filing, licence, order, recording or registration) at any time required to be taken, fulfilled or done in order (i) to enable the Issuer and the Guarantor lawfully to enter into, exercise their respective rights and perform and comply with their respective obligations under the Notes and the Deed of Guarantee, (ii) to ensure that those obligations are legally binding and enforceable and (iii) to make the Notes and the Deed of Guarantee admissible in evidence in the courts of the Kingdom of Spain is not taken, fulfilled or done and such failure remains unremedied 15 days after written notice to the Issuer and the Guarantor; or
- (m) *Illegality*: it is or will become unlawful for the Issuer or the Guarantor to perform or comply with any one or more of its obligations under any of the Notes or the Deed of Guarantee; or
- (n) *Analogous Events*: any event occurs which under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in any of the foregoing paragraphs including, but not limited to, *concurso* as defined in Law 22/2003; or
- (o) *Guarantee*: the Guarantee of the Notes is not (or is claimed by the Guarantor not to be) in full force and effect; or
- (p) *Nationalisation*: any step is taken by any person with a view to the seizure, compulsory acquisition, expropriation or nationalisation of all or a material part of the Guarantor or any of its Subsidiaries.

## 12. Syndicate of Noteholders and Modification of Fiscal Agency Agreement

### (a) Syndicate of Noteholders

The holders of the Notes of the relevant Series shall meet in accordance with the regulations governing the relevant Syndicate of Noteholders (the “**Regulations**”). The Regulations shall contain the rules governing the functioning of each Syndicate of Noteholders and its relationship with the Issuer and shall be attached to the relevant Public Deed of Issuance. A set of pro forma Regulations is contained in the Fiscal Agency Agreement.

A temporary Commissioner will be appointed for each Syndicate of Noteholders. Upon the subscription of the Notes, the temporary Commissioner will call a general meeting of the Syndicate of Noteholders to ratify or reject the acts of the temporary Commissioner, confirm its appointment or appoint a substitute Commissioner and to ratify the Regulations.

### (b) Modification of Fiscal Agency Agreement

The Issuer and the Guarantor shall only permit any modification of, or any waiver or authorisation of any breach or proposed breach of or any failure to comply with, the Fiscal Agency Agreement, if to do so could not reasonably be expected to be prejudicial to the interests of the holders of Notes.

Provisions for meetings of the Syndicate of Noteholders will be contained in the Regulations and the Agency Agreement (which shall have effect as if incorporated herein).

The Issuer may, with the consent of the Issuer and Paying Agent and the relevant Commissioner, but without the consent of the holders of the Notes of any Series or Coupons, amend these Terms and Conditions and the Deed of Covenant insofar as they may apply to such Notes to correct a manifest error. Subject as aforesaid, no other modification may be made to, or waiver of any breach or proposed breach of, these Terms and Conditions or the Deed of Covenant except with the sanction of a resolution of the relevant Syndicate of Noteholders.

For the purposes of these Terms and Conditions,

(i) “**Commissioner**” means the Commissioner (*comisario*) as this term is defined under the Consolidated Text of Law on Limited Liability Companies 1/2010 dated 2 July (*Texto Refundido de la Ley de Sociedades de Capital*) (the “**Spanish Companies Law**”), of each Syndicate of Noteholders; and

(ii) “**Syndicate**” means the syndicate (*sindicato*) as this term is described under Spanish Companies Law.

## 13. Replacement of Notes, Certificates, Receipts, Coupons and Talons

If a Note, Certificate, Receipt, Coupon or Talon is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws and listing authority, stock exchange and/or quotation system requirements, at the specified office of the Fiscal Agent (in the case of the Bearer Notes, Receipts, Coupons or Talons) and the Registrar (in the case of Certificates) or such other Paying Agent or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to holders in accordance with Condition 15, in each case on payment by the claimant of the fees and costs incurred in connection

therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Note, Certificate, Receipt, Coupon or Talon is subsequently presented for payment or, as the case may be, for exchange for further Coupons, there will be paid to the Issuer on demand the amount payable by the Issuer in respect of such Notes, Certificates, Receipts, Coupons or further Coupons) and otherwise as the Issuer may require. Mutilated or defaced Notes, Certificates, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

#### 14. Further Issues

The Issuer may from time to time without the consent of the holders of Notes or Couponholders create and issue further notes having the same terms and conditions as the Notes and so that the same shall be consolidated and form a single series with such Notes, and references in these Conditions to “Notes” shall be construed accordingly.

#### 15. Notices

Notices to the holders of Registered Notes will be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing. With respect to Registered Notes listed on the Irish Stock Exchange, any notices to holders must also be published in a daily newspaper of general circulation in Dublin (which is expected to be the *Financial Times*) and, in addition to the foregoing, will be deemed validly given only after the date of such publication.

Notices to the holders of Bearer Notes will be valid if published in a daily newspaper of general circulation in London (which is expected to be the *Financial Times*) and in the case of any Notes which are listed on the Irish Stock Exchange, (so long as such Notes are listed on the Irish Stock Exchange and the rules of that exchange so require), in a leading newspaper having general circulation in Dublin (which is expected to be the *Financial Times*). If any such publication is not practicable, notice will be validly given if published in another leading daily English language newspaper of general circulation in Europe. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the date of the first publication as provided above.

Couponholders shall be deemed for all purposes to have notice of the contents of any notice to the holders of Bearer Notes in accordance with this Condition.

Copies of any notice given to any Noteholders will be also given to the Commissioner of the Syndicate of Noteholders of the relevant Series.

#### 16. Substitution of the Issuer

(a) The Issuer and the Guarantor may at any time, without the consent of the holders or the Couponholders (but, in the case of Subordinated Notes, subject to the prior consent of Banco de España), substitute for such Issuer any company (the “**Substitute**”) upon notice to the holders by such Issuer, the Guarantor and the Substitute to be given in accordance with Condition 15, provided that:

- (i) no payment in respect of the Notes, the Receipts or the Coupons or the Deed of Guarantee (as the case may be) is at the relevant time overdue;
- (ii) the Substitute shall, by means of a deed poll in the form scheduled to the Fiscal Agency Agreement as Schedule 4 (the “**Deed Poll**”), agree to indemnify each holder and Couponholder against any tax, duty, assessment or governmental charge which is imposed on it by (or by any authority in or of) the jurisdiction of the country of the Substitute’s residence for tax purposes and, if different, of its incorporation with respect to any Note, Receipt, Coupon, Talon or the Deed of Covenant and which would not have been so imposed had the substitution not been made, as well as against any tax, duty, assessment or governmental charge, and any cost or expense, relating to the substitution;
- (iii) where the Substitute is not the Guarantor, the obligations of the Substitute under the Deed Poll, the Notes, Receipts, Coupons, Talons and Deed of Covenant shall be unconditionally and irrevocably guaranteed by the Guarantor by means of the Deed Poll;
- (iv) all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) to ensure that the Deed Poll, the Notes, Receipts, Coupons, Talons and Deed of Covenant represent valid, legally binding and enforceable obligations of the Substitute and in the case of the Deed Poll of the Guarantor have been taken, fulfilled and done and are in full force and effect;



- (v) the Substitute shall have become party to the Fiscal Agency Agreement, with any appropriate consequential amendments, as if it had been an original party to it;
- (vi) legal opinions shall have been delivered to the Fiscal Agent from lawyers of recognised standing in each jurisdiction referred to in (ii) above, in Spain and in England as to the fulfilment of the requirements of this Condition 16 and the other matters specified in the Deed Poll and that the Notes, Receipts, Coupons and Talons are legal, valid and binding obligations of the Substitute;
- (vii) each listing authority, stock exchange and/or quotation system by which the Notes are admitted to listing, trading and/or quotation shall have confirmed that, following the proposed substitution of the Substitute, the Notes will continue to be admitted to listing, trading and/or quotation by such listing authority, stock exchange and/or quotation system;
- (viii) Standard & Poor's and/or Moody's as the case may be, shall have confirmed that following the proposed substitution of the Substitute, the credit rating of the Notes will not be adversely affected; and
- (ix) if applicable, the Substitute has appointed a process agent as its agent in England to receive service of process on its behalf in relation to any legal proceedings arising out of or in connection with the Notes.

(b) Upon the execution of the Deed Poll and the delivery of the legal opinions, the Substitute shall succeed to, and be substituted for, and may exercise every right and power, of the Issuer under the Notes and the Fiscal Agency Agreement with the same effect as if the Substitute had been named as the Issuer herein, and the Issuer shall be released from its obligations under the Notes and under the Fiscal Agency Agreement.

(c) After a substitution pursuant to Condition 16(a), the Substitute may, without the consent of any holder, effect a further substitution. All the provisions specified in Condition 16(a) and 16(b) shall apply *mutatis mutandis*, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further Substitute.

(d) After a substitution pursuant to Condition 16(a) or 16(c) any Substitute may, without the consent of any holder, reverse the substitution, *mutatis mutandis*.

(e) The Deed Poll and all documents relating to the substitution shall be delivered to, and kept by, the Fiscal Agent. Copies of such documents will be available free of charge at the specified office of each of the Paying Agents.

## **17. Currency Indemnity**

Any amount received or recovered in a currency other than the currency in which payment under the relevant Note, Coupon or Receipt is due (whether as a result of, or of the enforcement of, a judgement or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or the Guarantor or otherwise) by any holder of Notes or Couponholder in respect of any sum expressed to be due to it from the Issuer or the Guarantor shall only constitute a discharge to the Issuer or the Guarantor, as the case may be, to the extent of the amount in the currency of payment under the relevant Note, Coupon or Receipt which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If the amount received or recovered is less than the amount expressed to be due to the recipient under any Note, Coupon or Receipt, the Issuer, failing whom the Guarantor, shall indemnify it against any loss sustained by it as a result. In any event, the Issuer, failing whom the Guarantor, shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Condition, it will be sufficient for the holder of Notes or Couponholder, as the case may be, to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from the Issuer's and the Guarantor's other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any holder of Notes or Couponholder and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Note, Coupon or Receipt of any other judgment or order.

## **18. Redenomination, Renominalisation and Reconventioning**

(a) *Application:* This Condition 18 (*Redenomination, Renominalisation and Reconventioning*) is applicable to the Notes only if it is specified in the relevant Final Terms as being applicable.

(b) *Notice of redenomination:* If the country of the Relevant Currency becomes or, announces its intention to become a Participating Member State the Issuer may, without the consent of the Noteholders and the Couponholders, on giving at least 30 days' prior notice to the Noteholders and the Paying Agents, designate a date

(the “**Redenomination Date**”), being an Interest Payment Date under the Notes falling on or after the date on which such country becomes a Participating Member State.

(c) *Redenomination*: Notwithstanding the other provisions of these Conditions, with effect from the Redenomination Date:

- (i) the Notes shall be deemed to be redenominated into Euro in the denomination of Euro 0.01 with a principal amount for each Note equal to the principal amount of that Note in the Relevant Currency, converted into Euro at the rate for conversion of such currency into Euro established by the Council of the European Union pursuant to the Treaty (including compliance with rules relating to rounding in accordance with European Union regulations); provided however, that, if the Issuer determines, with the agreement of the Fiscal Agent then market practice in respect of the redenomination into Euro 0.01 of internationally offered securities is different from that specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders and Couponholders, each listing authority, stock exchange and/or quotation system (if any) by which the Notes have then been admitted to listing, trading and/or quotation and the Paying Agents of such deemed amendments;
- (ii) if Notes have been issued in definitive form:
  - (A) all unmatured Coupons denominated in the Relevant Currency (whether or not attached to the Notes) will become void with effect from the date (the “**Euro Exchange Date**”) on which the Issuer gives notice (the “**Euro Exchange Notice**”) to the Noteholders that replacement Notes and Coupons denominated in Euro are available for exchange (provided that such Notes and Coupons are available) and no payments will be made in respect thereof;
  - (B) the payment obligations contained in all Notes denominated in the Relevant Currency will become void on the Euro Exchange Date but all other obligations of the Issuer thereunder (including the obligation to exchange such Notes in accordance with this Condition 18) shall remain in full force and effect; and
  - (C) new Notes and Coupons denominated in Euro will be issued in exchange for Notes and Coupons denominated in the Relevant Currency in such manner as the Fiscal Agent may specify and as shall be notified to the Noteholders in the Euro Exchange Notice; and
- (iii) all payments in respect of the Notes (other than, unless the Redenomination Date is on or after such date as the Relevant Currency ceases to be a sub-division of the Euro, payments of interest in respect of periods commencing before the Redenomination Date) will be made solely in Euro by cheque drawn on, or by credit or transfer to a Euro account (or any other account to which Euro may be credited or transferred) maintained by the payee with, a bank in the principal financial centre of any Member State of the European Communities.

(d) *Interest*: Following redenomination of the Notes pursuant to this Condition 18, where Notes have been issued in definitive form, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of the Notes presented (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder.

(e) *Interest Determination Date*: If the Floating Rate Note Provisions are specified in the relevant Final Terms as being applicable and Screen Rate Determination is specified in the relevant Final Terms as the manner in which the Interest Rate(s) is/are to be determined, with effect from the Redenomination Date the Interest Determination Date shall be deemed to be the second TARGET2 Settlement Day before the first day of the relevant Interest Period.

## 19. Governing Law and Jurisdiction

### (a) Governing law

The issue of the Notes, including their legal nature (*obligaciones*) and status, the capacity of the Issuer, the relevant corporate resolutions, the appointment of the Commissioner and the constitution of the Syndicate of Noteholders (including a dispute relating to any non-contractual obligations arising out of or in connection with them) are and shall be governed by Spanish law. Save as mentioned above, the Notes, Receipts, Coupons and Talons and all matters arising from or connected with the Notes, Receipts, Coupons and Talons (including a dispute relating to any non-contractual obligations arising out of or in connection with them) are governed by, and shall be construed

in accordance with, English law except for the status of the payment obligations under the Deed of Guarantee, including any non-contractual obligations arising out of or in connection with it, which are governed by, and shall be construed in accordance with, Spanish law.

**(b) English courts**

The courts of England have exclusive jurisdiction to settle any dispute arising from or connected with the Notes, Receipts, Coupons and/or Talons (including a dispute relating to any non-contractual obligations arising out of or in connection with them) (a “**Dispute**”).

**(c) Appropriate forum**

Each of the Issuer and the Guarantor agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that it will not argue to the contrary.

**(d) Rights of the holders of the Notes to take proceedings outside England**

Condition 19(b) (English courts) is for the benefit of the holders of the Notes, Receipts, Coupons and/or Talons only. As a result, nothing in this Condition 19 (Governing law and jurisdiction) prevents any holder of a Note, Receipt, Coupon or Talon from taking proceedings relating to a Dispute (“**Proceedings**”) in any other courts with jurisdiction. To the extent allowed by law, holders of Notes, Coupons, Receipts and/or Talons may take concurrent Proceedings in any number of jurisdictions.

**(e) Process agent**

Each of the Issuer and the Guarantor agrees that the documents which start any Proceedings and any other documents required to be served in relation to those Proceedings may be served on it by being delivered to Law Debenture Corporate Services Ltd., Fifth Floor 100 Wood Street, London, EC2V 7EX or, if different, its registered office for the time being or at any address of the Issuer or Guarantor, as the case may be, in Great Britain at which process may be served on it in accordance with the Companies Act 2006. If such person is not or ceases to be effectively appointed to accept service of process on behalf of the Issuers or the Guarantor, as the case may be, the Issuer and the Guarantor (acting together) shall, on the written demand of any holder of Notes addressed and delivered to the Issuer and the Guarantor or to the Specified Office of the Fiscal Agent appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, any holder of Notes shall be entitled to appoint such a person by written notice addressed to the Issuer and Guarantor and delivered to the Issuer and Guarantor or to the Specified Office of the Fiscal Agent. Nothing in this paragraph shall affect the right of any holder of Notes to serve process in any other manner permitted by law. This Condition applies to Proceedings in England and to Proceedings elsewhere.

