

## IMPORTANT NOTICE

**NOT FOR DISTRIBUTION IN OR INTO OR TO ANY PERSON LOCATED OR RESIDENT IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS (INCLUDING PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, WAKE ISLAND AND THE NORTHERN MARIANA ISLANDS), ANY STATE OF THE UNITED STATES OR THE DISTRICT OF COLUMBIA (the "United States") OR TO ANY U.S. PERSON.**

**IMPORTANT: You must read the following disclaimer before continuing. The following disclaimer applies to the attached Tender Offer Memorandum (the "Tender Offer Memorandum"), whether received by email or otherwise received as a result of electronic communication and you are therefore advised to read this disclaimer page carefully before reading, accessing or making any other use of the attached document. In accessing the attached Tender Offer Memorandum, you agree to be bound by the following terms and conditions, including any modifications to them from time to time, each time you receive any information from the Tender Agent, the Bank, the Dealer Managers (as defined below) or otherwise as a result of such access. Capitalised terms used but not otherwise defined in this disclaimer shall have the meaning given to them in the Tender Offer Memorandum.**

**Confirmation of your representation:** In order to be eligible to view the attached Tender Offer Memorandum or make an investment decision with respect to the tender offer contemplated by this Tender Offer Memorandum (the "**Tender Offer**"), you must be outside the United States and otherwise able to participate lawfully in the Tender Offer. You have been sent the Tender Offer Memorandum at your request and on the basis that you have confirmed to BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (the "**Bank**"), Citigroup Global Markets Limited and J.P. Morgan Securities Ltd. (the "**Dealer Managers**") and/or Lucid Issuer Services Limited (the "**Tender Agent**"), being the sender of the attached, that:

- (i) you are a holder or a beneficial owner of:
  - (i) the 150,000 Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares (ISIN XS0119643897) issued by BAWAG Capital Finance (Jersey) Limited and having the benefit of a support agreement entered into with Bank für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank); and/or
  - (ii) the 6,000,000 Perpetual Non-cumulative Non-voting Fixed Rate Preference Shares (ISIN DE0008600966) issued by BAWAG Capital Finance (Jersey) II Limited and having the benefit of a support agreement entered into with Bank für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank);
- (ii) you are not resident in, or a person located in, the United States or a U.S. person (as defined in Regulation S under the United States Securities Act of 1933, as amended (the "**Securities Act**")) and you are not a person to whom it is unlawful to send the Tender Offer Memorandum or who is not permitted to participate in the Tender Offer (as defined in the Tender Offer Memorandum) under any other applicable law; and
- (iii) the electronic mail address that you have given to us and to which the Tender Offer Memorandum has been delivered is not located in the United States;

- (iv) you are otherwise a person to whom it is lawful to send the Tender Offer Memorandum or to make an invitation pursuant to the offers contemplated by this Tender Offer Memorandum in accordance with applicable laws, including the Offer Restrictions (as defined below); and
- (v) you consent to delivery of the Tender Offer Memorandum to you by electronic transmission.

The attached Tender Offer Memorandum has been sent to you in an electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of transmission and consequently none of the Bank, the Dealer Managers or the Tender Agent or any person who controls, or is a director, officer, employee or agent, of any of them, or any affiliate of any such person, accepts any liability or responsibility whatsoever in respect of any difference between the Tender Offer Memorandum distributed to you in electronic format and the hard copy version available to you on request from the Tender Agent at the address specified on the back cover of the attached Tender Offer Memorandum.

You are reminded that the attached Tender Offer Memorandum has been delivered to you on the basis that you are a person into whose possession the Tender Offer Memorandum may lawfully be delivered in accordance with the laws of the jurisdiction in which you are located and/or resident and you may not, nor are you authorised to, deliver the Tender Offer Memorandum to any other person.

The materials relating to the Tender Offer do not constitute, and may not be used in connection with, an offer or solicitation in any place where offers or solicitations are not permitted by law. If a jurisdiction requires that the offering be made by a licensed broker or dealer and the Dealer Managers or any affiliate thereof is a licensed broker or dealer in that jurisdiction, the offering shall be deemed to be made by the Dealer Managers or such affiliate on behalf of the Bank in that jurisdiction.

**Restrictions:**

**THE ATTACHED TENDER OFFER MEMORANDUM SHOULD NOT BE FORWARDED OR DISTRIBUTED TO ANY OTHER PERSON AND SHOULD NOT BE REPRODUCED IN ANY MANNER WHATSOEVER AND, IN PARTICULAR, SHOULD NOT BE FORWARDED TO ANY U.S. PERSON (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) OR TO ANY PERSON OR ADDRESS IN THE UNITED STATES. ANY SUCH FORWARDING, DISTRIBUTION OR REPRODUCTION OF THE ATTACHED TENDER OFFER MEMORANDUM IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTION MAY RESULT IN A VIOLATION OF THE APPLICABLE LAWS AND REGULATIONS OF THE UNITED STATES OR OTHER JURISDICTIONS.**

**NOTHING IN THIS ELECTRONIC TRANSMISSION CONSTITUTES AN OFFER TO PURCHASE SECURITIES OR THE SOLICITATION OF AN OFFER TO SELL SECURITIES IN THE UNITED STATES OR ANY OTHER JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION WOULD BE UNLAWFUL.**

The communication of the attached Tender Offer Memorandum and any other documents or materials relating to the Tender Offer is not being made and such documents and/or materials have not been approved by an authorised person for the purposes of section 21 of the Financial Services and Markets Act 2000. Accordingly, such documents and/or materials are

not being distributed to, and must not be passed on to, the general public in the United Kingdom, and are only for circulation to persons outside the United Kingdom or to persons within the United Kingdom falling within the definition of investment professionals (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "**Order**")), or within Article 43(2) of the Order, or to other persons to whom it may lawfully be communicated in accordance with the Order (such persons together being the "**relevant persons**"). **This document is only available to relevant persons and the transactions contemplated herein will be available only to, or engaged in only with, relevant persons, and this financial promotion must not be relied or acted upon by persons other than relevant persons.**

**NOT FOR DISTRIBUTION IN OR INTO OR TO ANY PERSON LOCATED OR RESIDENT IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS (INCLUDING PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, WAKE ISLAND AND THE NORTHERN MARIANA ISLANDS), ANY STATE OF THE UNITED STATES OR THE DISTRICT OF COLUMBIA (THE UNITED STATES), OR TO ANY US PERSON (AS DEFINED IN REGULATIONS UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED).**

*This Tender Offer Memorandum does not constitute an invitation to participate in the Tender Offer in or from any jurisdiction in or from which, or to or from any person to or from whom, it is unlawful to make such offer under applicable securities laws or otherwise. The distribution of this document in certain jurisdictions (in particular, the United States, the United Kingdom, Belgium, France and Italy) may be restricted by law. See "Offer Restrictions" below. Persons into whose possession this document comes are required by the Bank and the Dealer Managers to inform themselves about, and to observe, any such restrictions. No action that would permit a public offer has been or will be taken in any jurisdiction by the Dealer Managers or the Bank in that jurisdiction.*

Tender Offer Memorandum dated 20 February 2012



**BAWAG P.S.K.**

**BANK FÜR ARBEIT UND WIRTSCHAFT UND ÖSTERREICHISCHE  
POSTSPARKASSE AKTIENGESELLSCHAFT**

*(a joint stock corporation, incorporated in the Republic of Austria under registered number  
FN°205340x) (the "Bank")*

**OFFER TO TENDER FOR PURCHASE BY THE BANK FOR CASH**  
a portion of the outstanding

**150,000 Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares**  
(ISIN XS0119643897)

issued by

**BAWAG Capital Finance (Jersey) Limited**

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

and having the benefit of a support agreement entered into with

**Bank für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank)**

(the "Fixed/Floating Rate Preference Shares")

and

**6,000,000 Perpetual Non-cumulative Non-voting Fixed Rate Preference Shares** (ISIN  
DE0008600966)

issued by

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

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

and having the benefit of a support agreement entered into with

**Bank für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank)**

(the "Floating Rate Preference Shares" and, together with the Fixed/Floating Rate Preference  
Shares, the "Preference Shares")

Preference Shares	Issuer	ISIN	Liquidation Preference outstanding	Purchase Price	Purchase Price as percentage of Liquidation Preference
Fixed/Floating Rate Preference Shares	BAWAG Capital Finance (Jersey) Limited	XS0119643897	€150,000,000	€700 per €1,000 in liquidation preference	70%
Fixed Rate Preference Shares	BAWAG Capital Finance (Jersey) II Limited	DE0008600966	€150,000,000	€17.50 per €25 in liquidation preference	70%

The Bank invites (subject to the offer restrictions set out herein) Preference Shareholders to tender some or all of the Preference Shares held by such Preference Shareholders to the Bank for purchase by the Bank for cash, upon the terms and subject to the conditions set out in this Tender Offer Memorandum (including the Regulatory Condition as defined below).