**20. Rights of Third Parties**

No person shall have any right to enforce any term or condition of any Note under the Contracts (Rights of Third Parties) Act 1999.

## PRO FORMA FINAL TERMS

*The Final Terms in respect of each Tranche of Notes will be substantially in the following form, duly supplemented (if necessary), amended (if necessary) and completed to reflect the particular terms of the relevant Notes and their issue. Text in this section appearing in italics does not form part of the form of the Final Terms but denotes directions for completing the Final Terms.*

Final Terms dated [            ]

**BPE Financiaciones, S.A.**

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

**Guaranteed by**

**BANCO POPULAR ESPAÑOL, S.A.**

**under the**

**€5,000,000,000 Euro Medium Term Note Programme**

### **PART A — CONTRACTUAL TERMS**

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Base Prospectus dated 29 December 2011 [and the supplemental Prospectus dated *[insert date]*] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the **Prospectus Directive**). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with such Base Prospectus [as so supplemented]. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus. [The Base Prospectus [and the supplemental Prospectus] [is] [are] available for viewing at [address] [and] [website] and copies may be obtained from [address].

*The following alternative language applies if the first tranche of an issue which is being increased was issued under a Prospectus with an earlier date.*

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions (the **Conditions**) set forth in the Base Prospectus dated 29 December 2011 [and the supplemental prospectus dated *[insert date]*]. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the **Prospectus Directive**) and must be read in conjunction with the Base Prospectus dated 29 December 2011 [and the supplemental Prospectus dated *[insert date]*], which [together] constitute[s] a Base Prospectus for the purposes of the Prospectus Directive, save in respect of the Conditions which are extracted from the Base Prospectus dated 29 December 2011 [and the supplemental prospectus dated *[insert date]*] and are attached hereto. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus dated 29 December 2011 [and the supplemental Prospectus dated *[insert date]*]. [The Base Prospectus [and the supplemental Prospectus] are available for viewing at [address] [and] [website] and copies may be obtained from [address].]

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

*[When completing [any] final terms, or adding any other final terms or information, consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.]*

- |    |                        |                             |
|----|------------------------|-----------------------------|
| 1. | (i) Issuer:            | BPE Financiaciones, S.A.    |
|    | (ii) Guarantor:        | Banco Popular Español, S.A. |
| 2. | [(i)] Series Number:   | [            ]              |
|    | [[ii)] Tranche Number: | [            ]              |

*(If fungible with existing Series, details of that Series, including the date on which the Notes became fungible).]*

- |    |                                   |                |
|----|-----------------------------------|----------------|
| 3. | Specified Currency or Currencies: | [            ] |
|----|-----------------------------------|----------------|

4. Aggregate Nominal Amount of Notes:
- [(i)] Series: [            ]
- [[ii)] Tranche: [            ]
5. Issue Price: [            ] per cent. of the Aggregate Nominal Amount [plus accrued interest from [*insert date*] (*in the case of fungible issues only, if applicable*)]
6. (i) Specified Denominations: [            ]  
*No Notes may be issued which have a minimum denomination of less than €100,000 (or nearly equivalent in another currency)*
- (ii) Calculation Amount: [            ]
7. [(i)] Issue Date: [            ]
- [(ii)] Interest Commencement Date: [*Specify/Issue Date/Not Applicable*]
8. Maturity Date: [*specify date or (for Floating Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year*]
9. Interest Basis: [[            ] per cent. Fixed Rate]  
[[*specify reference rate*]+/- [            ] Floating Rate]  
[Index Linked Interest]  
[Other (*specify*)]  
(Further particulars specified below)
10. Redemption/Payment basis: [Redemption at par]  
[Index Linked Redemption]  
[Dual Currency]  
[Partly Paid]  
[Instalment]  
[Other (*specify*)]
11. Change of Interest or Redemption/Payment Basis: [*Specify details of any provision for convertibility of Notes into another interest or redemption/payment basis*]
12. Put/Call Options: [Investor Put]  
[Issuer Call]  
[(further particulars specified below)]
13. [(i)] Status of the Notes: [Senior/Subordinated]. Condition [4(a)/4(c)] applies.
- [(ii)] Status of the Guarantee: [Senior/Subordinated]
- [(iii)] [Date Board] approval for issuance of Notes [and Guarantee] obtained: [            ] and [            ] respectively]]  
(*N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of the Notes or related Guarantee*)
14. Method of distribution: [Syndicated/Non-syndicated]

## PROVISIONS RELATING TO INTEREST PAYABLE

### 15. Fixed Rate Note Provisions

- [Applicable/Not Applicable]  
(if not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Rate[(s)] of Interest: [ ] per cent. per annum [payable [annually/semi-annually/quarterly/monthly] in arrear]
- (ii) Interest Payment Date(s): [ ] in each year [adjusted in accordance with [specify Business Day Convention and any applicable Business Day Jurisdictions for Condition 8(h)]]/[not adjusted]
- (iii) Fixed Coupon Amount[(s)]: [ ] [per Note of [ ] Specified Denomination and per Note of [ ] Specified Denomination]
- (iv) Day Count Fraction: [30/360]/[Actual/Actual (ICMA)/ISDA]/[If neither of these options applies, give details]
- (v) Broken Amount(s): [Insert particulars of any initial or final broken interest amounts which do not correspond with the Fixed Coupon Amount[(s)]]
- (vi) Other terms relating to the method of calculating interest for Fixed Rate Notes (e.g. day count fractions): [Not Applicable/give details]  
[Actual/Actual — ICMA or 30/360 or specify other]

### 16. Floating Rate Note Provisions

- [Applicable/Not Applicable] (if not applicable, delete the remaining sub-paragraphs of this paragraph)
- (i) Interest Period(s): [ ]
- (ii) Specified Interest Payment Dates: [ ]
- (iii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (iv) Manner in which the Rate(s) of Interest is/are to be determined: [Screen Rate Determination/ISDA Determination other (give details)]
- (v) Calculation Agent: [ ]
- (vi) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Calculation Agent): [ ]
- (vii) Screen Rate Determination:  
— Reference Rate: [For example, LIBOR or EURIBOR]  
[ ]  
— Reference Banks: [ ]  
— Relevant Time: [For example, 11.00 a.m. London time/Brussels time]  
— Relevant Screen Page: [For example, Reuters LIBOR 01/EURIBOR 01]  
[ ]  
— Interest Determination Date(s): [ ]  
— Relevant Financial Centre: [For example, London/Euro-zone (where Euro-zone means the region comprised of the countries whose lawful currency is the Euro)]

(viii) ISDA Determination:	
— Floating Rate Option:	[            ]
— Designated Maturity:	[            ]
— Reset Date:	[            ]
(ix) Margin(s):	[+/-] [            ] per cent., per annum
(x) Minimum Rate of Interest:	[            ] per cent. per annum
(xi) Maximum Rate of Interest:	[            ] per cent. per annum
(xii) Day Count Fraction:	[            ]
(xiii) Fall back provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions:	[            ]
<b>17. Variable Coupon Amount Provisions</b>	[Applicable/Not Applicable] <i>(if not applicable, delete the remaining subparagraphs of this paragraph)</i>
(i) Equity/Index/Formula:	[give or annex details]
(ii) Calculation Agent responsible for calculating the interest due:	[            ]
(iii) Provisions for determining Coupon where calculation by reference to Equity and/or Index and/or Formula:	[            ]
(iv) Provisions for determining Coupon where calculation by reference to Equity and/or Index and/or Formula is impossible or impracticable or otherwise disrupted:	[            ]
(v) Interest Payment Dates/Interest Period Dates:	[            ]
(vi) Specified Period(s):	[            ]
(vii) Business Day Convention:	[Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/ other <i>(give details)</i> ]
(viii) Minimum Rate of Interest:	[            ] per cent. per annum
(ix) Maximum Rate of Interest:	[            ] per cent. per annum
(x) Day Count Fraction:	[            ]
<b>18. Dual Currency Note Provisions</b>	[Applicable/Not Applicable] <i>(if not applicable, delete the remaining subparagraphs of this paragraph)</i>
(i) Rate of Exchange/method of calculating Rate of Exchange:	[give details]
(ii) Calculation Agent, if any, responsible for calculating the principal and/or interest due:	[            ]
(iii) Provisions applicable where calculation by reference to Rate of Exchange impossible or impracticable:	[            ]
(iv) Person at whose option Specified Currency(ies) is/are payable:	[            ]

**PROVISIONS RELATING TO REDEMPTION**

19. **Call Option** [Applicable/Not Applicable]  
*(if not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
  - (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] specified denomination
  - (iii) If redeemable in part:
    - (a) Minimum Redemption Amount: [ ]
    - (b) Maximum Redemption Amount: [ ]
  - (iv) Notice period [ ]

20. **Put Option** [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
  - (ii) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s): [ ]
  - (iii) Notice period: [ ]

21. **Final Redemption Amount:** [[ ]per Note of specified denomination/other/see Appendix]

In cases where the Final Redemption Amount is Index-Linked or other variable-linked:

- (i) Equity/Index/Formula/variable: [give or annex details]
- (ii) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (iii) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (iv) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (v) Minimum Final Redemption Amount: [ ]
- (vi) Maximum Final Redemption Amount: [ ]

22. **Early Redemption Amount** [Not Applicable *(if both the Early Redemption Amount (Tax) and the Early Termination Amount are the principal amount of the Notes/specify the Early Redemption Amount (Tax) and/or the Early Termination Amount if different from the principal amount of the Notes)*]  
 Early Redemption Amount(s) payable on redemption for taxation reasons or on event of default and/or the method of calculating the same (if required or if different from that set out in the Conditions):



## GENERAL PROVISIONS APPLICABLE TO THE NOTES

23. **Form of Notes:** Bearer Notes: [Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes on [ ] days' notice/at any time/in the limited circumstances specified in the Permanent Global Note.] [Temporary Global Note exchangeable for Definitive Notes on [ ] days' notice.] [Permanent Global Note exchangeable for Definitive Notes on [ ] days' notice/at any time/in the limited circumstances specified in the Permanent Global Note.] [Registered Notes]
24. Business Day Jurisdictions for Condition 8(h) or other special provisions relating to Payment Dates: [Not Applicable/give details. Note that this item relates to the date and place of payment, and not interest period end dates, to which items 15(ii), 16(ii) and 19(vii) relate]
25. **New Global Note Form:** [Applicable/Not Applicable]
26. Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature): [Yes/No. If yes, give details]
27. Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment: [Not Applicable/give details]
28. Details relating to Instalment Notes: amount of each instalment ("Instalment Amount"), date on which each payment is to be made ("Instalment Date"): [Not Applicable/give details]
29. Redenomination, renominatisation and reconventioning provisions: [Not Applicable/The provisions [in Condition 18 (Redenomination, Renominatisation and Reconventioning)] [annexed to these Final Terms] apply]
30. Other terms or special conditions: [Not Applicable/give details]  
(When adding any other final terms consideration should be given as to whether such terms constitute "significant new factors" and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)  
(If Subordinated Notes, consider appropriate amendments to comply with regulatory capital regime, including disapplication of Events of Default)
31. Temporary Commissioner: [ ]

**DISTRIBUTION**

- 32. (i) If syndicated, names [and addresses] of Managers [and underwriting commitments]: [Not Applicable/give names, *[addresses and underwriting commitments]*]  
 [(Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers)]
- (ii) Stabilising Manager (if any): [Not Applicable/give names]
- (iii) Date of [Subscription] Agreement: [ ]
- 33. If non-syndicated, name and address of Dealer: [Not Applicable/give name and address]
- 34. [Total commission and concession:] [[ ] per cent. of the Aggregate Nominal Amount]
- 35. U.S. Selling Restrictions: [Reg. S Compliance Category [1/2]; TEFRA C/TEFRA D/TEFRA not applicable]
- 36. Additional selling restrictions: [Not Applicable/give details]

**[LISTING AND ADMISSION TO TRADING APPLICATION]**

These Final Terms comprise the final terms required to list and have admitted to trading the issue of Notes described herein pursuant to the €5,000,000,000 Euro Medium Term Note Programme of BPE Financiaciones, S.A.

**RESPONSIBILITY**

The Issuer [and the Guarantor] accept[s] responsibility for the information contained in these Final Terms. [ ] has been extracted from [ ]. [Each of the] [The] Issuer [and the Guarantor] confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by [ ], no facts have been omitted which would render the reproduced inaccurate or misleading.]

Signed on behalf of the Issuer:	Signed on behalf of the Guarantor:
By: _____	By: _____
Duly authorised	Duly authorised

## PART B — OTHER INFORMATION

### 1. LISTING

- (i) Listing: [Ireland/London/Luxembourg/other (*specify*)]
- (ii) Admission to trading: [Application has been made for the Notes to be admitted to trading on [            ]]
- [*(Where documenting a fungible issue need to indicate that original securities are already admitted to trading.)*]

### 2. RATINGS

- Ratings: The Notes to be issued have been rated:
- [S&P: [            ]]
- [Moody's: [            ]]
- [Fitch: [            ]]
- [DBRS: [            ]]
- [[Other]: [            ]]
- [The Notes have been rated [rating] by [S&P][./and][Moody's][./and][Fitch][./and][DBRS] [./and][other]. [This credit rating has/These credit ratings have] been issued by [full name of legal entity which has given the rating] which [is/are] established in the European Union and [is/are] registered under Regulation (EU) No. 1060/2009 (as amended) of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.]/[[has/have] applied for registration under Regulation (EU) No. 1060/2009 (as amended) although notification of the corresponding registration decision has not yet been provided by the competent authority.]
- [*Need to include a brief explanation of the meaning of the ratings if this has previously been published by the rating provider.*]
- [*(The above disclosure should reflect the rating allocated to the issue of Notes.)*]

### 3. [NOTIFICATION]

The [*include name of competent authority in EEA home Member State*] [has been requested to provide/has provided — include first alternative for an issue which is contemporaneous with the establishment or update of the Programme and the second alternative for subsequent issues] the [*include names of competent authorities of host Member States*] with a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with the Prospectus Directive.]

### 4. [INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE [ISSUE/OFFER]]

Need to include a description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest. May be satisfied by the inclusion of the following statement:

“Save as discussed in [“Plan of Distribution”] and “General Information”, so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer.”]

*[(When adding any other description, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

## **5. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES**

- [(i) Reasons for the offer [ ]  
(See [“Use of Proceeds”] wording in Base Prospectus — if reasons for offer different from making profit and/or hedging certain risks will need to include those reasons here.)]
- [(ii) Estimated net proceeds: [ ]  
(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)]
- [(iii) Estimated total expenses: [ ] [Include breakdown of expenses.]  
[(If the Notes are derivative securities to which Annex XII of Commission Regulation (EC) No. 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements applies it is only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above.)]

## **6. [Fixed Rate Notes only — YIELD**

- Indication of yield: [ ].  
[Calculated as [include details of method of calculation in summary form] on the Issue Date.]  
[As set out above, the] The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]

## **7. [Floating Rate Notes Only — HISTORIC INTEREST RATES**

Details of historic [LIBOR/EURIBOR/other] rates can be obtained from [Reuters].]

## **8. [Index-Linked or other variable-linked notes only — PERFORMANCE OF INDEX/FORMULA/other variable, [EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS] AND OTHER INFORMATION CONCERNING THE UNDERLYING**

*Need to include details of where past and future performance and volatility of the equity/index/formula/other variable can be obtained [and a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident]. [Where the underlying is an index need to include the name of the index and a description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained. Where the underlying is not an index need to include equivalent information. Include other information concerning the underlying required by Paragraph 4.2 of Annex XII of the Prospectus Directive Regulation.]\**

*[(When completing this paragraph, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

The Issuer [intends to provide post-issuance information [specify what information will be reported and where it can be obtained] ] [does not intend to provide post-issuance information].

**9. [Dual Currency Notes only — PERFORMANCE OF RATE[S] OF EXCHANGE AND [EXPLANATION OF EFFECT ON VALUE OF INVESTMENT]**

*[Need to include details of where past and future performance and volatility of the relevant rate[s] can be obtained.]*

*[(When completing this paragraph, consideration should be given as to whether such matters described constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive.)]*

**10. OPERATIONAL INFORMATION**

ISIN Code: [ ]

Common Code: [ ]

CUSIP Code: [ ]

New Global Note intended to be held in a manner which would allow Eurosystem eligibility:

[Not Applicable/Yes/No]

[Note that the designation “Yes” simply means that the Notes are intended upon issue to be deposited with Euroclear or Clearstream, Luxembourg as common safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.][Include this text if “Yes” selected in which case the Notes must be issued in NGN form]

Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking Societe

Anonyme and the relevant identification number(s):

[Not Applicable/give name(s) and number(s)]

Delivery:

Delivery [against/free of] payment

Names and addresses of additional Paying Agent(s) (if any):

[ ]

Calculation Agent:

[ ]

## SUMMARY OF PROVISIONS RELATING TO THE NOTES WHILE IN GLOBAL FORM

### Initial Issue of Notes

Each tranche of Bearer Notes having an original maturity of more than one year shall be represented initially by a Temporary Global Note in bearer form, without Coupons (a “**Temporary Global Note**”), which shall be deposited with (a) in the case of a global note which is not intended to be issued in new global note form (a “**Classic Global Note**” or “**CGN**”), as specified in the relevant Final Terms, with or on behalf of a Common Depositary located outside the United States for Euroclear and Clearstream, Luxembourg; or (b) in the case of a global note which is intended to be issued in new global note form (a “**New Global Note**” or “**NGN**”), as specified in the relevant Final Terms, with a common safekeeper for Euroclear and/or Clearstream, Luxembourg. Notes issued in registered form will be represented by Note certificates (each a “**Certificate**”), one Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes of one Series.

### Relationship of Accountholders with Clearing Systems

Each of the persons shown in the records of Euroclear, Clearstream, Luxembourg or such approved intermediary as the holder of a Note represented by a Global Note must look solely to Euroclear, Clearstream, Luxembourg or such approved intermediary (as the case may be) for his share of each payment made by the Issuer to the bearer of such Global Note and in relation to all other rights arising under the Global Notes, subject to and in accordance with the respective rules and procedures of Euroclear or Clearstream, Luxembourg (as the case may be). Such persons shall have no claim directly against the Issuer in respect of payments due on the Notes for so long as the Notes are represented by such Global Note and such obligations of the Issuer will be discharged by payment to the bearer of such Global Note in respect of each amount so paid.

### Amendment to Conditions

The Temporary Global Notes and the Permanent Global Notes contain provisions which apply to the Notes which they represent, some of which modify the effect of the terms and conditions of the Notes set out in this document. The following is a summary of certain of those provisions:

*Exchange:* Each Temporary Global Note will be exchangeable in whole or in part for interests in a Permanent Global Note or, if so provided in a Temporary Global Note, for definitive Bearer Notes (as described in the next paragraph) after the date falling 40 days after the issue date of the Notes upon certification as to non-U.S. beneficial ownership in the form set out in the Agency Agreement in the case of Bearer Notes. If specified in the relevant Final Terms, each Permanent Global Note is exchangeable in whole (or, in the case of Partly-paid Notes only, in part) at the request and cost and expense of the Issuer for definitive Bearer Notes by such holder giving notice to the Fiscal Agent, or by the Issuer giving notice to the Fiscal Agent and the Noteholders of its intention to exchange (at the option, cost and expense of the Issuer) such Permanent Global Note for definitive Bearer Notes, in each case on or after the Exchange Date specified in the notice.

On or after any Exchange Date (as defined below) the holder of a Permanent Global Note may surrender such Permanent Global Note or, in the case of a partial exchange, present it for endorsement to or to the order of the Fiscal Agent. In exchange for any Permanent Global Note, or the part thereof to be exchanged, the Issuer will deliver, or procure the delivery of, an equal aggregate principal amount of duly executed and authenticated definitive Bearer Notes (if appropriate, having attached to them all Coupons and Receipts in respect of interest or Instalment Amounts which have not already been paid on the Permanent Global Note and a Talon), security printed in accordance with any applicable legal and stock exchange requirements and in or substantially in the form set out in the Agency Agreement. On exchange in full of each Permanent Global Note, the Issuer will, if the holder so requests, procure that it is cancelled and returned to the holder together with the relevant definitive Bearer Notes.

“**Exchange Date**” means a day falling not less than 60 days after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Fiscal Agent is located and in the cities in which the relevant clearing system is located.

*Payments:* No payment falling due more than 40 days after the Issue Date will be made on a Temporary Global Note unless exchange for an interest in a Permanent Global Note or for definitive Bearer Notes is improperly withheld or refused. Payments on any Temporary Global Note during the period up to 40 days after its Issue Date will only be made against presentation of certification as to non U.S. beneficial ownership in the form set out in the Agency Agreement. All payments in respect of Notes represented by a Global Note will be made against presentation for endorsement and, if no further payment falls to be made in respect of the Notes, surrender of that Global Note to or to the order of the Fiscal Agent or such other Paying Agent as shall

have been notified to the Noteholders for such purpose. A record of each payment so made will be endorsed in the appropriate schedule to each Global Note, which endorsement will be prima facie evidence that such payment has been made in respect of the Notes.

*Payment Business Day:* In the case of a Global Note, shall be: (i) if the currency of payment is not Euro, where payment is to be made by transfer to an account maintained with a bank in the relevant currency, a day on which dealings in foreign currencies may be carried on in the relevant currency in the principal financial centre of the country of such currency; or (ii) if the currency of payment is Euro, where payment is to be made by transfer to an account, a day on which is a TARGET Business Day and a day on which dealings in foreign currencies may be carried on in each (if any) Relevant Financial Centre (as may be specified in the relevant Final Terms).

*Registered Notes:* Interest on Registered Notes in global form will be paid to the person shown on the Register at close of business on the business day before the due date for payment thereof (“**Record Date**”).

*Notices:* Notwithstanding Condition 15 (Notices), while all the Notes are represented by the Temporary Global Note (or by the Temporary Global Note and the Permanent Global Note) deposited with a depository or a common depository for Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system or a common safekeeper, notices to Noteholders may be given by delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system and, in any case, such notices shall be deemed to have been given to the Noteholders in accordance with Condition 15 (Notices) on the date of delivery to Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system.

*Purchase and Cancellation:* Cancellation of any Note surrendered for cancellation following its purchase will be effected by reduction in the principal amount of the relevant Global Note.

*Default:* Following the giving of a notice of an event of default by or through a common depository for Euroclear and Clearstream, Luxembourg or if the holder of a Global Note so elects or the Global Note will become void as to the specified portion and the persons entitled to such portion as accountholders with a clearing system will acquire direct enforcement rights against the Issuer under the terms of the Deed of Covenant.

*Prescription:* Claims against the Issuer in respect of Notes which are represented by a permanent Global Note will become void unless it is presented for payment within a period of ten years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date (as defined in Condition 9).

*Meetings:* The holder of a permanent Global Note will be treated as being two persons for the purposes of any quorum requirements of a meeting of holders and, at any such meeting, as having one vote in respect of each minimum Denomination of Notes for which such Global Note may be exchanged.

*Partly-paid Notes:* The provisions relating to Partly-paid Notes will be contained in the Global Notes. For so long as any instalments of the subscription moneys due from the holder of Partly-paid Notes are due, no interest in a Global Note representing such Notes may be exchanged for an interest in a permanent Global Note or for definitive Bearer Notes (as the case may be). In the event that any holder of Notes fails to pay any instalment due on any Partly-paid Notes within the time specified, the Issuer may be entitled to forfeit such Notes and shall have no further obligation to their holder in respect of them.

In relation to the Permanent Global Note only:

*Exercise of call option:* In connection with an exercise of the option contained in Condition 7(e) (*Redemption at the option of the Issuer and exercise of Issuer's options*) in respect of some but not all of the Notes, the rights of accountholders with a clearing system in respect of the Notes will be governed by the standard procedures of Euroclear, Clearstream, Luxembourg (this shall be recorded in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in principal amount, at their discretion) or any other clearing system (as the case may be).

*Exercise of put option:* In order to exercise the option contained in Condition 7(f) (*Redemption at the option of Noteholders and Holders exercise of Noteholder's options*) the bearer of the Permanent Global Note must give notice to the Fiscal Agent (via the relevant clearing system) within the time limits relating to the deposit of Notes with a Paying Agent set out in the Conditions substantially in the form of the notice available from any Paying Agent, except that the notice shall not be required to contain the serial numbers of the Notes in respect of which the option has been exercised, and stating the principal amount of Notes in respect of which the option is exercised and at the same time presenting the Permanent Global Note to the Fiscal Agent, or to a Paying Agent for notation.

In the case of any Tranche of Notes having a maturity of more than 365 days, the following legend will appear on all Global Bearer Notes and Definitive Notes and any related Coupons or Talons:

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

The sections referred to in the above legend provide that a United States taxpayer, with certain exceptions, will not be permitted to deduct any loss, and will not be eligible for capital gains treatment with respect to any gain realized on any sale, exchange or redemption of Bearer Notes or any related Coupons.

Notwithstanding any other provision herein, Bearer Notes with maturities of one year or less may be issued.



## **USE OF PROCEEDS**

The net proceeds of the issue of each Tranche of Notes will be used for the general corporate purposes of the Guarantor.

## BPE FINANCIACIONES, S.A.

### Background

BPE Financiaciones, S.A. (the “**Issuer**”) was incorporated on 19 February 2004 for an indefinite period of time as a limited liability corporation (*sociedad anónima*) under the laws of the Kingdom of Spain, with its registered office at calle José Ortega y Gasset 29, 28006 Madrid (telephone +34 915 207 278). The Issuer is registered under Volume 19,873, Book 0, Folio 164, Section 8, Sheet M 350196, Registration 1 of the Spanish Mercantile Registry (*Registro Mercantil*).

The Issuer has no subsidiaries. The authorised share capital of the Issuer is €100,000 divided into 100 common shares, each with a par value of €1,000. The subscribed and fully paid up share capital is €100,000.

The members of the Board of Directors of the Issuer are Ms. María Raga García, Mr. Rafael Galán Mas, Mr. Carlos Ignacio Vivas Sotillos and Ms. Aránzazu Ruiz Cotero. Mr. Rafael Galán Mas works as the Treasurer of the Bank, Mr. Carlos Ignacio Vivas works as director of Treasury Administration and each of Ms. María Raga García and Ms. Aránzazu Ruiz Cotero work as a Financial Officer of the Bank. As at the date of this Base Prospectus, there were no conflicts of interest between any duties owed to the Issuer by the members of its Board of Directors and each of their private interests and other duties.

The business address of each of María Raga García, Mr. Rafael Galán Mas, Mr. Carlos Ignacio Vivas Sotillos and Ms. Aránzazu Ruiz Cotero is José Ortega y Gasset, 29, 28006 Madrid.

The auditors of the Issuer are PricewaterhouseCoopers Auditores, S.L.

### Activities of the Issuer

The Issuer is a wholly-owned and controlled subsidiary of Banco Popular Español, S.A. The Issuer was incorporated for the purpose of raising funds for the Bank and its consolidated subsidiaries on the domestic and international capital markets through the issuance of promissory notes, bonds, notes or other analogous subordinated or unsubordinated securities.

Funds raised by the Issuer are typically deposited with the Bank. Income earned by the Issuer in respect of such deposits (normally calculated on the basis of the nominal value of the corresponding debt plus a spread to cover direct and indirect costs associated with it) is used to repay the interest payable in respect the outstanding securities issued by it.

As at the date of this Base Prospectus, the Issuer had €1.13 billion of senior and subordinated debt securities issued and outstanding. This comprised of €430.000.000 million debt securities issued pursuant to the Issuer’s €8,000,000,000 programme for the issuance of fixed income securities guaranteed by the Bank and registered with the *Comisión Nacional del Mercado de Valores*, the Spanish securities market regulator, as well as debt securities issued pursuant to the Programme described in this Base Prospectus.

## BANCO POPULAR ESPAÑOL, S.A.

### Background

Banco Popular Español, S.A. (the “**Bank**”) is a limited liability company (*sociedad anónima*) organised and existing under the laws of the Kingdom of Spain. The Bank was founded in July 1926 as Banco Popular de los Previsores del Porvenir and its current name was adopted in February 1947. The Bank is registered at Tomo 174, Folio 44, Page 5458, Registration 1 of the Spanish Mercantile Registry (*Registro Mercantil*). The objects of the Bank are to provide the widest possible services to its clients in all business and banking matters (as specified in Article 4 of the Bank’s *estatutos*). The telephone number of the Bank is +34 902 30 10 00. The Bank registered office is at calle Velázquez nº 34, 28001 Madrid, Spain.

The Bank is governed by the Consolidated Text of the Capital Companies Act (*Texto Refundido de la Ley de Sociedades de Capital*) approved by Royal Legislative Decree 1/2010, dated 2 July, and associated regulations, and recently modified by Law 25/2011, dated 1 August, regarding the execution of rights from shareholders.

Given its status as a financial entity, the Bank’s activities are subject to supervision by the Bank of Spain.

The Bank is registered in the Banks and Bankers’ Registry (*Registro de Bancos y Banqueros*) with registration number 0075.

### Group Structure

The Banco Popular Español, S.A. group is comprised of the Bank and its consolidated subsidiaries (the “**Group**”).

#### *Principal Subsidiaries*

As at the date of this Base Prospectus, the four principal banking subsidiaries of the Bank are:

- Bancopopular-e, S.A., specialising in Internet banking in Spain (wholly-owned subsidiary);
- Popular Banca Privada, S.A., which provides private banking services in Spain (owned 60 per cent. by the Group and 40 per cent. by Dexia Banque Internationale à Luxembourg S.A.);
- Banco Popular Portugal, S.A. (“**Banco Popular Portugal**”), a commercial bank operating in Portugal (wholly-owned subsidiary). Banco Popular Portugal S.A. shares the Group’s technological platform and is fully integrated with its central services, but it also maintains a structure of its own in order to comply with Portuguese regulations and to respond to the specific requirements of its customers; and
- TotalBank (a subsidiary of Banco Popular Español, S.A.), which provides a range of business and personal banking and financial products and services in the USA (wholly-owned subsidiary). This entity operates through fourteen branches located in Miami Dade county, in the state of Florida.

#### *Other Subsidiaries and Affiliates*

The Group also includes twenty-three other operating companies which provide a range of financial services offered by the Group, including factoring, mutual and pension fund management, securities intermediation, portfolio and asset management, life insurance broking, venture capital investment and equipment renting. Some of these companies are joint ventures between the Bank and other entities. The Group also includes companies which provide support for the Group’s main activities and several other smaller companies.

By virtue of the Bank’s majority holdings of capital stock and voting rights or the agreements with its partners, the Group essentially operates as a single whole with unified direction and management and common technical and support services. The banking and other subsidiaries act as geographical or functional units forming part of the Group’s organisation, the only primary differentiating features being those arising from the differing legal status of each.

The following table summarises the companies making up the Group and the Bank’s ownership of such companies as at 31 December 2010.