Capitalised terms used in this document and not otherwise defined herein shall have the meanings given to them in the section of this Tender Offer Memorandum entitled "*Definitions*".

The Bank proposes to accept for purchase any and all validly tendered Preference Shares on the terms and subject to the conditions contained in this Tender Offer Memorandum (including the Regulatory Condition). The Bank reserves the right, in its sole and absolute discretion, not to accept any Tender Instructions, not to purchase Preference Shares or to extend, terminate, withdraw or modify in any manner any of the terms and conditions of the Tender Offer, subject to applicable law.

The Tender Consideration payable will be the purchase price of €700 per €1,000 liquidation preference (in the case of the Fixed/Floating Rate Preference Shares) or €17.50 per €25 liquidation preference (in the case of the Fixed Rate Preference Shares) plus, in either case, an amount equal to any accrued but unpaid dividends on the relevant Preference Shares from, and including, the immediately preceding dividend payment date for the relevant Preference Shares up to, but excluding, the Settlement Date, which is expected to be 6 March 2012.

The Bank intends to sell the Preference Shares repurchased by the Bank to the relevant issuer for cancellation. Preference Shares which have not been successfully submitted and accepted for tender pursuant to the Tender Offer will remain outstanding after the Settlement Date.

Preference Shareholders are invited to submit, or procure submission of, Tender Instructions during the period from 20 February 2012 up to 17:00 hours (CET) on 2 March 2012 (the "**Expiration Time**"). See "*Procedure for Submitting Tender Instructions*".

**THE TENDER OFFER COMMENCES ON 20 FEBRUARY 2012 AND WILL EXPIRE AT 17:00 HOURS (CET) ON 2 MARCH 2012, UNLESS EXTENDED, WITHDRAWN, RE-OPENED OR TERMINATED AT THE SOLE DISCRETION OF THE BANK. TENDER INSTRUCTIONS, ONCE SUBMITTED, MAY NOT BE WITHDRAWN EXCEPT IN THE LIMITED**

**CIRCUMSTANCES OUTLINED IN THIS TENDER OFFER MEMORANDUM UNDER THE HEADING "AMENDMENT AND TERMINATION".**

The Bank is making the Tender Offer only in those jurisdictions where it is legal to do so. See "*Offer Restrictions*". This document does not constitute a "prospectus" for the purposes of Directive 2003/71/EC (as amended).

**Custodians, Direct Participants and Clearing Systems will have deadlines for receiving instructions prior to the Expiration Time and you should contact the Intermediary through which you hold your Preference Shares as soon as possible to ensure proper and timely delivery of instructions.**

The Bank reserves the right to extend, re-open, withdraw, terminate or amend the terms and conditions of the Tender Offer at any time following the announcement of the Tender Offer, as described herein under the heading "*Amendment and Termination*". Details of any such extension, re-opening, amendment, withdrawal or termination will be notified to the Preference Shareholders as soon as possible after such decision.

Any questions or requests for assistance in connection with this Tender Offer Memorandum may be directed to the Dealer Managers, Citigroup Global Markets Limited via telephone on +44 (0)20 7986 8969 or email at [liabilitymanagement.europe@citi.com](mailto:liabilitymanagement.europe@citi.com) and J.P. Morgan Securities Ltd. via telephone on +44 (0)20 7779 2468 / +44 (0)20 7325 4851 or email at [FIG\\_syndicate@jpmorgan.com](mailto:FIG_syndicate@jpmorgan.com) / [emea\\_lm@jpmorgan.com](mailto:emea_lm@jpmorgan.com). Any questions or requests for assistance in connection with the delivery of Tender Instructions or requests for additional copies of this Tender Offer Memorandum or related documents, which may be obtained free of charge, may be directed to the Tender Agent, Lucid Issuer Services Limited, via telephone on +44 (0)20 7704 0880 or email at [bawag@lucid-is.com](mailto:bawag@lucid-is.com).

*Dealer Managers*

**CITIGROUP**

**J.P. MORGAN**

**This Tender Offer Memorandum contains important information which should be read carefully before any decision is made with respect to the Tender Offer. If any Preference Shareholder is in any doubt as to the action it should take or is unsure of the impact of the Tender Offer it is recommended to seek its own financial and legal advice, including as to any tax consequences, from its stockbroker, bank manager, solicitor, accountant or other independent financial or legal adviser. Any individual or company whose Preference Shares are held on its behalf by a broker, dealer, bank, custodian, trust company or other nominee or intermediary must contact such entity if it wishes to tender Preference Shares in the Tender Offer. The distribution of this Tender Offer Memorandum in certain jurisdictions may be restricted by law (see "*Offer Restrictions*").**

**None of the Bank, the Dealer Managers or the Tender Agent is providing Preference Shareholders with any legal, business, tax or other advice in this Tender Offer Memorandum. Preference Shareholders should consult with their own advisers as needed to assist them in making an investment decision and to advise them whether they are legally permitted to offer Preference Shares for cash. None of the Bank, the Dealer Managers or the Tender Agent makes any recommendation as to whether Preference Shareholders should submit Tender Instructions or tender their Preference Shares or refrain from doing so pursuant to the Tender Offer, and no one has been authorised by any of them to make any such recommendation.**

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

Neither the delivery of this Tender Offer Memorandum or any other material relating to the Tender Offer nor the acceptance of any Tender Instruction or purchase of any Preference Shares shall, under any circumstances, create any implication that the information contained herein or in such other material is current as of any time subsequent to the date of such information or that there has been no change in the information set out in it, or in the affairs of the Bank, since the date of this Tender Offer Memorandum.

No person is authorised in connection with the Tender Offer to give any information or to make any representation to Preference Shareholders not contained in or inconsistent with this Tender Offer Memorandum and any information or representation not contained herein must not be relied upon as having been authorised by the Bank, the Dealer Managers or the Tender Agent.

None of the Bank, the Dealer Managers or the Tender Agent has expressed any opinion as to whether the terms of the Tender Offer are fair. Preference Shareholders must make their own decision as to whether to submit Tender Instructions or tender Preference Shares or refrain from doing so and, if they do wish to submit an instruction, the liquidation preference of Preference Shares to tender.

A decision to participate or not to participate in the Tender Offer will involve certain risks. Preference Shareholders should carefully consider all of the information in this

Tender Offer Memorandum and, in particular, the risk factors described in "*Risk Factors*" below.

Preference Shareholders must comply with all laws that apply to them in any place in which they possess this Tender Offer Memorandum. Preference Shareholders must also obtain any consents or approvals that they need in order to submit Tender Instructions and to tender their Preference Shares. None of the Bank, the Dealer Managers or the Tender Agent is responsible for Preference Shareholders' compliance with these legal requirements. See "*Offer Restrictions*."

Preference Shares can only be tendered in the Tender Offer in accordance with the procedures described in "*Procedures for Submitting Tender Instructions*".

By submitting one or more Tender Instructions, Preference Shareholders will be deemed to have acknowledged, among other things, that:

- they have reviewed this Tender Offer Memorandum; and
- none of the Dealer Managers or the Tender Agent is responsible for, and none of the Dealer Managers or the Tender Agent is making any representation to them concerning, the accuracy or completeness of this Tender Offer Memorandum.

Preference Shareholders who do not participate in the Tender Offer, or whose Preference Shares are not accepted for purchase by the Bank, will continue to hold their Preference Shares subject to the terms and conditions of such Preference Shares.

In the ordinary course of their respective businesses, the Dealer Managers and the Tender Agent are entitled to hold positions in the Preference Shares either for their own account or for the account, directly or indirectly, of third parties. In the ordinary course of their respective businesses, they are entitled to continue to hold or dispose of, in any manner they may elect, subject to applicable law, any Preference Shares they may hold as at the date of this Tender Offer Memorandum, and may elect whether or not to submit such Preference Shares in the Tender Offer in their sole discretion. No such submission or non-submission by the Dealer Managers or the Tender Agent should be taken by any holder of Preference Shares or any other person as any recommendation or otherwise by any Dealer Manager or the Tender Agent, as the case may be, as to the merits of participating or not participating in the Tender Offer.

None of the Bank, the Dealer Managers or the Tender Agent is providing Preference Shareholders with any legal, business, tax or other advice in this Tender Offer Memorandum. Preference Shareholders should consult with their own advisers as needed to assist them in making an investment decision and to advise them whether they are legally permitted to offer Preference Shares for cash.