	Registered Office		Business	Ownership Interest	
				(%)	
				Direct	Indirect
<b>Deposit-taking companies:</b>					
Bancopopular-e, S.A.....	Velázquez, 34	Madrid	Banking	100.00	–
Banco Popular Portugal S.A.....	Rua Ramalho Ortigao, 51	Lisbon	Banking	100.00	–
Popular Banca Privada S.A.....	Luca de Tena, 13	Madrid	Banking	52.50	7.50
TotalBank.....	2720 Coral Way	Miami	Banking	100.00	–
<b>Financing companies:</b>					
Popular Factoring S.A. ....	Rua Castilho, 39	Lisbon	Factoring	99.82	–
Popular de Factoring S.A.....	Maria de Molina, 54	Madrid	Factoring	100.00	–
<b>Portfolio &amp; Service Companies:</b>					
Popular Gestão de Activos S.A.....	Rua Ramalho Ortigao, 51	Lisbon	Pension plan management	–	100
Europensiones, EGFP.....	María de Molina, 34	Madrid	Pension plan management	51.00	–
Gestora Popular S.A. ....	J.Ortega y Gasset, 29	Madrid	Share portfolio and ownership	35.00	65.00
Popular Bolsa S.V, S.A. ....	Labastida, 9-11	Madrid	Stockbroker	100.00	–
Popular de Participaciones Fin. ....	Labastida, 9-11	Madrid	Venture capital	100.00	–
Popular Gestión Privada SGIIC,S.A.....	Luca de Tena, 13	Madrid	Mutual fund management	–	60.00
Popular Gestión SGIIC, S.A.....	Labastida 9-11	Madrid	Mutual fund management	99.99	0.01
<b>Instrumentality companies:</b>					
Aliseda S.A.....	J.Ortega y Gasset, 29	Madrid	Asset ownership	100.00	–
BPE Finance International LTD .....	Ugland House George	George Town	Financial instrumentality	100.00	–
BPE Financiaciones S.A.....	J.Ortega y Gasset, 29	Madrid	Financial instrumentality	90.00	10.00
BPE Preference International LTD.....	Ugland House George	George Town	Financial instrumentality	100.00	–
Consulteam-Consultores de Gestão, S.A.	Rua Tomás Ribeiro, 50	Lisboa	Real estate management consultant	85.45	19.55
Finespa S.A.....	J.Ortega y Gasset, 29	Madrid	Property instrumentality	4.19	95.81
Fondo Imopopular FTIIF.....	J. Ortega y Gasset, 29	Madrid	Property investment fund	–	100
Gestora Europea de Inversiones S.A .....	Labastida, 9-11	Madrid	Services instrumentality	99.90	0.10
Gold Leaf Title Company .....	2720 Coral Way	Miami	Financial Instrumentality	–	100.00
IM Banco Popular FTPYME 1, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Banco Popular FTPYME 2, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Banco Popular MBS 1, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Banco Popular MBS 2, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Cédulas Grupo Banco Popular 1, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Cédulas Grupo Banco Popular 2, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Cédulas Grupo Banco Popular 3, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular Empresas 1, FTA.....	Pz.Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular Empresas 2, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular Empresas 3, FTA.....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular Financiaciones 1, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular FTPYME 1, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular FTPYME 2, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
IM Grupo Banco Popular Leasing 1, FTA .....	Pz. Pablo Ruiz Picasso	Madrid	Asset securitisation fund	100.00	–
<b>Inversiones Inmobiliarias</b>					
Alprosa, S.L.....	J. Ortega y Gasset, 29	Madrid	Real estate development	35.61	64.39
Red Leaf Holding .....	2720 Coral Way	Miami	Real estate development	100.00	–
<b>Inversiones Inmobiliarias</b>					
Canvives, S.L.....	J. Ortega y Gasset, 29	Madrid	Real estate development	–	100.00
<b>Inversiones Inmobiliarias</b>					
Cedaceros, S.L.....	J. Ortega y Gasset, 29	Madrid	Real estate development	–	100.00

	Registered Office		Business	Ownership Interest	
				(%)	
				Direct	Indirect
Inversiones Inmobiliarias Gercebio, S.L.	J. Ortega y Gasset, 29	Madrid	Real estate development	–	100.00
Inversiones Inmobiliarias Jeraguilas, S.L.	J. Ortega y Gasset, 29	Madrid	Real estate development	–	100.00
Inversiones Inmobiliarias .....	Prof. Agustin Miralles	Las Palmas,			
Tamadaba, S.L .....	Carlo, s/n	Canary Islands	Real estate development	99.00	1.00
Isla de los Buques S.A. ....	J. Ortega y Gasset, 29	Madrid	Financial instrumentality	99.98	0.02
Manberor S.L.....	J. Ortega y Gasset, 29	Madrid	Real estate	–	100.00
Meglaha S.L.....	J. Ortega y Gasset, 29	Madrid	Real estate	–	100.00
MUNDOCREDIT S.A.....	J. Ortega y Gasset, 29	Madrid	Financial instrumentality	99.83	0.17
Mundoenvios S.A. ....	J. Ortega y Gasset, 29	Madrid	Financial instrumentality	99.96	0.04
Populargest Gestão de Imóveis S.L. ....	Rua do Comércio, 85	Lisbon	Property management	–	100.00
Inmobiliaria Viagrancia S.A. ....	J.Ortega y Gasset, 29	Madrid	Property instrumentality	99.99	0.01
Inmobiliaria Vivesa S.A.....	J.Ortega y Gasset, 29	Madrid	Property instrumentality	99.99	0.01
Intermediación y SS Tecnológicos .....	Luca de Tena, 13	Madrid	Services instrumentality	99.50	0.50
Popular Capital S.A. ....	J.Ortega y Gasset, 29	Madrid	Financial instrumentality	90.00	10.00
Popular Español Asia Trade LTD .....	13/F Tim Mei Avenue	Hong Kong	Financial instrumentality	100.00	–
Urbanizadora Española S.A.....	J.Ortega y Gasset, 29	Madrid	Property instrumentality	7.19	90.55
Velázquez 34.S.L. ....	J.Ortega y Gasset, 29	Madrid	Real estate	97.80	2.20
<b>Non-financial companies:</b>					
Desarrollo Aplicaciones Especiales S.A.	Juan de Olías, 1	Madrid	Data processing	50.67	–
Popular de Mediación S.A.....	J.Ortega y Gasset, 29	Madrid	Insurance brokering	80.00	15.00
FIB Realty Corporation .....	2720 Coral Way	Miami	Dormant	–	100.00
Eurovida S.A. (Portugal) .....	Av. da República, 57	Madrid	Insurance	84.07	15.93
Panorama Ibicenca S.A.....	J.Ortega y Gasset, 29	Madrid	Asset ownership	–	100.00
Popular de Comunicaciones S.A. ....	J.Ortega y Gasset, 29	Paris	Communications services	99.84	0.16
Popular de Informática S.A. ....	J.Ortega y Gasset, 29	Madrid	IT services	99.84	0.16
Popular de Renting S.A. ....	Labastida, 9-11	Madrid	Renting	100.00	–
Popular Seguros S.A.....	Av. da Republica, 57	Lisbon	Insurance	–	100.00
Promoción Social de Viviendas S.A. ....	J.Ortega y Gasset, 29	Madrid	Asset ownership	–	91.84
Total Sunset Inc .....	2720 Coral Way	Miami	Dormant	–	100.00

\* Aliseda USA LLC. was wound up on 30 June 2010 and as a result ceased to be a subsidiary of the Group from that date.

### Branches and Representative Offices

At 31 December 2010, the Group had 2,224 branch offices (compared to 2,419 in 2009) of which 1,972 were distributed throughout Spain and the remaining 252 of which were located in Portugal and the United States. At 30 September 2010, the total number of branch offices of Group had decreased by 195 to 2,295. Of these, 2,044 were located in Spain and 251 were located in Portugal and the United States.

In addition to its operations in Portugal and the United States, the Group also has a representative offices or operating staff seconded to local correspondent banks in other countries in order to cater for the financial needs of the Group's customers.

Within Spain, the Group operates a number of specialised offices that are intended to support the Group's network by providing retail and commercial clients with personal banking and corporate banking services.

### Recent Developments

On 7 October 2011, the Bank made public the possibility of reaching an agreement with the main shareholders of Banco Pastor S.A. ("**Banco Pastor**") regarding the acquisition of shares in Banco Pastor. If an agreement regarding the acquisition of such shares is successful, the Bank would propose to integrate the operations of Banco Pastor into its business, however allowing Banco Pastor to maintain its brand and its traditional geographic area.

On 10 October 2011, the Board of Directors of the Bank approved the formulation of a voluntary takeover bid for 100 per cent. of the shares and 100 per cent. of convertible subordinated bonds of 14 Banco Pastor, in exchange of a payment of newly issued shares of the Issuer. The Bank therefore convened an extraordinary shareholders general meeting of the Bank on 20 December 2011 in order to issue the necessary shares to deliver among shareholders and bondholders of Banco Pastor.

## ***Competitive Strength***

Based on the total assets of each of Banco Bilbao Vizcaya Argentina, S.A., Banco Santander, S.A., Bankia, S.A. and Caixabank, S.A., in each case as published in such bank's half yearly accounts for the financial year 2011, management of the Bank believes that following the successful acquisition of Banco Pastor, based on the total assets of Banco Pastor and Bank's as at 30 June 2011 compared to those of the aforementioned Spanish banking entities, the Bank could become the fifth biggest financial entity in Spain with total assets of over €160,000 million.

Management of the Bank believes that the acquisition of Banco Pastor may generate synergies of €800 million which would enable the Bank to make it possible to book provisions of around €1,600 million as a result of having acquired Banco Pastor at below book value and as a result of the Bank's decision to issue new capital stock for approximately €700 million. Management believes such provisions of €1,600 million would cover the total expected loss estimated by the European Banking Authority in its last stress test exercise for a baseline scenario for the Bank and Banco Pastor. Management of the Bank believes that the booking of these provisions will enable the combined entity to improve its coverage of doubtful assets from 47 per cent. to 54 per cent.

It is anticipated that the capital of the combined entity post acquisition will suffer significant variations in terms of the present core capital of the Bank which at the end of the third quarter of 2011 stood at (under current criteria) 9.76 per cent. compared with 9.43 per cent. at 2010 year end and 8.66 per cent. at 30 September 2010. The Tier 1 capital of 9.76 per cent. is 9 basis points above that of December 2010 and 69 basis points higher than that of 30 September 2010.

## ***Operational Overview***

The Group focuses on commercial and retail banking, and seeks to develop a client base focused on small and medium sized enterprises ("SMEs") and on households. In addition the Group offers asset management and insurance services.

## ***Commercial Banking***

Commercial banking is the core business of the Group, and is comprised of corporate banking activity and retail banking activity. At 2010 year end the Group had 6,812,676 customers, 338,382 more than in 2009.

The Group's commercial banking business contributed 88 per cent. of the net interest income and 82 per cent. of the gross operating income of the Group at 31 December 2010.

## ***Corporate Banking***

The Group's corporate banking business was managing 1,053,749 customers at 2010 year end and contributed 72.1 per cent. of the average total assets and 76.7 per cent. of the gross operating income in respect of the financial year ended 31 December 2010. Corporate customers consist of big companies, SMEs, self-employed individuals and retail traders, and non-commercial undertakings.

A big company is defined as a company with total assets of over €100 million and income of over €100 million. The SMEs category includes medium-sized companies with assets and income of €10 million to €100 million, small companies with assets and income of €1 million to €10 million and micro-companies with assets and income of under €1 million. Non-commercial undertakings include legal entities such as, for example, associations, sports clubs.

The segment with the greatest weight in the income statement is that of SMEs, which accounted for 28.2 per cent. of total assets in 2010, compared with 26.6 per cent. in 2009. Self-employed individuals and retail traders together accounted for 13.3 per cent. of the Bank's gross operating income in 2010.

## ***Retail Banking***

The Group had 5,758,927 retail banking customers at 31 December 2010, with a total of 258,487 new customers in 2010. The retail banking business contributed 27.9 per cent. of the average total assets and 23.3 per cent. of the gross operating income of the Group. In comparison with the previous year ended 2009 retail banking fell behind commercial banking as a whole in its importance due to the lower demand for mortgage loans and to growth in demand for commercial lending.

The Group's retail banking activities include personal banking, banking for private individuals and retail banking. Personal banking customers are those with a net worth of over €60,000. The difference between banking for private individuals and retail banking is based on the level of personalised attention and the degree of connection with the Bank. The banking for private individuals segment is the one with the greatest weight and importance, both in total assets and in contribution to gross operating income, within the retail banking activities of the Group.

### ***Commercial Banking in Spain***

Commercial banking activities are carried out in Spain primarily by the Bank itself and two specialist subsidiary banks: Popular Banca Privada S.A., specialising in private banking, and Bancopopular-e S.A., an internet bank.

### ***Commercial Banking in Portugal***

The commercial banking business in Portugal is conducted mainly through Banco Popular Portugal. Banco Popular Portugal has 1,343 employees and a network of 237 branches. Its total assets amounted to €8,431 million (for the year ended 2010), of which €5,836 million related to gross lending to customers. During 2010 the Bank increased its loans and deposits (excluding investment in debt) by 7 per cent, after a slight fall compared to the previous year. The biggest contributors to this progress were mortgage loans, commercial paper and finance leases, in contrast with the divestment in construction. The majority of this increase was financed through customer deposits, which stood at €3,595 million at the end of 2010.

Banco Popular Portugal saw its gross operating income fall by 18.5 per cent. and its net operating income fall by 35.1 per cent. due to the increased cost of financing. However, this was offset by a 45.2 per cent. fall in loan impairment provisions, taking Banco Popular Portugal's after-tax profit up by 6.42 per cent. to €15.89 million at for the year ended 2010.

### ***Commercial Banking in the United States of America***

The commercial banking business in the United States is conducted through TotalBank (a subsidiary of Banco Popular Español, S.A.), which was acquired at the end of 2007 and operates in the State of Florida. At 31 December 2010 TotalBank had 15 branches and 399 employees with total assets of U.S.\$2.05 million, although TotalBank's loans and receivables at 31 December 2010 amounted to €1.10 million. Despite a difficult financial environment during 2010, Totalbank loans and receivables fell by just 0.2 per cent..

### ***Asset management***

The Group's asset management businesses were comprised of collective investment institution management activities, the management of individual and collective pension plans, and private banking. To conduct this business the Group has two collective investment institution managers in Spain and one in Portugal, and two pension plan managers, one in Spain and the other in Portugal.

The Group experienced significant outflows of assets from the collective investment institutions in 2010 largely towards bank deposits. The negative performance of the collective investment institutions management area was offset by a more positive performance by the Group's other businesses within this area, such as management of individual and collective pension plans and private banking.

Net fees and commissions rose by 4.7 per cent. in 2010 with pre-tax profit for that year standing at €115,000.

### ***Collective investment institution management***

At 31 December 2010, the Group was managing assets in collective investment institutions of €6,643 million through two managers in Spain, Popular Gestión and Popular Gestión Privada, and one manager in Portugal, Popular Gestão de Activos. The assets under management in Spain were €6,309 million, divided among 302,001 investors.

In 2010 the Group saw net outflows of funds from the its managers in Spain which, in line with the sector as a whole, rose by 17.4 per cent. in volume, with only a small variation of 0.2 per cent. in assets due to the evolution of the market. This situation was also reflected in the variation in the number of fund participants which was down by 5.8 per cent. for the year 2010.

The composition of the Group's investment portfolios showed an increase in the number of equities and global markets holdings in contrast to fixed income, where the markets performed less well. This shift balanced the overall composition of the Group's investment profile which showed a somewhat less conservative profile than it traditionally has been.

### ***Individual and collective pension plans management***

This activity is conducted mainly through Europensiones, a Spanish company which is owned 51 per cent. by the Group and 49 per cent. by the Allianz insurance group. The Group also has a pension fund manager in Portugal, Popular Gestão de Activos, which is a wholly-owned subsidiary of Banco Popular Portugal S.A.

The assets managed by Europensiones totalled €3,954 million at 31 December 2010, which was 2.5 per cent. less than in 2009. The assets managed in individual schemes at 31 December 2009 totalled €2,992 million, with €903 million in occupational plans and €59 million in associated schemes.

### ***Private banking***

This activity is conducted mainly through Popular Banca Privada S.A., in which the Group holds 60 per cent. of the share capital and the remaining 40 per cent. is held by Dexia Banque Internationale à Luxembourg S.A., Popular Banca Privada, S.A. provides advisory and management services to high net worth customers with assets under management or advisory services of at least €300,000.

At 31 December 2010 Popular Banca Privada had 4,318 customers, 307 more than in 2009, and was managing assets of €5,481 million, 3.25 per cent. less than at 2009 year end.