For the avoidance of doubt, the Tender Offer is an invitation to treat by the Bank, and any references to any offer or tender offer being made by the Bank shall be construed accordingly.

Unless the context otherwise requires, all references in this Tender Offer Memorandum to "**Preference Shareholders**" include:

- (a) each person who is, at the relevant time, shown in the records of any Clearing



System as a Preference Shareholder (also referred to as "**Direct Participants**" and each a "**Direct Participant**"); and

- (b) each beneficial owner of Preference Shares holding such Preference Shares, directly or indirectly, in an account in the name of a Direct Participant acting on such beneficial owner's behalf,

except that for the purposes of the payment of the relevant Purchase Price and any Accrued Dividend in respect of any Preference Shares purchased by the Bank, to the extent the beneficial owner of the relevant Preference Shares is not a Direct Participant, the relevant Purchase Price and Accrued Dividend will only be delivered or paid to the relevant Direct Participant and the delivery and payment of the relevant Purchase Price and Accrued Dividend to such Direct Participant will satisfy any obligations of the Bank, the Tender Agent and the relevant Clearing System in respect of the purchase.

The Netherlands Authority for the Financial Markets has on 20 February 2012, pursuant to article 5:81 (3) of the Netherlands Financial Supervision Act (*Wet op het financieel toezicht*), granted dispensation to the Bank to proceed with the Tender Offer.

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## OFFER RESTRICTIONS

*This Tender Offer Memorandum does not constitute an invitation to participate in the Tender Offer in or from any jurisdiction in or from which, or to or from any person to or from whom, it is unlawful to make such invitation under applicable securities laws. The distribution of this document in certain jurisdictions may be restricted by law. Persons into whose possession this document comes are required by each of the Bank, the Dealer Managers and the Tender Agent to inform themselves about and to observe, any such restrictions.*

### **United States**

The Tender Offer is not being made and will not be made, directly or indirectly, in or into, or by use of the mails of, or by any means or instrumentality (including, without limitation, facsimile transmission, telex, telephone, email and other forms of electronic transmission) of interstate or foreign commerce of, or any facility of a national securities exchange of, the United States, and the Preference Shares may not be tendered in the Tender Offer by any such use, means, instrumentality or facility from or within the United States, or to U.S. persons or by persons located or resident in the United States. Accordingly, copies of this Tender Offer Memorandum and any other documents or materials relating to the Tender Offer are not being, and must not be, directly or indirectly, mailed or otherwise transmitted, distributed or forwarded (including, without limitation, by custodians, nominees or trustees) in or into the United States, or to U.S. persons or to persons located or resident in the United States. Any purported offer to sell in response to this Tender Offer resulting directly or indirectly from a violation of these restrictions will be invalid and offers to sell made by a U.S. person, a person located or resident in the United States or any agent, fiduciary or other intermediary acting on a non-discretionary basis for a principal giving instructions from within the United States or for a U.S. person will not be accepted. For the purposes of this paragraph, "**United States**" means the United States of America, its territories and possessions, any state of the United States of America and the District of Columbia.

Each Preference Shareholder participating in the Tender Offer will represent that it is not a U.S. person, it is not located in the United States and it is not participating in the Tender Offer from the United States, or it is acting on a non-discretionary basis for a principal that is not a U.S. person, that is located outside the United States and that is not giving an order to participate in the Tender Offer from the United States.

### **United Kingdom**

The communication of this Tender Offer Memorandum and any other documents or materials relating to the Tender Offer is not being made, and such documents and/or materials have not been approved by, an authorised person for the purposes of section 21 of the Financial Services and Markets Act 2000. Accordingly, such documents and/or materials are not being distributed to, and must not be passed on to, the general public in the United Kingdom, and are only for circulation to persons outside the United Kingdom or to persons within the United Kingdom falling within the definition of investment professionals (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "**Order**")) or within Article 43(2) of the Order, or to other persons to whom it may lawfully be communicated in accordance with the Order (such persons together being "**relevant persons**").

This Tender Offer Memorandum is only available to relevant persons and the Tender Offer will be available only to, or engaged in only with, relevant persons, and this financial promotion must not be relied or acted upon by persons other than relevant persons.

## **Italy**

None of the Tender Offer, this Tender Offer Memorandum or any other document or materials relating to the Tender Offer have been submitted to the clearance procedures of the Commissione Nazionale per le Società e la Borsa (the "**CONSOB**") pursuant to Italian laws and regulations. The Tender Offer is being carried out in Italy as an exempted offer, pursuant to article 101-bis, paragraph 3-bis of Legislative Decree No. 58 of 24 February 1998, as amended (the "**Financial Services Act**") and article 35-bis, paragraph 3 of CONSOB Regulation No. 11971 of 14 May 1999, as amended (the "**Issuers' Regulation**").

Holders or beneficial owners of the Preference Shares that are located in Italy can tender the Preference Shares only if they qualify as qualified investors (*investitori qualificati*), as defined pursuant to Article 100 of the Financial Services Act and Article 34-ter, paragraph 1, letter b) of the Issuers' Regulation, otherwise neither this Tender Offer Memorandum nor any other documents or materials relating to the Preference Shares or the Tender Offer may be distributed or made available to them.

Holders or beneficial owners of the Preference Shares that are located in Italy may tender their Preference Shares for purchase through authorised persons (such as investment firms, banks or financial intermediaries permitted to conduct such activities in the Republic of Italy in accordance with the Financial Services Act, 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) and in compliance with applicable laws and regulations or with requirements imposed by CONSOB or any other Italian authority.

Each Intermediary must comply with the applicable laws and regulations concerning information duties vis-à-vis its clients in connection with the Preference Shares or the Tender Offer.

## **Belgium**

Neither this Tender Offer Memorandum nor any other documents or materials relating to the Tender Offer have been submitted to or will be submitted for approval or recognition to the Belgian Banking, Finance and Insurance Commission (*Commission bancaire, financière et des assurances/Commissie voor het Bank-, Financie- en Assurantiewezen*) and, accordingly, the Tender Offer may not be made in Belgium by way of a public offering, as defined in Article 3 of the Belgian Law of 1 April 2007 on public takeover bids (as amended or replaced from time to time). Accordingly, the Tender Offer may not be advertised and will not be extended, and neither this Tender Offer Memorandum nor any other documents or materials relating to the Tender Offer (including any memorandum, information circular, brochure or any similar documents) has been or shall be distributed or made available, directly or indirectly, to any person in Belgium other than "qualified investors" in the sense of Article 10 of the Belgian Law of 16 June 2006 on the public offer of placement instruments and the admission to

trading of placement instruments on regulated markets (as amended or replaced from time to time), acting on their own account. Insofar as Belgium is concerned, this Tender Offer Memorandum has been issued only for the personal use of the above qualified investors and exclusively for the purpose of the Tender Offer. Accordingly, the information contained in this Tender Offer Memorandum may not be used for any other purpose or disclosed to any other person in Belgium.

## **France**

The Tender Offer is not being made directly or indirectly to the public in the Republic of France ("**France**"). Neither this Tender Offer Memorandum, nor any other offering material or information relating to the Tender Offer, has been or will be submitted for clearance to or approved by the *Autorité des Marchés Financiers* and they may not be released, issued, or distributed or caused to be released, issued, or distributed, directly or indirectly, to the public in France, except to (i) providers of investment services relating to portfolio management for the account of third parties and/or (ii) qualified investors (*investisseurs qualifiés*), other than individuals, in each case acting on their own account, all 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*.

## **General**

This Tender Offer Memorandum does not constitute an offer to buy or a solicitation of an offer to sell the Preference Shares, and Tender Instructions will not be accepted from Preference Shareholders, in any jurisdiction in which such offer or solicitation is unlawful. In any jurisdiction in which the Tender Offer is required by law to be made by a licensed broker or dealer and in which the Dealer Managers or any of their affiliates are so licensed, the Tender Offer shall be deemed to be made by the Dealer Managers or such affiliates on behalf of the Bank in such jurisdiction.

In addition to the representations referred to above in respect of the United States, each Preference Shareholder participating in the Tender Offer will also be deemed to give certain representations in respect of the other jurisdictions referred to above and generally as set out in "*Procedures for Submitting Tender Instructions*". Any Tender Instruction pursuant to the Tender Offer from a Preference Shareholder that is unable to make these representations may be rejected. Each of the Bank, the Dealer Managers and the Tender Agent reserves the right, in its absolute discretion, to investigate, in relation to any Tender Instruction pursuant to the Tender Offer, whether any such representation given by a Preference Shareholder is correct and, if such investigation is undertaken and as a result the Bank determines (for any reason) that such representation is not correct, such tender may be rejected.

## EXPECTED TIMETABLE

*Please note the following important dates and times relating to the Tender Offer. Each is indicative only and is subject to change as a result of any extension, re-opening, termination, withdrawal or amendment as set out under "Amendment and Termination."*

*None of the Bank, the Tender Agent or the Dealer Managers warrants that any or all of the events referred to below will take place as or when described including, in particular in the case of any publications or announcements made through or via any Clearing System, Notifying News Service or via the website of the Luxembourg Stock Exchange, nor shall they be liable for any failure of any Clearing System to deliver any notices to Direct Participants or Preference Shareholders or of any Notifying News Service or stock exchange to publish a notice.*

<b>Events/Dates</b>	<b>Times and Dates</b>
<b>Commencement of the Tender Offer</b>	20 February 2012
Tender Offer announced through the Clearing Systems, publication on the Notifying News Service and via the website of the Luxembourg Stock Exchange.	
Tender Offer Memorandum available (subject to the offer and distribution restrictions set out in " <i>Invitation and Distribution Restrictions</i> " herein) from the Dealer Managers and the Tender Agent.	
Beginning of Tender Offer Period.	
<b>Expiration Time</b>	17:00 hours (CET) on 2 March 2012
Deadline for receipt of valid Tender Instructions by the Tender Agent in order for Preference Shareholders to be able to participate in the Tender Offer.	
End of Tender Offer Period.	
<b>Announcement of Final Results of Tender Offer</b>	5 March 2012
Announcement of whether the Regulatory Condition has been satisfied, and if so,	
Details of:	
(i) the final aggregate liquidation preference of the Preference Shares of either series validly tendered pursuant to	

**Events/Dates****Times and Dates**

the Tender Offer;

(ii) the aggregate liquidation preference of Preference Shares of either series accepted for purchase pursuant to the Tender Offer; and

(iii) the Accrued Dividends,

distributed via the Clearing Systems and published by way of announcement on a Notifying News Service and via the website of the Luxembourg Stock Exchange.

**Settlement Date**

Expected to be 6 March 2012

Settlement date of the Tender Offer.

Payment of Tender Consideration in respect of Preference Shares accepted for purchase.

***Preference Shareholders are advised to check with the Intermediary through which they hold their Preference Shares as to the deadlines by which such Intermediary would require receipt of instructions from Preference Shareholders to participate in, or to withdraw their instructions to participate in, the Tender Offer in order to meet the deadlines set out above. The deadlines set by any such Intermediary and each Clearing System will be earlier than the relevant deadlines specified above. See "Procedures for Submitting Tender Instructions" below.***

## DEFINITIONS

<b>€ or EUR:</b>	The single 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.
<b>Accrued Dividend:</b>	An amount in cash equal to accrued and unpaid dividends on the relevant Preference Shares from and including the immediately preceding dividend payment date for such Preference Shares up to but excluding the Settlement Date.
<b>Bank:</b>	BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG.
<b>Business Day:</b>	A day other than a Saturday or a Sunday or a public holiday on which commercial banks and foreign exchange markets are open for business in London and Vienna.
<b>Clearing Systems:</b>	Euroclear, Clearstream, Frankfurt and Clearstream, Luxembourg.
<b>Clearstream, Frankfurt:</b>	Clearstream Banking Aktiengesellschaft, Frankfurt am Main.
<b>Clearstream, Luxembourg:</b>	Clearstream Banking, société anonyme.
<b>Dealer Managers:</b>	Citigroup Global Markets Limited and J.P. Morgan Securities Ltd..
<b>Direct Participant:</b>	Each direct account holder with any Clearing System and as shown in the records of such Clearing System as being a Preference Shareholder.
<b>Euroclear:</b>	Euroclear Bank SA/NV.
<b>Euronext Amsterdam:</b>	NYSE Euronext in Amsterdam, the regulated market of Euronext Amsterdam N.V.
<b>Expiration Time:</b>	17:00 hours (CET) on 2 March 2012 (subject to the right of the Bank to extend, re-open, amend and/or terminate the Tender Offer)..
<b>Fixed/Floating Rate Preference Shares:</b>	The 150,000 Perpetual Non-cumulative Non-voting Fixed/Floating Rate Preference Shares (ISIN XS0119643897) issued by BAWAG Capital Finance (Jersey) Limited on 31 October 2000 and having the benefit of a support agreement entered into with Bank



für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank), which are admitted to trading on the regulated market of the Luxembourg Stock Exchange.

**Fixed/Floating Rate Preference Shares Purchase Price:**

€700 per €1,000 liquidation preference.

**Fixed Rate Preference Shares:**

The 6,000,000 Perpetual Non-cumulative Non-voting Fixed Rate Preference Shares (ISIN DE0008600966) issued by BAWAG Capital Finance (Jersey) II Limited on 27 June 2002 and having the benefit of a support agreement entered into with Bank für Arbeit und Wirtschaft Aktiengesellschaft (now the Bank), which are admitted to trading on the regulated market of the Frankfurt Stock Exchange and the official segment of Euronext Amsterdam.

**Fixed Rate Preference Shares Purchase Price:**

€17.50 per €25 liquidation preference.

**Frankfurt Stock Exchange:**

Frankfurter Wertpapierbörse.

**Intermediary:**

Any broker, dealer, bank, custodian, trust company, nominee or other Direct Participant in any Clearing Systems who holds Preference Shares or an interest in Preference Shares on behalf of another person.

**Luxembourg Stock Exchange:**

Bourse de Luxembourg.

**Notifying News Service:**

Bloomberg, Reuters IRIA and/or such other recognised news service or services as selected by the Bank, the Tender Agent and the Dealer Managers.

**Preference Shareholder:**

A holder of Preference Shares.

**Preference Shares:**

The Fixed/Floating Rate Preference Shares and/or the Fixed Rate Preference Shares.

**Purchase Price:**

The Fixed Rate Preference Shares Purchase Price and/or the Fixed/Floating Rate Preference Shares Purchase Price.

**Regulatory Condition**

The condition to whether the Bank will accept for purchase Preference Shares validly tendered in the Tender Offer (subject to the right of the Bank to amend and/or terminate the Tender Offer), being the consent of the Austrian Financial Markets Authority (*Finanzmarktaufsichtsbehörde*) to the purchase of the

Preference Shares validly tendered pursuant to the Tender Offer.

**Results Announcement Date:**

5 March 2012.

**Settlement Date:**

6 March 2012.

**Tender Agent:**

Lucid Issuer Services Limited.

**Tender Consideration:**

For each €1,000 (in the case of the Fixed/Floating Rate Preference Shares) or €25 (in the case of the Fixed Rate Preference Shares) liquidation preference of Preference Shares in respect of which a Preference Shareholder has validly submitted a Tender Instruction before the Expiration Time and accepted for purchase by the Bank, an amount in cash equal to the relevant Purchase Price plus Accrued Dividends, rounded to the nearest €0.01, with €0.005 being rounded upwards.

**Tender Instruction:**

The electronic instruction notice required to be delivered by a Direct Participant to the Tender Agent in order for a Preference Shareholder to participate in the Tender Offer in accordance with the procedures of the relevant Clearing System.

**Tender Offer:**

The invitation by the Bank to Preference Shareholders to submit offers to sell their Preference Shares to the Bank for cash, as more fully described under the heading "*Tender Offer*".

**Tender Offer Memorandum:**

This tender offer memorandum.

**Tender Offer Period:**

The period beginning on 20 February 2012 and expiring at the Expiration Time, unless extended by the Bank as described herein under the heading "*Amendment and Termination*".

## **RISK FACTORS**

*Before making a decision with respect to the Tender Offer, Preference Shareholders should carefully consider, in addition to the other information contained in this Tender Offer Memorandum, the following risk factors and other considerations.*

### **No obligation to accept tenders of Preference Shares for purchase and Regulatory Condition**

The Bank is not under any obligation to accept any tender of Preference Shares for purchase. Tenders of Preference Shares for purchase may be rejected in the sole discretion of the Bank for any reason and the Bank is not under any obligation to Preference Shareholders to furnish any reason or justification for refusing to accept a tender of Preference Shares for purchase. For example, tenders of Preference Shares for purchase may be rejected if the Tender Offer is terminated, if the Regulatory Condition is not satisfied, if such offer does not comply with the relevant requirements of a particular jurisdiction or for any other reason.

### **The Tender Offer is not compulsory**

The Bank invites (subject to the offer restrictions set out herein) Preference Shareholders to tender some or all of the Preference Shares held by such Preference Shareholders. Preference Shareholders are not required to accept the Tender Offer. Preference Shareholders must make their own decision as to whether to tender Preference Shares or refrain from doing so and, if they do wish to submit a Tender Instruction, the liquidation preference of Preference Shares to tender.