### ***Insurance***

The insurance business unit is focused on pension and insurance products that include life insurance (both as a means of savings and life policies linked to credit transactions), miscellaneous insurance (mainly home, health and car insurance) and those linked to retirement. The range of products is adapted to each of the Bank's individual businesses and customer segments, be they private individuals, businesses or institutions.

The activity is run by two life insurance companies, Eurovida España, 49 per cent. owned by the Group and 51 per cent. owned by the Allianz insurance group and Eurovida Portugal, which is a wholly-owned subsidiary of the Group. The on-balance sheet assets of Eurovida España totalled €1,087 million at 31 December 2010, an increase of 4.6 per cent. compared with 2009. There was a 21.7 per cent. rise in the premiums collected.

The non-life insurance business in Portugal is managed by Popular Seguros. There is also an insurance broking subsidiary called Popular de Mediación. Both are wholly-owned by the Group.

At 31 December 2010 the Group saw a growth of 18.7 per cent. on the earnings provided by its insurance activity which contributed a profit of €27.52 million.

### ***Institutional and market activity***

This Group's investments and market activities include (i) raising of funds in the wholesale and inter-bank markets, (ii) treasury activity assigned to the held-to-maturity, the available-for-sale and the trading portfolios, (iii) asset and liability hedging operations, and (iv) management of tangible and intangible assets, including non-current assets for sale. Also assigned to this business area are the asset and liability balances arising from pensions, tax assets and liabilities, risk provisions, and other assets and liabilities.

These activities contributed to the Group's total earnings in 2010 with profit before taxes at 30 June 2011 standing at €206,733 million; although this represented a fall of 45.1 per cent. compared to the same period in 2010.

2010 saw a shift in the source of the Group's profit from the gains on financial assets and liabilities reaped last year towards recurring profit.

In addition, there has been a sharp fall in the impairment losses and other provisions. This factor, together with more careful control of costs, resulted in a net operating profit of €279,602 million in June 2011.

Despite booking provisions of €602 million for property impairment and other non-financial assets, which depressed pre-tax profits, Banco Popular was able to minimise the negative impact due to profit from sales of real estate which amounted to €151 million in 2010 and with earnings from the sale of 50 per cent. of Banco Popular Hipotecario S.A. as part of the joint venture set up with Crédit Mutuel.

## **Financial Overview**

### ***Income and expenses***

Gross operating income in 2010 was €3,462 million, a 14.6 per cent. decrease compared with 2009 whilst gross operating income was €1,521 million at 30 June 2011, a fall of 14.2 per cent. compared to the same period in 2010. During the six-month period ended 30 June 2011, net operating income was €858 million, a decrease of 24.9 per cent. compared with the corresponding period in 2010.

Net interest income decreased by 18.1 per cent. at 30 June 2011 to €1,045 million compared with €1,276 million for the same period in 2010. Margin management was focused on improving the spreads on asset products, and the success of this strategy made it possible to partially offset the negative effects of an adverse environment characterised by higher funding costs and very low interest rates.



At 30 June 2011, fees and commissions totalled €350 million 3 per cent. higher when compared to the same period in 2011. However, fees and commissions connected with banking services consolidated their growth and those for customer asset management appeared to stabilise. Fees and commissions at 30 September 2011 increased by 1.9 per cent. compared to the same period in 2010, as a result of the increase in bank charges and despite the weak performance of fees and commissions for asset management due to the market situation.

The Group's operating costs remained controlled, albeit with a slight upward trend arising from an increase in the rental expenses of branch offices sold under lease-back arrangements. Excluding this effect, the reduction in costs was 1.3 per cent. because of the 1 per cent. fall in personnel expenses and of 1.8 per cent. in expenses not related to rentals and depreciation, mainly due to the closure/merger and sale of 146 branch offices.

### ***Assets and liabilities***

With regard to capitalisation, the Group had a core capital ratio of 9.43 per cent. in December 2010 compared with 8.57 per cent. a year previously. During the first nine months of 2011, the Group's core capital ratio was 9.76 per cent..

At 31 December 2010, with a capital base of €8,776 million, the Group was managing assets worth €141,848 million, of which €130,140 million were on-balance sheet assets that recorded annual growth of 0.7 per cent..

The Group sought to strengthen its liquidity position during 2010 by reducing the commercial gap by €6,100 million and increasing the liquidity reserves to over €15,500 million by 31 December 2010. The Group reduced the commercial gap by a further €1,911 million during the first nine months of 2011, due to the increase in customer deposit volume, which rose by 3.4 per cent. compared to the same period in 2010 and lending also grew by €1,350 million, an increase of 1.4 per cent., in the same period.

At 31 December 2010, the amount in respect of non-performing loans amounted to €6,055 million, an increase of €544 million in the year. This was due to an aggregate addition to the exposure for non-performing loans of €4,351 million, the recovery of €2,532 million and the write-off of €1,276 million of non-performing balances, of which €1,184 million were charged against credit loss provisions and the remainder was charged directly against profit by accelerated write-off.

As a result of the increase in doubtful assets, the nonperforming ratio was 5.27 per cent. at the end of 2010, compared with 4.81 per cent. the previous year. However the rates of quarterly growth of the non-performing ratio stabilised to well below those of 2009 and remained below the sector average. At 30 September 2011, the non-performing ratio was 5.85 per cent.

Banco Popular Group's consolidated balance sheet shows purchased or foreclosed assets received by the Group from its borrowers or other debtors for total or partial settlement of financial assets representing debt claims against the borrowers or debtors. Additionally, the Group has obtained buildings by means of purchase or the dation in payment of debt claims so as to avoid, in many cases, difficulties that could be encountered by debtors when repaying their debts. These assets are initially recognised at the net amount of the financial assets paid, taking into account value adjustments to the assets.

The Group recognized net profits of €2,390 thousand (profit of €7,660 thousand and loss of €5,270 thousand) in 2010 and €1,230 thousand (profit of €2,862 thousand and loss of €1,632 thousand) in 2009 on the sale of these assets.

Additions to this caption related largely to foreclosed assets, datations in payment of debt claims and purchases of assets that secured loans that were not repaid as scheduled. Disposals arise in all cases from the sale or transfer of the assets to tangible fixed assets for own use or to investment property.

The impairment of foreclosed property is calculated by comparing the property's fair value less costs to sell with its carrying amount. If the value of the property is higher, impairment is recognized in the amount of the difference. The appraisal value at foreclosure is determined for the Group's Spanish entities by valuation companies registered with the Bank of Spain.

### ***Profit***

Due primarily to the factors described above, profit attributable to the Bank during 2010 was €590 million, a decrease of 23.0 per cent. compared with the amount of €766 million in 2009. During the first six months of 2011, profit attributable to the Bank was €305 million a decrease of 13.9 per cent. compared to corresponding period in 2010.

### ***Certain ratios***

At 31 December 2010 the Group's profits stood at €2,149 million, signifying a return on gross lending of 2.35 per cent. due to the strength of recurring income and the operating efficiency, which had reached 35.16 per cent. at year end.

### ***Funding***

At the General Shareholders Meeting held on 8 April 2011 it was agreed to delegate to the Board of Directors, pursuant to article 319 of the Mercantile Registry Regulations, the authority to issue fixed income securities convertible into newly issued shares, and/or existing shares of the Bank, up to a maximum amount of €2 billion, with the determination of the bases and types of the conversion and/or swap, with the waiver, if necessary, of preferential subscription rights, and the delegation of powers to increase the capital stock by the required amount. The time limit for exercising these delegated powers is five years.

By virtue of this delegation, the Board of Directors resolved in October 2011 to issue through the Popular Capital, S.A. subsidiary subordinated bonds compulsorily convertible into newly-issued ordinary shares of the Bank for a total nominal amount of €500 million (€500,000,000). The bonds are traded on the Electronic Bond Market of the Madrid Stock Exchange.

### ***Liquidity***

The Group continued to pursue its objective of reducing the commercial gap and the dependence on wholesale markets. The attraction of deposits in 2010 made it possible to reduce the commercial gap by €6,148 million year on year and achieve a loan-to-deposit ratio of 150 per cent. compared with 168 per cent. in December 2009. In addition, the Group reduced wholesale financing by 16 per cent. in 2010. The Group also has a strong second line of liquidity with an effective value of over €15,000 million which will enable it to face any situation of stress in the wholesale markets.

Throughout 2011 the Bank has continued to apply a model of customer-focused commercial banking in order to continue to promote profitability and efficiency.

### ***Solvency***

In 2010 the Bank strengthened its solvency with a capital increase of 3 per cent. amounting to €179 million that was subscribed by *Crédit Mutuel*, the issuance of €500 million in convertible debentures targeted at retail investors and distributed through the branch offices, and the issuance of subordinated debentures amounting to €200 million. These measures, combined with the generation of capital by the Bank's business itself, made it possible to increase the core capital compared to 2009 by 86 basis points reaching a figure of 9.43 per cent. at year end.

A study published by Standard & Poor's of the seventy-five biggest banks in the world placed Banco Popular first among Spanish banks and in the top ten per cent. of European banks for risk-adjusted capital (RAC), calculated using criteria very similar to those of Basel III (Standard & Poor's report 18 January 2011).

### ***Credit Quality***

The non-performing loans ratio had risen to 5.27 per cent. at the end of 2010. However, the rates of quarterly growth of the non-performing ratio stabilised to well below those of 2009 and remained below the sector average.

The decrease in net additions to non-performing balances, greater recoveries of delinquent balances and the new provisioning regulations that provide larger institutions with guarantees, resulted in a reduction in the figure of financial asset impairment losses, down to €1,106 million in 2010 from €1,520 million in 2009, representing a saving of €414 million, a release of the general allowance of €81 million less, and provisions booked to the substandard allowance of €162 million.

The Bank made provisions in 2010 of €1,106 million and an allowance for credit losses of €2,448 million, giving a coverage ratio of 40.43 per cent. at year end. Management of the Bank believes that, at the date of this Base Prospectus, these measures are sufficient to cover expected losses that may arise from the non-performing loans portfolio.

As regards provisions, the decrease in those booked for financial asset impairment was noteworthy, which fell from €1,041 million in the first nine months of 2010 to €768 million in the same period of 2011, a decrease of €273 million, despite the lower general allowance withdrawal (€159 million in the first nine months of 2011 compared with €232 million in the same period of 2010). As a result, the risk premium decreased from 1.52 per cent.

in the first nine months of 2010 to 1.11 per cent. in the same period of 2011. Disregarding the impact of the general allowance withdrawal in the two years, the premium fell from 1.82 per cent. to 1.32 per cent., indicating the lower need for credit provisions despite the existence of extraordinary provisions of €141 million in 2011 and €164 million in 2010.

Net additions decreased by 57.1 per cent. in 2010 compared to September 2009. The net additions to non-performing balances amounted to €1,592 million in the first nine months of 2011 as compared with €1,261 million in the same period of 2010, as a result of an upturn in the third quarter arising from a lower recovery rate. The coverage of nonperforming loans (including haircuts), has reached 98.60 per cent. by September 2010. The provisions for insolvency in balance sheet to cover non performing loans, amount to €2,524 million, and the provisions for insolvency with written-off balances amount to €5,906 million.

## **Risk Management**

The Group has in place risk control systems covering the entire range of its activities, mainly that of commercial banking. These systems address credit or counterparty risk, including concentration risk, market risk, liquidity risk, interest rate risk, operational risk, business risk and reputational risk, and embody formal procedures for analysis, authorisation, monitoring and control, which are applied in a way consistent with the nature and amount of the risks and under the supervision, as appropriate, of collegiate decision-making bodies, specifically the Risk Committee, the General Management Committee and the Assets and Liabilities Committee.

In accordance with the framework of International Convergence of Capital Measurement and Capital Standards (Basel II), the comprehensive management of the different risk exposures and their coverage in terms of regulatory and economic capital is performed by the General Management Risks Department on the premises defined by the Board of Directors through its Risk Committee.

### ***Management of Market Risk***

The Group seeks to control the risk of fluctuations in future cash flows or variations in the fair value of a financial asset or liability resulting from changing market prices. Within the general rubric of market risks, the Group seeks to manage in particular foreign exchange risk, interest rate risk and other price risks.

### ***Foreign exchange risk***

Management of the Group believes that foreign exchange risk is not material in the context of the Group's operations as surplus cash positions in currencies other than euro are usually matched by placements in the market in the same currencies and for similar periods.

The U.S. dollar is the principal currency other than the euro in which the Group operates and accounted for 32.6 per cent. of assets and 52.3 per cent. of liabilities, in foreign currency, at 31 December 2009 (43.3 per cent. and 39.6 per cent., respectively, in 2008).

On initial recognition, the balances receivable and payable denominated in foreign currency are translated into Euros at the spot exchange rate on the date of recognition (the exchange rate for immediate delivery). Subsequent to initial recognition, balances denominated in foreign currency are translated to Euros as follows:

- monetary assets and liabilities are translated at the year-end exchange rate (the average spot exchange rate on the date of the financial statements, as published by the European Central Bank);
- non-monetary items valued at historical cost are translated at the exchange rate prevailing on the date of acquisition;
- non-monetary items valued at fair value are translated at the exchange rate prevailing on the date on which the fair value is determined; and
- revenues and expenses are translated at the exchange rate on the transaction date. However, an average exchange rate for the period may be used for all transactions during the period, unless there have been significant variations. Amortisation/depreciation is translated at the exchange rate applied to the related asset.

Exchange differences arising in the translation of balances receivable and payable denominated in foreign currency are generally recorded in the consolidated statement of income. However, in the case of exchange differences arising on non-monetary items valued at fair value whose adjustment to fair value is allocated to the consolidated equity valuation adjustments caption of the Group's consolidated financial statements, the exchange rate component of the revaluation of the non-monetary items is disclosed.

At the investees, such as TotalBank, whose functional currency is not euro, the balances in their financial statements are translated to euro as follows:

- assets and liabilities are translated at the year-end exchange rate;
- revenues and expenses and cash flows are translated at the average exchange rates during the year; and
- equity is translated at historical exchange rates.

Exchange differences arising in the translation of the financial statements of the investees whose functional currency is not euro are recorded in the Group's consolidated financial statements under the consolidated equity valuation adjustments caption.

At 31 December 2010, none of the functional currencies of the investees relate to economies classified as highly inflationary by currently established criteria. Consequently, at the accounting close of 2010 and 2009, it was not necessary to adjust the financial statements of any investee to correct them for the effects of inflation.

### ***Interest rate risk***

Management of the Group seeks to manage the consequences of fluctuations in market interest rates affecting financial assets and liabilities in the Group's consolidated balance sheet. The Assets and Liabilities Committee evaluates scenarios to control and manage this type of risk.

The Group has tools to control and analyse interest rate risk by assessing the sensitivity of the balance sheet to changes in the interest rate curve and establishing short- and medium-term policies to manage prices, terms and volumes of funds in different scenarios. The variables used in the models to measure the sensitivity of the interest margin are basically movements in assets and liabilities and fluctuations in interest rate curves.

The gap between maturities and the appreciation of items in the Group's consolidated balance sheet is also assessed based on the nature and sensitivity or lack of sensitivity to interest rate fluctuations.

Interest rate risk is generally managed using derivative financial instruments as accounting or economic hedges. Most of the hedges are concentrated in wholesale market funding operations, although exceptionally liability and interest rate derivatives sold to the Group's customers through its commercial network may be hedged in the aggregate, once sufficient volume has been accumulated.

At 31 December 2010, the aggregate total amount of interest rate sensitive assets amounted to €111,691 million, compared with €113,271 million at 31 December 2009. The aggregate positive gap was €8,356 million.

### ***Other price risks***

The Group seeks to manage changes in market prices (other than those resulting in foreign exchange or interest rate risk) due to factors specific to the instrument itself or to factors that affect all similar instruments traded in the market. This type of market risk is measured in terms of value at risk ("**VaR**"), namely the limit of potential losses for a specified time period (such as one day) and a 99 per cent. confidence level, resulting from a percentage change in prices. In addition to calculating VaR, additional stress testing is performed to measure VaR sensitivity in changing scenarios.

In 2010, the average VaR of Treasury trading activity was €0,493 million.

### ***Management of Credit Risk***

The Group seeks to manage the risk that a party to a contract for a financial instrument fails to fulfil its obligations and thereby causes financial harm to the Group.

The Group's exposure to credit risk derives basically from its commercial banking activities (mainly loans and advances to other debtors and off-balance sheet risks such as contingent liabilities and available credit lines).

The Group has implemented the following procedures to manage credit risk:

- initial analysis of the risk authorisation powers held by each level in the Group's hierarchy;
- internal validation using internal risk measurement models which management believe to be in line with the minimum capital requirements of the Basel II banking supervision accord of the Basel Committee on Banking Supervision;
- permanent monitoring and control of credit risk, including individual risks and analyses of business sectors and areas, with a view to anticipating difficulties and designing measures to prevent or mitigate risks over time; and

- management of bad debts by analysing and claiming past due receivables. This analysis is performed individually and claim and recovery strategies are designed taking into account the specific circumstances of each customer and transaction.

At the organisational level, the Group takes commercial banking decisions based on a decision pyramid. Branches are on the first level for risk decision-taking purposes. Immediately above branches are the Business Managers or, in the case of the Bank, Regional or Territorial Managers (applying the same approach in which the commercial network focuses on the retail business, basically with SMEs, self-employed persons, stores and individuals), and in the case of subsidiary banks and companies, General Managers. At the third stage, risks are assessed by the Group's General Risk Manager and at the final stage by the Risk Committee.

The Group's total exposure to credit risk at 31 December 2010 amounted to €134,570 million, which was an increase of 1.7 per cent. compared to 2009. If €10,074 million of exposure to credit lines drawn by third parties is included, the maximum exposure was €144,644 million in 2010.

The Group's credit risk is primarily the outcome of its main field of business, commercial banking. At 2010 year end, 87.9 per cent. of its exposure consisted of lending to customers and the remaining 12.1 per cent. related to contingent exposures. The markets activity (counterparty risk and issuer risk) accounted for 15.6 per cent. of the total.

In the commercial banking activity 93.1 per cent. of the risk exposure related to Spain, 6.1 per cent. to Portugal and 0.8 per cent. to USA, which was substantially the same as the previous year. Of the risk in Spain, 88.4 per cent. related to businesses and private individuals, with the remaining 11.6 per cent. relating to risk with general government and asset repos.

As regards the unused portion of credit lines Spain again accounted for the majority with 91.4 per cent., Portugal accounted for 7.5 per cent. and USA for 1.1 per cent.. Of the business in Spain, the major portion was concentrated in the segment of businesses and private individuals, which accounted for 73.3 per cent.. Balances available through credit cards are considered to be subject to unilateral cancellation by the Bank and therefore although these balances figure in the tables they do not represent a risk in and of themselves.

Credit risk includes country risk, or the risk arising from customers resident in a specific country due to circumstances other than ordinary commercial risks (including sovereign risk, transfer risk and other risks arising from international finance activities). At 31 December 2010 the aggregate amount of the Group's risks affected by country risk was €41.8 million, which was 39 per cent. lower than the figure of €68.1 million recorded at the end of 2009. These figures are not significant as regards the Group's total risk, since they represented 0.04 per cent. and 0.06 per cent. of it in 2010 and 2009, respectively.

The provision recorded for country risk amounted to €1.4 million (55.4 per cent. less than in 2009) and the balance of the allowance recorded therefore represents country risk coverage of 3.3 per cent., compared with 4.6 per cent. in the preceding year. This decrease is the result of a higher weighting of countries with negligible risk.

In the ordinary course of its business, the Group has renegotiated certain loans, resulting in changes to the original conditions such as regards deadlines, rates, grace periods. The Group has also in some circumstances requested additional payment guarantees.

### ***Liquidity risk***

The Group seeks to manage the risk that it may have difficulties fulfilling the obligations arising from its financial liabilities, whether arising from difficulties in liquidating assets in order to make payments or from difficulties in obtaining the necessary financing at a reasonable cost.

The Assets and Liabilities Committee manages and supervises liquidity risk by means of formal procedures for the analysis and monitoring of variables affecting different scenarios, including stress testing. In order to analyse each scenario, assets and liabilities are disaggregated by maturity. The difference between assets and liabilities is the liquidity gap for each period that must be managed. If the gap is negative, the additional sources of liquidity for that period are analysed with a view to ensuring that the necessary liquid resources may be obtained to make the relevant payments on the relevant dates.

Management of the Group believes that its approach to liquidity risk is highly prudent. That approach includes contingency plans for possible departures from the most probably scenarios, irrespective of whether the causes are internal or external.

At 31 December 2010, the Group had assets with fixed maturities amounting to €114,663 million, compared with liabilities with fixed maturities amounting to €94,862 million. However, in the first ten months liabilities matured more quickly than assets, resulting in a negative gap at 31 December 2011 of €25,882 million.

Management of the Group believes that it has available sufficient liquid assets to cover a negative liquidity gap and obtain funding from various sources, including retail funding through the Group's commercial network, wholesale funding through the issuance of commercial paper and medium-term notes in the capital markets and funding from the Bank of Spain and the European Central Bank.

### **Ratings**

The ratings assigned to the Bank by the leading credit rating agencies have given the Bank access to different sources of financing in advantageous call and cost conditions.

As at 27 December 2011 the ratings assigned by the rating agencies listed below were as follows:

<b>Agency</b>	<b>Long term</b>	<b>Short term</b>	<b>Individual/ Financial strength</b>	<b>Outlook</b>
Fitch	BBB+	F2	C/bbb+	Rating Watch Negative
Moody's	A2	P1	Baa1	Review for possible downgrade
Standard & Poor's	BBB+	A2	bbb-	Credit Watch with Negative Implications
DBRS	A(high)	R1(middle)	A	Review with Negative Implications

In July 2011 Fitch downgraded the long and short term ratings of the Bank from A to A- and from F1 to F2, respectively, based on Spain's weak economic conditions and prospects and its impact on Spanish real estate development sector. Following the downgrade of the Kingdom of Spain in October 2011, the ratings of the Bank were also lowered to BBB+ as was also the case for a number of other Spanish financial institutions rated by Fitch.

In March 2011 Moody's took rating actions on 30 Spanish banks following the sovereign downgrade of the Kingdom of Spain and Moody's reassessment of its extraordinary support. As new criteria reduces support to a maximum of 2 notches, the Bank's rating was downgraded from Aa3 to A2. The short-term debt rating remained unchanged at P1.

In February 2011 Standard & Poor's adopted rating actions on several Spanish banks in the context of a difficult year throughout 2011 from an operative and credit quality perspective. The Bank's long term ratings were downgraded from A to A-. Short term ratings were also lowered from A1 to A2. In December 2011 Standard & Poor's applied its new criteria for banks to Spanish financial institutions resulting in a downgrade of most entities of one notch. In the case of the Bank, the assigned long term ratings under the new methodology were BBB+. The short term ratings remained unchanged at A2.

In May 2011 DBRS downgraded the Bank's rating from AA to AA(low) reflecting the impact of the continuing challenging environment in the Bank's home market. Later in October 2011, DBRS also downgraded the rating of the Kingdom of Spain which, again, impacted the Bank's ratings which were lowered from AA(low) to A(high). The Bank's short term rating stands at R1(middle).

In October 2011 all outlooks from the four rating agencies were placed under review for possible downgrade as a result of the Bank's announcement on 11 October 2011 of an exchange offer to acquire 100 per cent. of Banco Pastor's shares and its existing mandatory convertibles bonds. It is expected that the watches on the ratings will be resolved in the next 4 to 8 weeks once the transaction has fully materialised.

### **Shareholders and Board of Directors**

#### **Shareholders**

Further to a capital increase of the Bank of 3 per cent. subscribed in full by Crédit Mutuel-CIC that has changed its corporate name under the denomination of Targobank S.A. on the 11 November 2011 and an issue of convertible bonds (to be purchased by Targobank S.A. out of the Bank's treasury stock), Targobank S.A. incorporated in the Bank's capital with a participation of 5,033 per cent..

Following this transaction, Targobank S.A. is one of the Bank's core shareholders, with the ability to nominate a representative to the Bank's board of directors.

At the end of 2010, the Bank had 147,943 shareholders, compared with 136,207 at the end of the previous year.

The structure of the Bank's shareholder group remains in line with the previous year, with an increase in the ownership by investors owning a smaller numbers of shares. The vast majority of the Bank's shareholders (85 per cent.) own less than 4,000 shares. There are 109 shareholders owning more than 800,000 shares and they control 60.97 per cent. of the capital, compared to 117 shareholders that represent 62.50 per cent. that at the close of the previous year. Non-Spanish shareholders hold 40.81 per cent. of the capital at the end of 2010, compared with 39.13 per cent. in 2009.

The following table describes the shares controlled by members of the board of directors of the Bank as the date of this document.

<u>Name</u>	<u>per cent. Direct</u>	<u>per cent. Indirect</u>	<u>per cent. Total</u>
Allianz SE .....	0,000	9,149	9,149
Aparico Valls, Francisco Maria .....	0,017	0,022	0,039
Asociacion De Directivos			
Del Banco Popular Español .....	0,004	0,000	0,004
Ferreira De Amorin, Americo .....	0,000	6,760	6,760
Gancedo Holmer, Eric .....	0,002	0,002	0,004
Herrando Prat De La Riba, Luis.....	0,000	0,000	0,001
Higuera Montejo, Roberto .....	0,005	0,000	0,005
Fradin, Alain .....	0,000	0,000	0,000
Molins Lopez-Rodo, Ana M <sup>a</sup> .....	0,000	0,000	0,000
Nigorra Oliver, Miguel.....	0,040	0,198	0,238
Osuna Garcia, Nicolas .....	0,000	2,589	2,589
Revoredo Delvecchio, Helena Irene.....	0,000	0,429	0,429
Rodriguez Garcia, Jose Ramon .....	0,011	0,010	0,021
Ron Güimil, Angel Carlos .....	0,005	0,000	0,005
Sindicatura De Accionistas Bco.			
Popular Español, S.A. ....	1,072	11,755	12,827
Solis Martinez Campos, Miguel Angel .....	0,059	0,017	0,076
Tardio Barutel, Vicente .....	0,001	0,000	0,001
Union Europea De Inversiones, S.A. ....	4,702	0,740	5,442

At 31 December 2010, the capital of the Bank was represented by 1,400,929,691 ordinary shares with a par value of €0.10 each, and they are listed on the four Spanish Stock Exchanges and traded in the Spanish continuous market. They are also listed on the Lisbon Exchange. The Bank's shares are included in the Madrid Stock Exchange general price index, with a weighting of 1.59 per cent. of the total and in the Ibex-35 index, with a weighting of 1.57 per cent..

On 8 November 2011, the Bank issued 782,525 ordinary shares in virtue of the second voluntary exchange period of the convertible bonds issued by the Group on 23 October 2009.

## **Board of Directors**

### **Management**

The table below sets forth the names of the members of the Board of Directors of the Bank, their positions within the Bank and their principal activities outside the Group as at the date of this Base Prospectus. The business address of all the members of the Board of Directors is C/Ortega y Gasset nº 29, 7th Floor, Edificio Beatriz, 28006-Madrid, Spain. As at the date of this Base Prospectus, there were no conflicts of interest in relation to members of the Board of Directors of the Bank between any duties owed to the Bank and their private interests and other duties.

<u>Name</u>	<u>Company</u>	<u>Role</u>
Allianz SE (representative: Jan Olof Richard Carendi)		Director
Aparicio Valls, Francisco	Centro Social Universitario Pan de Azúcar, S.A. TargoBank, S.A.	Sole Director Director
Asociación Profesional de Directivos (representative: Francisco Aparicio Valls)	TargoBank, S.A.	Director

<b>Name</b>	<b>Company</b>	<b>Role</b>
Ferreira de Amorim, Americo	Grupo Amorim	President
	Unión Europea de Inversiones S.A.	Director
Gancedo Holmer, Eric	bancopopular-e, S.A.	President
	Manuel Gancedo, S.A.	Director
	Gancedo y González, S.A.	Director
	Aliseda	Director
	Targobank, S.A.	Vice Chairman
	Popular Banca Privada, S.A.	Director
Herrando Prat, Luis	Instituto de Educación e Investigación, S.A.	President
	Sociedad de Promoción y Desarrollo Talde, S.A.	Director
	Bilbao Equity SIMCAV, S.A.	President
	Asistencia Clínica Universitaria de Navarra, S.A.	Director
	Popular Banca Privada, S.A.	President
	Aliseda	President
Sindicatura de Accionistas (representative of Figueru García, Carlos)	Sindicatura de Accionistas de BPE S.A.	Sole Director
	Formación de la Mujer S.A.	Sole Director
	Viviendas y Oficinas S.A.	Sole Director
	Comercial de Libros y Documentación S.A	Sole Director
Molins López-Rodó, Ana María	Cementos Molins, S.A.	Vice Chairman and Director
	Otinix, S.A.	Director
	Inversora Pedralves, S.A.	Director
Fradin, Alain	Banque Fédérative du Crédit Mutuel	Chief Executive Officer
	Targobank, S.A.	President
	CIC	President
Nigorra Oliver, Miguel	Nova Santa Ponsa Golf, S.A.	President
	Gestión y Administración Registral, S.L.	President-CEO
	Habitat Golf Santa Ponsa, S.A.	President
Osuna García, Nicolás	Invernima, S.L.	President
	Grupo de Inversiones Noga, S.A.U	President
Rodríguez García, José Ramón	Inmobiliaria Urbana de la Moncloa, S.A.	President
	Aliseda	President
Revoredo Delveccio, Helena	Prosegur, S.A.	President
	Euroforum Escorial S.A.	President
	Mediaset España Comunicaciones, S.A.	Director
	TF Artes Gráficas S.A.	Director
	Romeracapital Sicav S.A.	Director
Ron, Ángel Carlos	–	–
Higuera, Roberto	Popular de Mediación, S.A.	President
	Popular de Factoring, S.A., E.F.C	President Director
Solís, Miguel Ángel de Tardío Barutel, Vicente	Sur CIA. Española de Seguros y Reaseguros, S.A.	Director
	Allianz Compañía de Seguros y Reaseguros, S.A	President and CEO
	AGF Inversiones, S.A.	Director
Unión Europea de Inversiones, S.A. (representative: D. Jorge Oroviogoicochea)	Allianz Popular, S.L.	President
	Unión Europea de Inversiones, S.A.	President
	Instituto de Educación e Investigación, S.A.	Director
	Sociedad General Fiduciaria y Financiera, S.A.	Director

### **Employees**

The Group employed 14,252 people in 2010 (compared with 14,431 in 2009) of which 12,414 were located in Spain and 1,838 in Portugal and the United States. By 30 June 2011, the number of employees decreased to 14,111, of which 12,272 persons were in Spain, 1,839 were in Portugal and the United States.



## Financial Information

The audited consolidated annual accounts of the Bank for the financial years ended 31 December 2010 (which includes 31 December 2009 financial information for comparative purposes) and 31 December 2009 (which includes 31 December 2008 financial information for comparative purposes) prepared in accordance with IFRS-EU, have been incorporated by reference in this Base Prospectus.

The unaudited consolidated interim financial information of the Bank as at and for the nine months ended 30 September 2011 (which includes 30 September 2010 financial information for comparative purposes) have been incorporated by reference in this Base Prospectus.

The above mentioned consolidated annual accounts were audited by PricewaterhouseCoopers Auditores, S.L. No other information in this Base Prospectus (including the 2011 third quarter financial statements) has been audited by PricewaterhouseCoopers Auditores, S.L. (a member of the *Registro Oficial de Auditores de Cuentas* in Spain). The auditors' reports in respect of those financial statements were unqualified.

No financial data in this Base Prospectus has been extracted from a source other than the 2010 Financial Statements and 2009 Financial Statements or the 2011 third quarter financial information.