### **Uncertainty as to the trading market for Preference Shares not purchased**

To the extent any tendered Preference Shares are accepted by the Bank for purchase pursuant to the Tender Offer, the trading market for the Preference Shares that remain outstanding may be significantly more limited. Such remaining Preference Shares may command a lower market price than would a comparable issue of Preference Shares with greater market liquidity. A reduced market value may also make the trading price of such Preference Shares more volatile. As a result, the market price for Preference Shares that remain outstanding after completion of the Tender Offer may be adversely affected by the Tender Offer. None of the Bank, the Dealer Managers or the Tender Agent has any duty to make a market in the Preference Shares not tendered and purchased in the Tender Offer that remain outstanding.

### **Uncertainty as to future prices of the Preference Shares**

The price at which the Preference Shares trade that remain outstanding following the Tender Offer may be influenced by future developments and/or announcements, both positive and negative, regarding the Bank. If there are positive or negative developments and/or announcements regarding the Bank and the price at which the Preference Shares trade is affected in a positive or negative way, a decision to offer or not to offer Preference Shares for sale as part of the Tender Offer may be detrimental to Preference Shareholders.

## **Other purchases or redemption of Preference Shares**

Whether or not the Tender Offer is completed, the Bank may, to the extent permitted by applicable law or the terms and conditions of the Preference Shares, continue to acquire, from time to time during or after the Tender Offer, Preference Shares other than pursuant to the Tender Offer, including through open market purchases, privately negotiated transactions, tender offers, exchange offers or otherwise, upon such terms and at such prices as they may determine, which may be more or less than the price to be paid pursuant to the Tender Offer and could be for cash or other consideration or otherwise on terms more or less favourable than those contemplated in the Tender Offer.

## **Responsibility for assessing the merits of the Tender Offer and complying with the procedures of the Tender Offer**

Each Preference Shareholder is responsible for assessing the merits of the Tender Offer. None of the Bank, the Dealer Managers or the Tender Agent is acting for any Preference Shareholder and, accordingly, none of the Bank, the Dealer Managers or the Tender Agent has made or will make any recommendation as to whether Preference Shareholders should tender their Preference Shares or an assessment of the merits of the Tender Offer or of the impact of the Tender Offer on the interests of the Preference Shareholders either as a class or as individuals.

None of the Bank, the Dealer Managers or the Tender Agent is providing Preference Shareholders with any legal, business, tax or other advice in this Tender Offer Memorandum. Preference Shareholders should consult with their own advisers as needed to assist them in making an investment decision and to advise them whether they are legally permitted to offer Preference Shares for cash.

Further, the Preference Shareholders are solely responsible for complying with all of the procedures for participating in the Tender Offer, including the submission of Tender Instructions. None of the Bank, the Dealer Managers or the Tender Agent assumes any responsibility for informing Preference Shareholders of any irregularities with respect to Tender Instructions.

## **No assurance that the Tender Offer will be completed and discretion of the Bank to amend or terminate the Tender Offer**

Until the Bank announces whether (i) the Regulatory Condition has been satisfied, and if so, (ii) the aggregate liquidation preference of the Preference Shares of each series accepted for purchase which the Bank is expected to do on 5 March 2012, no assurance can be given that any Preference Shares validly tendered pursuant to the Tender Offer will be accepted for purchase. In addition, subject to applicable law and as provided in this Tender Offer Memorandum, the Bank may, in its sole discretion, extend, upsize, re-open, amend or terminate the Tender Offer at any time before such announcement and may, in its sole discretion, waive any of the conditions to the Tender Offer either before or after such announcement.

## **Irrevocability of Tender Instructions**

Under the Tender Offer, Tender Instructions will be irrevocable except in the limited circumstances described in "*Amendment and Termination — Revocation Rights*".

## **Restrictions on transfer of Preference Shares**

When considering whether to participate in the Tender Offer, Preference Shareholders should take into account that restrictions on the transfer of the Preference Shares by Preference Shareholders will apply from the time of submission of a Tender Instruction. A Preference Shareholder will, on submitting Tender Instructions, agree that its Preference Shares will be blocked in the relevant account in the relevant Clearing System from the date the Tender Instruction is submitted until the earlier of (i) the date on which, in the limited circumstances in which withdrawal of Tender Instructions is permitted in accordance with the terms of the Tender Offer, Tender Instructions are withdrawn (including their automatic withdrawal on the termination of the Tender Offer) and (ii) the time of settlement on the Settlement Date.

## **Compliance with jurisdictional restrictions**

Preference Shareholders are referred to and required to inform themselves about and to observe the restrictions set out in "*Offer Restrictions*", and the Preference Shareholders, by submitting one or more Tender Instructions and tendering Preference Shares pursuant to the Tender Offer, will be deemed to make the acknowledgements, representations, warranties and undertakings set out in "*Procedures for Submitting Tender Instructions*". Non-compliance with these could result in, among other things, the unwinding of trades and/or heavy penalties.

## **Jersey law provisions relating to minority holdings of Preference Shares**

In the event that 90 per cent. or more of the Fixed/Floating Rate Preference Shares or of the Floating Rate Preference Shares is accepted for purchase pursuant to the Offers, provisions of Jersey law relating to minority shareholdings will apply to the Fixed/Floating Rate Preference Shares and/or the Floating Rate Preference Shares Preference Shares (as applicable) that are not accepted for purchase pursuant to the Offers. These provisions grant the offeror the right to mandatorily purchase any such Preference Shares on terms equivalent to those of the relevant Offer, and similarly grant the holders of any such Preference Shares the right to require the offeror to purchase their Preference Shares of the relevant type, in each case subject to and in accordance with the applicable provisions of Jersey law.

## **TENDER OFFER**

### **Introduction to and rationale for the Tender Offer**

On the terms and subject to the conditions contained in this Tender Offer Memorandum, (including the Regulatory Condition), the Bank invites Preference Shareholders (subject to the offer restrictions contained herein) to tender Preference Shares for repurchase by the Bank at the relevant Purchase Price plus Accrued Dividends.

The Bank proposes to accept for purchase any and all Preference Shares validly tendered on the terms and subject to the conditions contained in this Tender Offer Memorandum. The Bank reserves the right, in its sole and absolute discretion, not to accept any Tender Instruction, not to purchase Preference Shares or to extend, terminate, withdraw or modify in any manner any of the terms and conditions of the Tender Offer.

The Bank is extending the Tender Offer as part of its ongoing capital management strategy with the aim of improving the Bank's capital position. The Bank intends to sell the Preference Shares repurchased by the Bank to the relevant issuer for cancellation. Preference Shares which have not been validly submitted and accepted for tender pursuant to the Tender Offer will remain outstanding.

The Bank will not exercise its early redemption options with respect to the Preference Shares at the upcoming call dates in June and July 2012 and will make any future redemption decisions on an economic basis and with regards to prevailing market conditions and regulatory requirements.

### **Tender Offer Period**

The Tender Offer commences on 20 February 2012 and will end at 17:00 hours (CET) on 2 March 2012 unless extended by the Bank, in which case an announcement to that effect will be made by or on behalf of the Bank, by way of announcements on the relevant Notifying News Service(s), through the Clearing Systems or via the website of the Luxembourg Stock Exchange. Preference Shareholders are invited to tender their Preference Shares during the Tender Offer Period, subject to such earlier deadlines as may be set by the Clearing Systems.

### **Purchase Price**

The Purchase Price for the Fixed/Floating Rate Preference Shares will be €700 per €1,000 in liquidation preference of Fixed/Floating Rate Preference Shares and the Purchase Price for the Fixed Rate Preference Shares will be €17.50 per €25 in liquidation preference of Fixed Rate Preference Shares.

### **Accrued Dividends**

The Bank will pay an amount equal to any accrued but unpaid dividends in respect of all Preference Shares validly tendered and delivered and accepted for purchase by the Bank pursuant to the Tender Offer, from and including the immediately preceding dividend payment date for the Preference Shares to but excluding the Settlement Date.

## **Tender Consideration**

The Tender Consideration payable to each Preference Shareholder in respect of Preference Shares validly submitted for tender and accepted for purchase by the Bank will be an amount in cash equal to (i) the relevant Purchase Price for such Preference Shares multiplied by each €1,000 in liquidation preference (in the case of the Fixed/Floating Rate Preference Shares) or €25 in liquidation preference (in the case of the Fixed Rate Preference Shares) tendered and delivered by such Preference Shareholder and accepted by the Bank for purchase (rounded to the nearest €0.01, with €0.005 being rounded upwards), plus (ii) Accrued Dividends in respect of such Preference Shares.