The Bank has not been involved in any governmental, legal or arbitration proceedings (nor is the Bank aware of any such proceedings which are pending or threatened) during the 12 months prior to the date of this Base Prospectus which may have, or have had in the recent past, a significant effect on the Bank and/or the Group's financial position or profitability.

There has been no significant change in the financial position of the Group since 30 June 2011, the date of the half yearly audited consolidated financial report of the Bank, except for the announcement of the takeover bid by the Bank of Banco Pastor mentioned in "Recent Developments".

## PLAN OF DISTRIBUTION

Subject to the terms and conditions contained in a dealer agreement dated 29 December 2011 (the “**Dealer Agreement**”) between the Issuer, the Guarantor, the Arranger and the Dealers, the Notes will be offered on a continuous basis by the Issuer to the Dealers. However, the Issuer has reserved the right to sell Notes directly on its own behalf to other dealers. The Notes may be resold at prevailing market prices, or at prices related thereto, at the time of such resale, as determined by the Dealers. The Notes may also be sold by the Issuer through the Dealers, acting as agents of the Issuer. The Dealer Agreement also provides for Notes to be issued in syndicated Tranches which are jointly and severally underwritten by two or more Dealers.

Each of the Issuer failing whom, the Guarantor, has agreed to indemnify the Dealers against certain liabilities in connection with the offer and sale of the Notes. The Dealer Agreement may be terminated in relation to all the Dealers or any of them by the Issuer or, in relation to itself and the Issuer only, by any Dealer, at any time on giving not less than ten business days’ notice.

### 1. United States of America

- 1.1 The Notes have not been and will not be registered under the Securities Act, and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act or pursuant to an exemption from the registration requirements of the Securities Act. Each Dealer has represented and agreed that it has offered and sold any Notes, and will offer and sell any Notes (i) as part of their distribution at any time and (ii) otherwise until 40 days after the completion of the distribution of all Notes of the Tranche of which such Notes are a part, as determined and certified as provided below, only in accordance with Rule 903 of Regulation S under the Securities Act. Each Dealer who has purchased Notes of a Tranche hereunder (or in the case of a sale of a Tranche of Notes issued to or through more than one Dealer, each of such Dealers as to the Notes of such Tranche purchased by or through it or, in the case of a syndicated issue, the relevant Lead Manager) shall determine and certify to the Agent the completion of the distribution of the Notes of such Tranche. On the basis of such notification or notifications, the Agent has agreed to notify such Dealer/Lead Manager of the end of the distribution compliance period with respect to such Tranche. Each Dealer also agrees that, at or prior to confirmation of sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or notice to substantially the following effect:

“The Securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the **Securities Act**), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the completion of the distribution of the Securities as determined and certified by the relevant Dealer, in the case of a non-syndicated issue, or the Lead Manager, in the case of a syndicated issue, and except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S.”

Terms used in this subclause 1.1 have the meanings given to them by Regulation S.

- 1.2 Each Dealer has represented and agreed that it, its affiliates or any persons acting on its or their behalf have not engaged and will not engage in any directed selling efforts with respect to any Note, and it and they have complied and will comply with the offering restrictions requirement of Regulation S.
- 1.3 In addition in respect of Notes where TEFRA D is specified in the applicable Final Terms:
- (a) except to the extent permitted under U.S. Treas. Reg. Section 1.163-5(c)(2)(i)(D) (the **D Rules**), each Dealer (i) has represented that it has not offered or sold, and has agreed that during the restricted period it will not offer or sell, Notes in bearer form to a person who is within the United States or its possessions or to a United States person, and (ii) has represented that it has not delivered and has agreed that it will not deliver within the United States or its possessions definitive Notes in bearer form that are sold during the restricted period;
  - (b) each Dealer has represented that it has and has agreed that throughout the restricted period it will have in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling Notes in bearer form are aware that such Notes may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the D Rules;

- (c) if it is a United States person, each Dealer has represented that it is acquiring Notes in bearer form for purposes of resale in connection with their original issuance and if it retains Notes in bearer form for its own account, it will only do so in accordance with the requirements of U.S. Treas. Reg. Section 1.163-5(c)(2)(i)(D)(6); and
- (d) with respect to each affiliate that acquires Notes in bearer form from a Dealer for the purpose of offering or selling such Notes during the restricted period, such Dealer has repeated and confirmed the representations and agreements contained in subclauses 1.3(a), 1.3(b) and 1.3(c) on such affiliate's behalf;

Terms used in this subclause 1.3 have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder, including the D Rules.

- 1.4 In respect of Notes where TEFRA C is specified in the applicable Final Terms, such Notes must be issued and delivered outside the United States and its possessions in connection with their original issuance. Each Dealer has represented and agreed that it has not offered, sold or delivered, and will not offer, sell or deliver, directly or indirectly, such Notes within the United States or its possessions in connection with their original issuance. Further, each Dealer has represented and agreed in connection with the original issuance of such Notes that it has not communicated, and will not communicate, directly or indirectly, with a prospective purchaser if such purchaser is within the United States or its possessions and will not otherwise involve its U.S. office in the offer or sale of such Notes.

Each issue of Index Linked Notes or Dual Currency Notes shall be subject to such additional U.S. selling restrictions as the Issuer and the relevant Dealer may agree as a term of the issue and purchase of such Notes, which additional selling restrictions shall be set out in the applicable Final Terms. The relevant Dealer has agreed that it shall offer, sell and deliver such Notes only in compliance with such additional U.S. selling restrictions.

## 2. United Kingdom

In relation to each Tranche of Notes, the Dealers subscribing for or purchasing such Notes have represented to and agreed with, or will represent to and agree with, the Issuer, the Guarantor and each other such Dealer (if any) that:

- (a) **No deposit-taking:** in relation to any Notes having a maturity of less than one year:
  - (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business; and;
  - (ii) it has not offered or sold and will not offer or sell any Notes other than to persons:
    - (A) whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses; or
    - (B) who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses,

where the issue of the Notes would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (the "FSMA") by the Issuer;

- (b) **Financial promotion:** it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer or the Guarantor; and
- (c) **General compliance:** it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## 3. The Kingdom of Spain

Each Dealer has represented and agreed that the Notes may not be offered or sold in Spain other than by institutions authorised under the Securities Market Law 24/1988 of 28 July 1988 (*Ley 24/1988, de 28 de julio, del Mercado de Valores*) as amended (the "**Securities Market Law**") and related legislation, and Royal Decree 217/2008 of 15 February on the Legal Regime Applicable to Investment Services Companies (*Real Decreto 217/2008, de 15 de febrero, sobre el Régimen Jurídico de las empresas de servicios de inversión y de las demás*

*entidades que prestan servicios de inversión*), to provide investment services in Spain, and in compliance with the provisions of the Securities Market Law and any other applicable legislation, provided that offers of the Notes shall not be directed specifically at or made to investors located in Spain.

#### **4. Republic of Italy**

The offering of the Notes has not been registered with the Commissione Nazionale per le Società e la Borsa (“CONSOB”) pursuant to Italian securities legislation.

Each of the Dealers has represented and agreed that any offer, sale or delivery of the Notes or distribution of copies of this Base Prospectus or any other document relating to the Notes in the Republic of Italy will be effected in accordance with all Italian securities, tax and exchange control and any other applicable laws and regulations of the Republic of Italy.

Any such offer, sale or delivery of the Notes or distribution of copies of this Base Prospectus or any other document relating to the Notes in the Republic of Italy must be:

- (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Legislative Decree No. 58 of 24 February 1998 as amended from time to time, CONSOB Regulation No. 16190 of 29 October 2007 (as amended from time to time) and Legislative Decree No. 385 of 1 September 1993, as amended (the “**Banking Act**”); and
- (ii) in compliance with Article 129 of the Banking Act, as amended, and the implementing guidelines of the Bank of Italy, as amended from time to time, pursuant to which the Bank of Italy may request information on the issue or the offer of securities in the Republic of Italy; and
- (iii) in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or other Italian authority.

#### **5. France**

Each of the Dealers has represented and agreed that it has not offered or sold and will not offer or sell, directly or indirectly, any Notes to the public in France and it has not distributed or caused to be distributed and will not distribute or cause to be distributed to the public in France, the Base Prospectus, the relevant Final Terms or any other offering material relating to the Notes and such offers, sales and distributions have been and will be made in France only to (a) persons providing investment services relating to portfolio management for the account of third parties, and/or (b) qualified investors (*investisseurs qualifiés*) acting for their own account, as defined in, and in accordance with, Articles L.411-1, L.411-2 and D.411-1 to D.411-3 of the French *Code monétaire et financier*.

## TAXATION AND DISCLOSURE OF INFORMATION IN CONNECTION WITH PAYMENTS

*The information provided below does not purport to be a complete summary of tax law and practice currently applicable in the Kingdom of Spain and is subject to any changes in law and the interpretation and application thereof, which could be made with retroactive effect. The following summary does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to acquire, hold or dispose of the Notes, and does not purport to deal with the tax consequences applicable to all categories of investors, some of whom (such as dealers in securities) may be subject to special rules. Other than in accordance with Condition 9, neither the Issuer nor the Guarantor assume responsibility for withholding taxes. Prospective investors who are in any doubts as to their position should consult with their own professional advisers.*

### 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 Base Prospectus:

- (a) of general application, Additional Provision Two of Law 13/1985, of 25 May 1985 on investment ratios, own funds and information obligations of financial intermediaries, as amended by Law 19/2003, of 4 July 2003 on legal rules governing foreign financial transactions and capital movements and various money laundering prevention measures, Law 23/2005, of 18 November 2005, on certain measures to promote productivity and Law 4/2008, 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 1065/2007 (“**Royal Decree 1065/ 2007**”), of 27 July 2007 establishing information obligations in relation to preferential holdings and other debt instruments and certain income obtained by individuals resident in the European Union and other tax rules as amended by Royal Decree 1145/2011 of 29 July;
- (b) for individuals with tax residency in Spain who are personal income tax (“Personal Income Tax”) tax payers, Law 35/2006, of 28 November 2006 on Personal Income Tax and on the partial amendment of the Corporate Income Tax Law, Non Residents Income Tax Law and Wealth Tax Law (the “**Personal Income Tax Law**”), and Royal Decree 439/2007, of 30 March 2007 promulgating the Personal Income Tax Regulations, along with Law 19/1991, of 6 June 1991 on Wealth Tax as amended by Law 4/2008 and Law 29/1987, of 18 December 1987 on Inheritance and Gift Tax;
- (c) for legal entities resident for tax purposes in Spain which are corporate income tax (“**Corporate Income Tax**”) taxpayers, Royal Legislative Decree 4/2004, of 5 March 2004 promulgating the Consolidated Text of the Corporate Income Tax Law, and Royal Decree 1777/2004, of 30 July 2004 promulgating the Corporate Income Tax Regulations (the “**Corporate Income Tax Regulations**”); and
- (d) for individuals and legal entities who are not resident for tax purposes in Spain and are non-resident income tax (“**Non-Resident Income Tax**”) taxpayers, Royal Legislative Decree 5/2004, of 5 March 2004 promulgating the Consolidated Text of the Non-Resident Income Tax Law, and Royal Decree 1776/2004, of 30 July 2004 promulgating the Non-Resident Income Tax Regulations, along with Law 19/1991, of 6 June 1991 on Wealth Tax as amended by Law 4/2008 and Law 29/1987, of 18 December 1987 on Inheritance and Gift Tax.

Whatever the nature and residence of the holder of a beneficial interest in the Notes (each, a “**Beneficial Owner**”), the acquisition and transfer of the Notes 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 1993, and exempt from value added tax, in accordance with Law 37/1992, of 28 December 1992 regulating such tax.

### 1. Individuals with Tax Residency in Spain

#### 1.1. Individual Income Tax (*Impuesto sobre la Renta de las Personas Físicas*)

Payments of income deriving from the transfer, redemption or repayment of the Notes constitute a return on investment obtained from the transfer of own capital to third parties in accordance with the provisions of Section 25.2 of the Personal Income Tax Law, and must be included in each investor’s taxable savings and taxed at the tax rate applicable from time to time, currently 19 per cent. for taxable income up to €6,000 and 21 per cent. for taxable income exceeding €6,001.

According to Section 44.5 of Royal Decree 1065/2007, of 27 July as amended by Royal Decree 1145/2011, of 29 July, the Issuer will make interest payments to individual holders who are resident for tax purposes in Spain

without withholding provided that the relevant information about the Notes is submitted. In addition, income obtained upon transfer, redemption or exchange of the Notes may also be paid without withholding.

However, in the case of Notes held by Spanish resident individuals and deposited with a Spanish resident entity acting as depositary or custodian, payments of interest under the Notes may be subject to withholding tax at the current rate of 19 per cent. which will be made by the depositary or custodian.

### **1.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Individuals with tax residency in Spain are subject to Wealth Tax on tax years 2011 and 2012 to the extent that their net worth exceeds EUR700,000. Therefore, they should take into account the value of the Notes which they hold as at 31 December in each of the years 2011 and 2012, the applicable rates ranging between 0.2 per cent. and 2.5 per cent.

### **1.3 Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**

Individuals with tax residency in Spain who acquire ownership or other rights over any Notes by inheritance, gift or legacy will be subject to inheritance and gift tax in accordance with the applicable Spanish regional or federal rules.

## **2. Legal Entities with Tax Residency in Spain**

### **2.1 Corporate Income Tax (*Impuesto sobre Sociedades*)**

Payments of income deriving from the transfer, redemption or repayment of the Notes 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 residency in Spain for Corporate Income Tax purposes in accordance with the rules for Corporate Income Tax. In accordance with Section 44.5 of Royal Decree 1065/2007, of 27 July as amended by Royal Decree 1145/2011 of 29 July, there is no obligation to withhold on income payable to Spanish CIT taxpayers (which for the sake of clarity, include Spanish tax resident investment funds and Spanish tax resident pension funds). Consequently, the Issuer will not withhold on interest payments to Spanish CIT taxpayers provided that the relevant information about the Notes is submitted.

### **2.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Spanish resident legal entities are not subject to Wealth Tax.

### **2.3 Inheritance and Gift Tax (*Impuesto sobre Sucesiones y Donaciones*)**

Legal entities with tax residency in Spain which acquire ownership or other rights over the Notes by inheritance, gift or legacy are not subject to inheritance and gift tax and must include the market value of the Notes in their taxable income for Spanish Corporate Income Tax purposes.

## **3. Individuals and Legal Entities with no Tax Residency in Spain**

### **3.1 Non-Resident Income Tax (*Impuesto sobre la Renta de No Residentes*)**

#### **(a) Non-Spanish resident investors acting through a permanent establishment in Spain**

Ownership of the Notes 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 Notes 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 tax rules applicable to income deriving from such Notes are the same as those for Spanish Corporate Income Tax taxpayers.

#### **(b) Non-Spanish resident investors not acting through a permanent establishment in Spain**

Payments of income deriving from the transfer, redemption or repayment of the Notes obtained by individuals or entities who have no tax residency in Spain, and which are Non-Resident Income Tax taxpayers with no permanent establishment in Spain, are exempt from such Non-Resident Income Tax on the same terms laid down for income from public debt.

### **3.2 Wealth Tax (*Impuesto sobre el Patrimonio*)**

Individuals resident in a country with which Spain has entered into a double tax treaty in relation to the Wealth Tax would generally not be subject to such tax. Otherwise, non-Spanish resident individuals whose properties and rights located in Spain, or that can be exercised within the Spanish territory exceed EUR700,000 would be subject to Wealth Tax, the applicable rates ranging between 0.2 per cent. and 2.5 per cent.

Non-Spanish 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 residency in Spain who acquire ownership or other rights over the Notes 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 and gift 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 Spanish legislation applicable in the relevant autonomous region (*Comunidad Autónoma*).

Non-Spanish resident legal entities which acquire ownership or other rights over the Notes by inheritance, gift or legacy are not subject to inheritance and gift tax. They will be subject to Non-Resident Income Tax. If the legal entity is resident in a country with which Spain has entered into a double tax treaty, the provisions of such treaty will apply. In general, double-tax treaties provide for the taxation of this type of income in the country of residence of the beneficiary.