## **Results**

Whether or not the Regulatory Condition has been fulfilled, and if so the final results of the Tender Offer, are expected to be announced on 5 March 2012. If the Regulatory Condition is fulfilled, the Bank will announce the aggregate liquidation preference of Preference Shares of either series validly tendered in the Tender Offer, the aggregate liquidation preference of Preference Shares of either series accepted for purchase and the Accrued Dividends. Such information will be notified to Preference Shareholders by way of announcements on the relevant Notifying News Service(s), through the Clearing Systems or via the website of the Luxembourg Stock Exchange and shall, absent manifest error, be final and binding on the Bank and the Preference Shareholders.

Once the Bank has announced the final results, the Bank's acceptance of Preference Shares for purchase in accordance with the terms of the Tender Offer will be irrevocable. Tender Instructions which are so accepted will constitute binding obligations of the submitting Preference Shareholders and the Bank to settle the Tender Offer.

## **Conditions to the Tender Offer**

The Bank reserves the right, in its sole and absolute discretion, not to accept any Tender Instructions for any reason. Whether the Bank will accept for purchase Preference Shares validly tendered in the Tender Offer is subject, without limitation, to the consent of the Austrian Financial Markets Authority (*Finanzmarktaufsichtsbehörde*) to the purchase of the Preference Shares validly tendered pursuant to the Tender Offer (the "**Regulatory Condition**"). The Bank expects the Regulatory Condition to be satisfied prior to the Expiration Time (as defined above). In addition, notwithstanding any other provisions of the Tender Offer, the Tender Offer is conditional upon there not having been threatened, instituted or pending any action or proceeding before any court or governmental, regulatory or administrative body that: (1) makes or seeks to make illegal the acceptance of payment of, or payment for, any of the Preference Shares pursuant to the Tender Offer; (2) would or might result in a delay in, or restrict, the ability of the Bank to accept for payment or pay for any of the Preference Shares; or (3) imposes or seeks to impose limitations on the ability of the Bank to purchase the Preference Shares.

Each of the foregoing conditions is for the sole benefit of the Bank and may be waived by the Bank, in whole or in part, at any time and from time to time, in its discretion. Any determination by the Bank concerning the conditions set forth above (including whether or not any such condition has been satisfied or waived) will be final and

binding upon all parties. If the foregoing conditions are not satisfied, in the opinion of the Bank, or waived by the Bank in full, the Tender Offer will lapse.

## **Settlement**

The Settlement Date for the Tender Offer is expected to be 6 March 2012. All sales pursuant to the Tender Offer will settle through the normal procedures of the relevant Clearing System. On the Settlement Date, the Bank shall pay or procure that there is paid to each Preference Shareholder which has validly submitted a Tender Instruction by the Expiration Time, an amount in cash equal to the relevant Tender Consideration in respect of each €1,000 liquidation preference of Fixed/Floating Rate Preference Shares (in the case of the Fixed/Floating Rate Preference Shares) or €25 liquidation preference of Fixed Rate Preference Shares (in the case of the Fixed Rate Preference Shares) so tendered and delivered by such Preference Shareholder and accepted for purchase by the Bank.

On the Settlement Date, subject to the conditions of the Tender Offer (including the Regulatory Condition):

- if the Bank has accepted a Preference Shareholder's Tender Instruction the identified account holder, or the Clearing Systems on its behalf, as the case may be, must deliver to the Bank good and marketable title to the relevant Preference Shares, free and clear of all liens, charges, claims, encumbrances, interests, rights of third parties and restrictions of any kind; and
- in return the Preference Shareholder will receive, as applicable and solely by credit to the Clearing System account in which the Preference Shares being offered were held, the cash to which they are entitled and any Preference Shares not accepted for purchase will be unblocked.

The amount of cash received with respect to the Preference Shares will, if necessary, be rounded down to the nearest €0.01, with €0.005 being rounded upwards. The determination by the Bank of any calculation or quotation made with respect to the Tender Offer shall be conclusive and binding, absent manifest error.

**Under no circumstances will any dividends or interest on the relevant Purchase Price of the Preference Shares be paid by the Bank by reason of any delay in making payment on the Settlement Date. Should there be a delay caused by the failure of the Bank to make payment of the aggregate Tender Consideration on the Settlement Date, then Preference Shares will continue to accrue dividends in accordance with their terms up to (but excluding) the date that the Bank makes payment of the aggregate Tender Consideration, and the Bank shall pay the relevant Preference Shareholders an equivalent cash amount.**

Payment of the relevant Tender Consideration, by or on behalf of the Bank to the Clearing Systems on behalf of the Preference Shareholder shall fully and finally discharge its obligations to the relevant Preference Shareholders in respect of the Preference Shares tendered and delivered and accepted for purchase by the Bank pursuant to the Tender Offer. **Under no circumstances will any additional dividends or interest be payable by the Bank to a Preference Shareholder due to any delay in the transmission of funds from the relevant Clearing System or any other**



**Intermediary with respect to such Preference Shares of that Preference Shareholder.**

The Bank reserves the right at any time or from time to time during or following completion or cancellation of the Tender Offer to purchase or exchange or offer to purchase or exchange Preference Shares or to issue an invitation to submit offers to sell Preference Shares (including, without limitation, those offered pursuant to this Tender Offer but not accepted for purchase), in each case on terms that may be more or less favourable than those contemplated by the Tender Offer.

The making of any such new offers and the issuance of any new invitation will depend on various factors, including interest rates prevailing at such time and the aggregate liquidation preference of Preference Shares purchased pursuant to the Tender Offer.

**Extension, Termination and Amendment**

Subject to applicable law, the Bank reserves the right to extend the Expiration Time for, or re-open, the Tender Offer, withdraw, terminate, or amend the terms and conditions of the Tender Offer at any time after the announcement of the Tender Offer as described below under "*Amendment and Termination*", including with respect to any Tender Instructions submitted as of the time of any such extension, re-opening, withdrawal, termination or amendment.

If the Bank withdraws or terminates the Tender Offer, any Preference Shares offered for sale will not be purchased.

Any extension, re-opening, withdrawal, termination or amendment of the terms and conditions of the Tender Offer as described above will be followed as promptly as practicable by appropriate announcements on the relevant Notifying News Service(s), through the Clearing Systems or via the websites of the Luxembourg Stock Exchange, the Frankfurt Stock Exchange and Euronext Amsterdam.

**Costs and Expenses; Fees**

Any charges, costs and expenses incurred by the Preference Shareholders or any Intermediary shall be borne by such Preference Shareholder.

## PROCEDURE FOR SUBMITTING TENDER INSTRUCTIONS

### Preference Shareholders' Representations, Warranties and Undertakings

By submitting Tender Instructions through a relevant Clearing System, each Preference Shareholder is deemed to make certain acknowledgments, representations, warranties and undertakings to the Bank, the Dealer Managers and the Tender Agent that, as of the time of submission of its Tender Instruction and on the Settlement Date:

1. it has received and reviewed the Tender Offer Memorandum, accepts the invitation restrictions, the terms and conditions, risk factors and other considerations of the invitation and has undertaken an appropriate analysis of the implications of the Tender Offer without relying on the Bank, the Dealer Managers or the Tender Agent;
2. it understands that submission of a Tender Instruction pursuant to any of the procedures set forth in the Tender Offer Memorandum will constitute its acceptance of the terms and conditions of the Tender Offer (including the Regulatory Condition);
3. it accepts that the Bank is under no obligation to accept Preference Shares for purchase pursuant to the Tender Offer, and accordingly such tender may be accepted or rejected by the Bank in its sole discretion and for any reason;
4. it is a person to whom it is lawful to distribute the Tender Offer Memorandum or to make an Tender Offer under applicable laws;
5. it is not resident and/or located in the United Kingdom or, if it is resident and/or located in the United Kingdom, it is a person falling within the definition of investment professional (as defined in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "**Order**")) or within Article 43(2) of the Order, or to whom the Tender Offer Memorandum may lawfully be communicated in accordance with the Order;
6. either (a) (i) it is the beneficial owner of the Preference Shares and (ii) it is located and resident outside the United States, that it is submitting the Tender Instruction from outside the United States and it is not a U.S. person or (b) (i) it is validly acting on behalf of the beneficial owner of the Preference Shares on a non-discretionary basis and has been duly authorised to so act and (ii) such beneficial owner has confirmed to it that it is located and resident outside the United States, that it is submitting the Tender Instruction from outside the United States and is not a U.S. person;
7. it is not resident and/or located in Belgium, or if it is resident or located in Belgium it is acting for its own account and it is a qualified investor (*investisseur qualifié/gekwalificeerde belegger*) within the meaning of Article 10 of the Belgian Law of 16 June 2006 on the public offer of placement instruments and the admission to trading of placement instruments on regulated markets (as amended or replaced from time to time);
8. it is not resident and/or located in the Republic of France ("**France**"), or if it is

resident or located in France, it is either (i) a provider of investment services relating to portfolio management for the account of third parties and/or (ii) a qualified investor (*investisseur qualifié*), other than an individual, all 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*;

9. it is not located in Italy, or if it is located in Italy, it is (a) a qualified investor (*investitore qualificato*), as defined pursuant to Article 100 of Legislative Decree No. 58 of 24 February 1998, as amended (the "**Financial Services Act**") and Article 34-ter, paragraph 1, letter b) of the Issuers' Regulation and (b) an authorised person or tendering Preference Shares through an authorised person (such as an investment firm, bank or financial intermediary permitted to conduct such activities in Italy in accordance with the Financial Services Act, the CONSOB Regulation No. 16190 of 29 October 2007, as amended from time to time, and the Legislative Decree No. 385 of 1 September 1993, as amended) and in compliance with applicable laws and regulations or with requirements imposed by CONSOB or any other Italian authority;
10. upon the terms and subject to the conditions of the Tender Offer (including the Regulatory Condition), it irrevocably offers to sell to the Bank the liquidation preference of Preference Shares that it is offering and, subject to and effective upon purchase of the offered Preference Shares on the Settlement Date, it sells, assigns and transfers to, or to the order of, the Bank all right, title and interest in and to all of the Preference Shares offered by such Preference Shareholder;
11. it owns, or has confirmed that the party on whose behalf such Preference Shareholder is acting owns, on the date of submission, the Preference Shares being offered and it has full power and authority to submit a Tender Instruction and to offer, sell, assign and transfer the Preference Shares offered, and that, if such Preference Shares are accepted for purchase by the Bank, on the Settlement Date the Bank will acquire good and marketable title thereto, free and clear of all liens, charges, claims, interests, rights of third parties, encumbrances and restrictions of any kind and such Preference Shares will not be subject to any adverse claim or right; and that it will, upon request, execute and deliver additional documents and/or do such other things deemed by the Tender Agent or by the Bank to be necessary or desirable to complete the sale, assignment and transfer of the Preference Shares offered or to evidence such power and authority;
12. all authority conferred or agreed to be conferred pursuant to the submission of the Tender Instructions, and every obligation of such Preference Shareholder shall be binding upon the successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of such Preference Shareholder and shall not be affected by, and shall survive, the death or incapacity of such Preference Shareholder or the party on whose behalf such Preference Shareholder is acting;
13. it understands that the Bank's acceptance for payment of Preference Shares offered pursuant to any of the procedures described in this Tender Offer Memorandum will constitute a binding agreement between such Preference

Shareholder and the Bank in accordance with the terms and subject to the conditions of the Tender Offer (including the Regulatory Condition);

14. it shall indemnify the Bank, the Dealer Managers and the Tender Agent against all and any losses, costs, claims, liabilities, expenses, charges, actions or demands which any of them may incur or which may be made against any of them as a result of any breach of any of the terms of, or any of the acknowledgements, representations, warranties and/or undertakings given pursuant to, the Tender Offer (including any Tender Instruction) by any such Preference Shareholder;
15. the Preference Shares are, at the time of acceptance, and will continue to be, until the time of settlement on the Settlement Date, held by it in the relevant Clearing System;
16. it holds and will hold, until the time of settlement on the Settlement Date, the tendered Preference Shares in blocked account(s), in accordance with the procedures of the relevant Clearing System and by the deadline required by that Clearing System, it has irrevocably authorised such Clearing System in accordance with their procedures and deadlines, to:
  - (i) block any attempt to transfer such Preference Shares;
  - (ii) disclose the name of the direct account holder and information about the foregoing instructions with respect to such Preference Shares to the Tender Agent; and
  - (iii) transfer such Preference Shares (or such lesser portion as shall be accepted for purchase) upon receipt of an instruction by the Tender Agent to have such Preference Shares transferred, and debit such Preference Shares (or such lesser portion as shall be accepted for purchase) for purchase from such holder's account(s) with the relevant Clearing System on the Settlement Date;
17. it has instructed the relevant Clearing System that, if the Bank purchases any of its Preference Shares, such Clearing System should credit the cash paid to purchase those Preference Shares to the account in which those Preference Shares were held immediately before purchase;
18. it understands that, in the event of a withdrawal or termination of the Tender Offer, the Tender Instructions with respect to such offered Preference Shares will be deemed to be withdrawn, and the Preference Shares will be unblocked in the Direct Participant's Clearing System account;
19. it understands that validly offered Preference Shares (or defectively offered Preference Shares with respect to which the Bank has waived, or has caused to be waived, such defect) will be deemed to have been accepted by the Bank if, as and when the Bank gives oral or written notice thereof to the Tender Agent;

20. it agrees that accrued but unpaid dividends on the Preference Shares accepted for purchase by the Bank pursuant to the Tender Offer shall be paid on the Settlement Date notwithstanding any other provision of the Preference Shares;
21. no information has been provided to it by the Bank, the Dealer Managers or the Tender Agent, or any of their respective directors, officers, employees, agents or affiliates with regard to the tax consequences for Preference Shareholders arising from the tender of Preference Shares pursuant to the Tender Offer and the receipt of the Tender Consideration respect of such Preference Shares accepted for purchase, and it acknowledges that it is solely liable for any taxes and similar or related payments imposed on it under the laws of any applicable jurisdiction as a result of its tendering Preference Shares pursuant to the Tender Offer and agrees that it will not and does not have any right of recourse (whether by way of reimbursement, indemnity or otherwise) against the Bank, the Dealer Managers or the Tender Agent, or any of their respective directors, officers, employees, agents or affiliates, or any other person, in respect of such taxes and payments;
22. it has observed all relevant laws and acquired all necessary consents, approvals or authorisations of, or made all registrations, filings or declarations with, any court, regulatory authority, governmental agency or stock exchange or any other person, that are required in connection with its Tender Instruction and it has not taken or omitted to take any action in breach of the terms of the Tender Offer or which will or may result in the Bank, the Dealer Managers, the Tender Agent, or any other person acting in breach of the legal or regulatory requirements of any such jurisdiction in connection with the Tender Offer; and
23. The terms and conditions of the Tender Offer (including the Regulatory Condition) shall be deemed to be incorporated in, and form a part of, the Tender Instruction which shall be read and construed accordingly, and that the information given by or on behalf of such Preference Shareholder in the Tender Instruction is true and will be true in all respects at the time of the purchase of the Preference Shares tendered on the Settlement Date.

## **Procedures for Submitting Tender Instructions**

### *General*

If a Preference Shareholder wishes to tender any of its Preference Shares pursuant to the Tender Offer, at or prior to the Expiration Time, Tender Instructions must be submitted by or on its behalf to the Tender Agent in the applicable manner described below.

Set forth below is a description of the procedures generally applicable for Tender Instructions in respect of Preference Shares held in book-entry form. In any event, it is the Preference Shareholder's responsibility to inform themselves of, and arrange for timely tender of their Preference Shares in accordance with, the procedures and deadlines applicable to the Clearing System through which they tender their Preference Shares.

Only a Direct Participant in a Clearing System can properly instruct that Clearing System with regard to submitting Tender Instructions. In so instructing, the Direct

Participant, and the offering Preference Shareholder on whose behalf it is acting, will be deemed to have read and agreed to be bound by the terms and conditions of the Tender Offer (including the Regulatory Condition) contained in this Tender Offer Memorandum.

If a Preference Shareholder holds their Preference Shares through a custodian, they may not submit a Tender Instruction directly. They should therefore contact their custodian to instruct their custodian to submit Tender Instructions on their behalf. In the event that the relevant custodian is unable to submit a Tender Instruction on their behalf by one of the methods described herein, Preference Shareholders should contact the Tender Agent for assistance in submitting their Tender Instruction(s). There can be no assurance that the Tender Agent will be able to assist any such Preference Shareholders in successfully submitting Tender Instruction(s).

### *Tender Instructions*

The tendering of Preference Shares pursuant to the Tender Offer will be deemed to have occurred upon receipt by the relevant Clearing System of valid Tender Instructions in accordance with the requirements of such Clearing System. The receipt of such Tender Instructions by the relevant Clearing System will be acknowledged in accordance with the standard practices of such Clearing System and will result in the blocking of the relevant Preference Shares in the relevant Clearing System so that no transfers may be effected in relation to such Preference Shares, from the date the relevant tender of Preference Shares is made until the earlier of (i) the time of settlement on the Settlement Date and (ii) the date of any termination of the Tender Offer or on which the tender of such Preference Shares is withdrawn, in the limited circumstances in which such withdrawal is permitted.