## **4. Tax Rules for payments made by Guarantor**

Payments which may be made by the Guarantor to holders, if the Guarantee is enforced, will be subject to the same tax rules previously set out for payments made by the Issuer.

## **5. Information about the Notes in Connection with Payments**

*The Issuer and the Guarantor are currently required by Spanish law to file an annual return with the Spanish tax authorities in which they report on certain information relating to the Notes.*

*The Issuer and the Guarantor each complete annual returns on the basis of the information provided to them. The following is a summary of the procedures implemented to facilitate collection of the information necessary to enable the Issuer and the Guarantor to comply with their annual reporting obligations pursuant to Additional Provision Two of Law 13/1985.*

*The following is a summary only and remains subject to the detailed procedures, as well as to any changes in Spanish tax law and/or regulations, or the interpretation thereof, which the Spanish tax authorities may promulgate from time to time. Holders of Notes must seek their own advice to ensure that they comply with all procedures to ensure the correct tax treatment of their Notes and should consult the latest announcements in relation to the procedures on the ICSDs websites ([www.euroclear.com](http://www.euroclear.com) and [www.clearstream.com](http://www.clearstream.com)) or other relevant clearing system. None of the Issuer, the Guarantor, the Dealers, the Fiscal Agent or Euroclear or Clearstream, Luxembourg (or any other clearing system) assume any responsibility therefor.*

Interest and other financial income paid with respect to the Notes will not be subject to Spanish withholding tax unless the relevant information procedures, as described in Annex I of this Base Prospectus are not complied with.

In this regard, please note that Law 4/2008, of December 23, has modified section 3 of the second additional provision of Law 13/1985, reducing the scope of the information that must be submitted to the Spanish tax authorities.

In light of the foregoing, the information obligations to be complied with in order to apply the exemption are those laid down in Section 44 of Royal Decree 1065/2007 (“**Section 44**”).

In accordance with Section 44, for the purpose of preparing the annual return to be filed with the Spanish tax authorities by the Guarantor, the following information with respect to the Notes must be submitted to the Issuer and the Guarantor at the time of each payment:

Such information would be the following:

- (a) Identification of the Notes in respect of which the relevant payment is made;
- (b) Date on which relevant redemption is made;

- (c) the total amount of the relevant redemption; and
- (d) the amount of the relevant payment and to each entity that manages a clearing and settlement system for securities situated outside Spain.

In particular, the Fiscal Agent must certify the information above about the Notes by means of a certificate the form of which is attached as Annex I of this Information Memorandum. In light of the above, the Issuer and the Fiscal Agent have arranged certain procedures to facilitate the collection of information concerning the Notes. Investors should note that the Issuer does not accept any responsibility relating to the procedures established for the collection of information concerning the Notes.

Accordingly, the Issuer will not be liable for any damage or loss suffered by any holder who would otherwise be entitled to an exemption from Spanish withholding tax but whose income payments are nonetheless paid net of Spanish withholding tax because these procedures prove ineffective. Moreover, the Issuer will not pay any additional amounts with respect to any such withholding. See “*Risk Factors*”. The procedures for providing documentation referred to in this section are set out in detail in the amended and restated fiscal agency agreement dated 29 December 2011 (the “**Fiscal Agency Agreement**”) which may be inspected during normal business hours at the specified office of the Fiscal Agent. In particular, if the Fiscal Agent does not act as common depository, the procedures described in this section will be modified in the manner described in the Fiscal Agency Agreement.

*Set out below is Annex I. Sections in English have been translated from the original Spanish and such translations constitute direct and accurate translations of the Spanish language text. In the event of any discrepancy between the Spanish language version of the certificate contained in Annex I and the corresponding English translation, the Spanish tax authorities will give effect to the Spanish language version of the relevant certificate only.*

#### **EU Savings Directive**

Under EU 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 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.

The European Commission has proposed certain amendments to the Directive, which may, if implemented, 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 reciprocal 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.



## ANNEX I

### **Anexo al Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos, aprobado por Real Decreto 1065/2007**

#### **Modelo de declaración a que se refieren los apartados 3, 4 y 5 del artículo 44 del Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos**

Annex to Royal Decree 1065/2007, 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

Declaration form referred to in paragraphs 3, 4 and 5 of Article 44 of the General Regulations of the tax inspection and management procedures and developing the common rules of the procedures to apply taxes

**Don (nombre), con número de identificación fiscal (...) <sup>(1)</sup>, en nombre y representación de (entidad declarante), con número de identificación fiscal (...) <sup>(1)</sup> y domicilio en (...) en calidad de (marcar la letra que proceda):**

Mr. (name), with tax identification number (...) <sup>(1)</sup>, in the name and on behalf of (entity), with tax identification number (...) <sup>(1)</sup> and address in (...) as (function – mark as applicable):

**(a) Entidad Gestora del Mercado de Deuda Pública en Anotaciones.**

(a) Management Entity of the Public Debt Market in book entry form.

**(b) Entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero.**

(b) Entity that manages the clearing and settlement system of securities resident in a foreign country.

**(c) Otras entidades que mantienen valores por cuenta de terceros en entidades de compensación y liquidación de valores domiciliadas en territorio español.**

(c) Other entities that hold securities on behalf of third parties within clearing and settlement systems domiciled in the Spanish territory.

**(d) Agente de pagos designado por el emisor.**

(d) Fiscal Agent appointed by the Issuer.

**Formula la siguiente declaración, de acuerdo con lo que consta en sus propios registros:**

Makes the following statement, according to its own records:

**1. En relación con los apartados 3 y 4 del artículo 44:**

1. In relation to paragraphs 3 and 4 of Article 44:

**1.1 Identificación de los valores .....**

1.1 Identification of the securities.....

**1.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados)**

1.2 Income payment date (or refund if the securities are issued at discount or are segregated)

**1.3 Importe total de los rendimientos (o importe total a reembolsar, en todo caso, si son valores emitidos al descuento o segregados).....**

1.3 Total amount of income (or total amount to be refunded, in any case, if the securities are issued at discount or are segregated).....

**1.4 Importe de los rendimientos correspondiente a contribuyentes del Impuesto sobre la Renta de las Personas Físicas, excepto cupones segregados y principales segregados en cuyo reembolso intervenga una Entidad Gestora .....**

1.4 Amount of income corresponding to Personal Income Tax taxpayers, except segregated coupons and segregated principals for which reimbursement an intermediary entity is involved.....

- 1.5 Importe de los rendimientos que conforme al apartado 2 del artículo 44 debe abonarse por su importe íntegro (o importe total a reembolsar si son valores emitidos al descuento o segregados).**
- 1.5 Amount of income which according to paragraph 2 of Article 44 must be paid gross (or total amount to be refunded if the securities are issued at discount or are segregated).
- 2. En relación con el apartado 5 del artículo 44.**
2. In relation to paragraph 5 of Article 44.
- 2.1 Identificación de los valores .....**
- 2.1 Identification of the securities .....
- 2.2 Fecha de pago de los rendimientos (o de reembolso si son valores emitidos al descuento o segregados) .....**
- 2.2 Income payment date (or refund if the securities are issued at discount or are segregated) .....
- 2.3 Importe total de los rendimientos (o importe total a reembolsar si son valores emitidos al descuento o segregados) .....**
- 2.3 Total amount of income (or total amount to be refunded if the securities are issued at discount or are segregated).....
- 2.4 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero A.**
- 2.4 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country A.
- 2.5 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero B.**
- 2.5 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country B.
- 2.6 Importe correspondiente a la entidad que gestiona el sistema de compensación y liquidación de valores con sede en el extranjero C.**
- 2.6 Amount corresponding to the entity that manages the clearing and settlement system of securities resident in a foreign country C.

**Lo que declaro en .....a .... de .....de ....**

I declare the above in ..... on the.... of ..... of ....

<sup>(1)</sup> En caso de personas, físicas o jurídicas, no residentes sin establecimiento permanente se hará constar el número o código de identificación que corresponda de conformidad con su país de residencia

<sup>(1)</sup> In case of non-residents (individuals or corporations) without permanent establishment in Spain it shall be included the number or identification code which corresponds according to their country of residence.

## GENERAL INFORMATION

1. This Base Prospectus has been approved by the Central Bank as competent authority under the Prospectus Directive. The Central Bank only approves this Base Prospectus as meeting the requirements imposed under Irish and European Union law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the notes to be admitted to the Official List and trading on its regulated market.

However, Notes may be issued pursuant to the Programme which will be listed on such stock exchange as the Issuer and the relevant Dealer(s) may agree.

2. Each of the Issuer and the Guarantor have obtained all necessary consents, approvals and authorisations in Ireland and the Kingdom of Spain in connection with the establishment of the Programme and the issue and performance of the Notes and the guarantees relating to them. The establishment of the Programme was authorised by the resolution of the shareholders of the Issuer passed on 17 April 2007, and the establishment of the Programme and the giving of the guarantees relating to the Notes by the Guarantor was authorised by a resolution of the executive committee of the Guarantor passed on 18 April 2007. The update of the Programme was authorised by the shareholders of the Issuer passed on 29 November 2011, by the board of directors of the Issuer passed on 29 November 2011 and by the executive committee of the Guarantor passed on 29 November 2011.

3. Each Bearer Note, Receipt, Coupon and Talon will bear the following legend: **“Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code”**.

4. There are no pending or threatened governmental, legal or arbitration actions, suits or proceedings against or affecting the Issuer or the Guarantor or any of the Guarantor’s subsidiaries, which, if determined adversely to the Issuer, the Guarantor or the Guarantor’s subsidiaries, may have, or have had during the 12 months prior to the date hereof, individually or in the aggregate, a significant effect on the financial position of the Issuer or the Guarantor and, to the best knowledge of the Issuer or the Guarantor, no such actions, suits or proceedings are threatened or contemplated.

5. The Issuer has no significant changes in financial and trading position and no material adverse change in prospects since 31 December 2010. The Guarantor and its subsidiaries, taken as a whole, have no significant changes in financial position since 30 June 2011 and no material adverse change in prospects since 30 June 2011 except for the announcement of the takeover bid by the Guarantor of Banco Pastor referred to in “Recent Developments”.

6. Notes will be accepted for clearance through the Euroclear and Clearstream systems. The Common Code and the International Securities Identification Number (ISIN) will be set out in the relevant Final Terms.

7. For so long as the Programme remains in effect or any Notes remain outstanding, the following documents will be available for inspection and (in the case of the items listed under (vii), (viii) and (ix) below) obtainable, during usual business hours on any weekday (Saturdays and public holidays excepted) in physical form, at the registered offices of the Issuer, the Guarantor, the Fiscal Agent and each of the Paying Agents:

- (i) amended and restated the Fiscal Agency Agreement;
- (ii) the Programme Manual (which includes the form of the Global Notes, the definitive Bearer Notes, the Certificates in respect of Registered Notes, the Coupons, the Receipts and the Talons);
- (iii) the Dealer Agreement;
- (iv) the Deed of Covenant;
- (v) the Deed of Guarantee;
- (vi) the *Estatutos* (together with English translations) of each of the Issuer and the Guarantor;
- (vii) each of the documents referred to in “Documents Incorporated by Reference”;
- (viii) any Final Terms relating to Notes which are listed on the Irish Stock Exchange or which are admitted to listing, trading and/or quotation by any other listing authority, stock exchange and/or quotation system. (In the case of any Notes which are not admitted to listing, trading and/or quotation by any listing authority, stock exchange and/or quotation system, copies of the relevant Final Terms will only be available for inspection by the relevant holders of the Notes);
- (ix) a copy of this Base Prospectus together with any Supplement to this Base Prospectus or further Base Prospectus; and
- (x) all reports, letters and other documents, balance sheets, valuations and statements by any expert any part of which is extracted or referred to in this Base Prospectus.

8. The consolidated annual accounts of the Guarantor for the years ended 31 December 2010 and 2009 and the consolidated half-yearly financial report of the Guarantor for the six month period ended 30 June 2011 prepared in accordance with IFRS, were audited by PricewaterhouseCoopers Auditores, S.L. (auditors in Spain, who are members of the *Registro Oficial de Auditores de Cuentas*). The auditors' reports were unqualified.

9. The non-consolidated annual accounts of the Issuer for the years ended 31 December 2010 and 2009 prepared in accordance with Spanish GAAP were audited by PricewaterhouseCoopers Auditores, S.L. (auditors in Spain, who are members of the *Registro Oficial de Auditores de Cuentas*). The auditors' report was unqualified.

10. The unaudited interim consolidated quarterly report of the Guarantor for the nine month period ended 30 September 2011 prepared in accordance with IFRS has not been subject to an audit or a limited review.

11. Any websites mentioned in this Base Prospectus shall not form part of this Base Prospectus.

12. Clifford Chance, S.L. have acted as legal advisers to the Arranger and Dealers as to Spanish law and English law in relation to the Programme.

13. There are no material contracts which could result in any member of the Group being under an obligation that is material to the Issuer's ability to meet its obligations to holders of Notes.

## **THE ISSUER**

### **BPE Financiaciones, S.A.**

José Ortega y Gasset, 29  
28006 Madrid  
Spain

## **THE GUARANTOR**

### **Banco Popular Español, S.A.**

Velázquez, 34  
28001 Madrid  
Spain

## **ARRANGER AND DEALER**

### **Barclays Bank PLC**

5 The North Colonnade  
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London E14 4BB  
United Kingdom

## **DEALERS**

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

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Spain

### **Goldman Sachs International**

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### **Banco Popular Español, S.A.**

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Spain

### **HSBC Bank plc**

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### **Banco Santander, S.A.**

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Edificio Encinar  
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Spain

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### **Barclays Bank PLC**

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### **Landesbank Baden-Württemberg**

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Germany

### **BNP Paribas**

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### **Merrill Lynch International**

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London EC1A 1HQ  
United Kingdom

### **Citigroup Global Markets Limited**

Citigroup Centre  
Canada Square  
Canary Wharf  
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United Kingdom

### **Morgan Stanley & Co. International plc**

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United Kingdom

**Commerzbank Aktiengesellschaft**

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**Crédit Agricole Corporate and Investment Bank**

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92920 Paris La Défense Cedex  
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**Credit Suisse Securities (Europe) Limited**

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London, E14 4QJ  
United Kingdom

**Deutsche Bank AG, London Branch**

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

**DZ BANK AG Deutsche Zentral-  
Genossenschaftsbank, Frankfurt am Main**

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60265 Frankfurt am Main  
Germany

**Natixis**

30 avenue Pierre Mendès-France  
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France

**Nomura International plc**

1 Angel Lane  
London EC4R 3AB  
United Kingdom

**Société Générale**

29 boulevard Haussmann  
75009 Paris  
France

**The Royal Bank of Scotland plc**

135 Bishopsgate  
London EC2M 3UR  
United Kingdom

**UBS Limited**

1 Finsbury Avenue  
London EC2M 2PP  
United Kingdom

**UniCredit Bank AG**

Arabellastrasse 12  
81925 Munich  
Germany

**FISCAL AGENT, PAYING AGENT, CALCULATION AGENT AND TRANSFER AGENT**

**The Bank of New York Mellon**

One Canada Square  
Canary Wharf  
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United Kingdom

**REGISTRAR AND TRANSFER AGENT**

**The Bank of New York Mellon (Luxembourg) S.A.**

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**IRISH LISTING AGENT**

**The Bank of New York Mellon (Ireland) Limited**

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Windmill Lane  
Dublin 2  
Ireland

**AUDITORS TO THE ISSUER AND TO THE GUARANTOR**

**PricewaterhouseCoopers Auditores, S.L.**

Paseo de la Castellana, 259-B  
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**LEGAL ADVISERS**

*To the Issuer and the Guarantor as to Spanish law*

Teresa Palacios, Legal Adviser

**Banco Popular Español, S.A.**

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28001 Madrid  
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*To the Arranger and the Dealers as to Spanish law and English law*

**Clifford Chance, S.L.**

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