Preference Shareholders must take the appropriate steps through the relevant Clearing System so that no transfers may be effected in relation to such blocked Preference Shares at any time after the date of submission of such Tender Instructions, in accordance with the requirements of the relevant Clearing System and the deadlines required by such Clearing System. By blocking such Preference Shares in the relevant Clearing System, each Direct Participant will be deemed to consent to have the relevant Clearing System provide details concerning such Direct Participant's identity to the Tender Agent, the Bank and the Dealer Managers.

**Only Direct Participants may submit Tender Instructions. Each Preference Shareholder that is not a Direct Participant must arrange for the Direct Participant through which it holds the relevant Preference Shares to submit a Tender Instruction on its behalf to the relevant Clearing System before the deadlines specified by such Clearing System.**

Tender Instructions may only be withdrawn by a Preference Shareholder, or the relevant Direct Participant on its behalf, in the limited circumstances described in "*Amendment and Termination*", by submitting a valid electronic revocation instruction to the relevant Clearing System. To be valid, such instruction must specify the Preference Shares to which the original Tender Instructions related, the securities account to which such Preference Shares are credited and any other information required by the relevant Clearing System.

A separate Tender Instruction must be submitted on behalf of each beneficial owner of the Preference Shares.

### **Irregularities**

All questions regarding the validity, form and eligibility, including time of receipt or revocation or revision, of any Tender Instructions will be determined by the Bank in its sole discretion, which determination will be final and binding. The Bank reserves the absolute right to reject any and all Tender Instructions not in proper form or for which any corresponding agreement by the Bank to purchase the relevant Preference Shares would, in the opinion of the Bank, be unlawful. The Bank reserves the absolute right to waive any of the conditions of the Tender Offer or defects in Tender Instructions. None of the Bank, the Dealer Managers or the Tender Agent shall be under any duty to give notice to the Preference Shareholders submitting a Tender Instruction, of any irregularities in Tender Instructions, nor shall any of them incur any liability for the failure to give such notice.

### **Governing Law and Jurisdiction**

The Tender Offer, this Tender Offer Memorandum, any Tender Instructions and any non-contractual obligations arising out of or in connection therewith, will be governed by the laws of England. By delivering a Tender Instruction, a Preference Shareholder irrevocably and unconditionally agrees for the exclusive benefit of the the Bank, the Dealer Managers and the Tender Agent that the Courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Tender Offer, this Tender Offer Memorandum and any Tender Instructions, and that accordingly, any suit, action or proceedings arising out of or in connection with the foregoing may be brought in such courts.

### **Announcements**

All announcements made by the Bank in relation to the Tender Offer will be made through the Notifying News Service(s), through the Clearing Systems or via the website of the Luxembourg Stock Exchange.

## AMENDMENT AND TERMINATION

### Amendment and Termination

Notwithstanding any other provision of the Tender Offer, and subject to applicable laws, the Bank may, at its option and in its sole discretion, at any time before any acceptance by the Bank of Preference Shares offered for sale in the Tender Offer, which the Bank expects to do on the Results Announcement Date:

- (a) extend the Expiration Time or re-open the Tender Offer (in which case all references in this Tender Offer Memorandum to "Expiration Time" shall, unless the context otherwise requires, be to the latest time and date to which the Expiration Time has been so extended or the Tender Offer re-opened);
- (b) otherwise extend, re-open or amend the Tender Offer in any respect (including, but not limited to, any extension, re-opening, waiver, or amendment, as applicable, in relation to the Expiration Time and/or the Settlement Date);
- (c) delay acceptance of Preference Shares validly submitted for sale in the Tender Offer until satisfaction or waiver of the conditions to the Tender Offer, even if the Tender Offer has expired;
- (d) terminate the Tender Offer, including with respect to Tender Instructions submitted before the time of such termination; or
- (e) amend any Purchase Price or Tender Consideration.

The Bank also reserves the right at any time to waive any or all of the conditions of the Tender Offer as set out in this Tender Offer Memorandum (other than the Regulatory Condition) and to modify or amend the terms of the Tender Offer in respect of any series of Preference Shares without similarly amending the terms of the Tender Offer in respect of the other series.

The Bank will ensure Preference Shareholders are notified of any such extension, re-opening, amendment or termination as soon as is reasonably practicable after the relevant decision is made in accordance with applicable law and the section headed "*Procedures for Submitting Tender Instructions — Announcements*" above. In the event the Tender Offer is terminated, all Tender Instructions will be deemed to be withdrawn automatically.

### Revocation Rights

If the Bank amends the Tender Offer in any way that, in the opinion of the Bank (in consultation with the Dealer Managers), is materially prejudicial to Preference Shareholders that have already submitted Tender Instructions before the announcement of such amendment, then such Tender Instructions may be withdrawn at any time from the date and time of such announcement until 17:00 (CET) on the second Business Day following such announcement (subject to the earlier deadlines required by the Clearing Systems and any Intermediary through which Preference Shareholders hold their Preference Shares).



For the avoidance of doubt, any extension or re-opening of the Tender Offer (including any amendment in relation to the Expiration Time and/or Settlement Date) in accordance with the terms of the Tender Offer as described in this section "*Amendment and Termination*", shall not be considered so materially prejudicial.

Preference Shareholders wishing to exercise any such right of revocation should do so in accordance with the procedures set out in "*Procedures for Submitting Tender Instructions*". Beneficial owners of Preference Shares that are held through an Intermediary are advised to check with such entity when it would require to receive instructions to withdraw Tender Instructions in order to meet the above deadline. For the avoidance of doubt, any Preference Shareholder who does not exercise any such right of revocation in the circumstances and in the manner specified above, shall be deemed to have waived such right of revocation and its original Tender Instructions will remain effective.

## **TAXATION**

In view of the number of different jurisdictions where tax laws may apply to a Preference Shareholder or to a beneficial owner of the Preference Shares, this Tender Offer Memorandum does not discuss the tax consequences to Preference Shareholders or such beneficial owners of the purchase of the Preference Shares. The Preference Shareholders and such beneficial owners of the Preference Shares are urged to consult their own professional advisers regarding these possible tax consequences under the laws of the jurisdictions that apply to them or to the sale of their Preference Shares and their receipt of the relevant Purchase Price, as the case may be, and Accrued Dividend. Preference Shareholders and beneficial owners of the Preference Shares are liable for their own taxes and have no recourse to the Bank, the Dealer Managers or the Tender Agent with respect to taxes arising in connection with the Tender Offer.

## **DEALER MANAGERS AND TENDER AGENT**

The Bank has retained Citigroup Global Markets Limited and J.P. Morgan Securities Ltd. to act as Dealer Managers for the Tender Offer and Lucid Issuer Services Limited to act as Tender Agent. The Bank has entered into a dealer manager agreement with the Citigroup Global Markets Limited and J.P. Morgan Securities Ltd, which contains certain provisions regarding payment of fees, expense reimbursement and indemnity arrangements relating to the Tender Offer.

The Dealer Managers and their respective affiliates may contact Preference Shareholders regarding the Tender Offer, and may request brokerage houses, custodians, nominees, fiduciaries and others to forward this Tender Offer Memorandum and related materials to Preference Shareholders.

The Dealer Managers and their respective affiliates have provided and continue to provide certain investment banking services to the Bank for which they have received and will receive compensation that is customary for services of such nature.

The Dealer Managers and/or their respective affiliates may have a holding in, or may from time to time provide advice or other investment services in relation to, or engage in transactions involving, the Preference Shares. Further, the Dealer Managers may (i) submit Tender Instructions for its own account and (ii) submit Tender Instructions (subject always to the offer restrictions set out herein) on behalf of other Preference Shareholders.

None of the Dealer Managers, the Tender Agent, or any of their respective directors, officers, employees, agents or affiliates assumes any responsibility for the accuracy or completeness of the information concerning the Tender Offer, the Bank, any of its affiliates or the Preference Shares contained in this Tender Offer Memorandum or for any failure by the Bank to disclose events that may have occurred and may affect the significance or accuracy of such information.

None of the Bank, the Dealer Managers, the Tender Agent, or any of their respective directors, officers, employees or affiliates make any representation or recommendation whatsoever regarding the Tender Offer or any recommendation as to whether Preference Shareholders should tender Preference Shares in the Tender Offer.

The Tender Agent is the agent of the Bank and owes no duty to any Preference Shareholder.

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