

FINAL TERMS

21st December, 2005

BES FINANCE LTD.
Issue of EUR 250,000,000 CMS Linked Notes due 7th February, 2035
Guaranteed by Banco Espirito Santo S.A.
(acting through its London branch)
under the €10,000,000,000
Euro Medium Term Note Programme

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 Prospectus dated 7th December, 2005 (the **Prospectus**), which constitutes a base prospectus for the purposes of the Prospective Directive, save in respect of the Conditions, which are extracted from the Offering Circular dated 6th August, 2004 (the **Offering Circular**) and which are attached hereto. Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular. These Final Terms amend and restate the information contained in the Pricing Supplement dated 3rd February, 2005 relating to the Notes. References in the attached Conditions to "Pricing Supplement" shall be deemed to be references to these Final Terms in respect of this issue of Notes. 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 Prospectus and the Offering Circular. Copies of the Prospectus and the Offering Circular are available for viewing at, and copies may be obtained from, the registered office for the time being of the Issuer (being at the date hereof, c/o M&C Corporate Services Limited, P.O. Box 309 GT, Uglund House, South Church Street, Grand Cayman, British West Indies) and the specified office for the time being of J.P. Morgan Bank Luxembourg S.A. as the Paying Agent in Luxembourg (being at the date hereof, 6 route de Trèves, L-2633 Senningerberg, Luxembourg).

PART A - CONTRACTUAL TERMS

1.	Issuer:	BES Finance Ltd.
	Guarantor:	Banco Espirito Santo S.A. (acting through its London branch)
2.	Series Number:	40
	Tranche Number:	1
3.	Specified Currency or Currencies:	Euro (EUR)
4.	Aggregate Nominal Amount:	
	-Tranche:	EUR 250,000,000
	-Series:	EUR 250,000,000
5.	(i) Issue Price of Tranche:	100 per cent. of the Aggregate Nominal Amount
	(ii) Net Proceeds of Tranche:	EUR 250,000,000
6.	Specified Denominations:	EUR 1,000

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| 7. | Issue Date and Interest Commencement Date: | 7th February, 2005 |
| 8. | Maturity Date: | 7th February, 2035 |
| 9. | Interest Basis: | From and including the Issue Date to but excluding 7th February, 2009: Fixed Rate Note provisions.

From and including 7th February, 2009: Index Linked Interest Note provisions. |
| 10. | Redemption/Payment Basis: | Redemption at par |
| 11. | Change of Interest Basis or Redemption/Payment Basis: | From and including the Issue Date to but excluding 7th February, 2009: Fixed Rate Note provisions.

From and including 7th February, 2009: Index Linked Interest Note provisions.

(See item 19) |
| 12. | Put/Call Options: | Not Applicable |
| 13. | (i) Status of the Notes: | Senior |
| | (ii) Status of the Guarantee: | Senior |
| 14. | Listing: | Luxembourg |
| 15. | Method of distribution: | Non-syndicated |

PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE

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| 16. | Fixed Rate Notes Provisions | Applicable for the period from and including the Issue Date to but excluding 7th February, 2009. |
| | (i) Rate of Interest: | 6.00 per cent. per annum payable annually in arrear |
| | (ii) Interest Payment Date(s): | 7th February in each year from and including 7th February 2005 up to and including 7th February 2009; thereafter the Notes become Index Linked Interest Notes (see item 19). |
| | (iii) Fixed Coupon Amount(s): | €60 per €1,000 in nominal amount. |
| | (iv) Broken Amount(s): | Not Applicable |
| | (v) Day Count Fraction: | Actual/Actual (ISMA), unadjusted |

(vi)	Determination Date(s):	7th February in each year from and including 7th February 2005 up to and including 7th February 2009; thereafter the Notes become Index Linked Interest Notes (see item 19).
(vii)	Other terms relating to the method of calculating interest for Fixed Rate Notes:	None
17.	Floating Rate Note Provisions	Not Applicable
18.	Zero Coupon Note Provisions	Not Applicable
19.	Index Linked Interest Note Provisions	Applicable in respect of the period from and including 7th February, 2009 to and including 7th February, 2035.
(i)	Index/Formula:	<p>The Rate of Interest for each Interest Period during the period from and including the Issue Date to but excluding 7th February, 2009, will be 6.00 per cent. per annum.</p> <p>The Rate of Interest for each Interest Period (which for purposes hereof shall be deemed to include the period from and including the Interest Payment Date immediately preceding the date of any redemption of the Notes pursuant to Condition 10 to but excluding the date of such redemption) during the period from and including 7th February, 2009 to but excluding the Maturity Date will be a percentage rate, as determined by the Determination Agent in its sole discretion, which is equal to:</p> <p style="text-align: center;">$4 \times (10y \text{ CMS} - 2y \text{ CMS})$</p> <p>Where:</p> <p>10y CMS means the rate which is equal to the EUR-ISDA-EURIBOR Swap Rate-11.00 for a Designated Maturity of ten years as determined by the Determination Agent on the Interest Determination Date;</p> <p>2y CMS means the rate which is equal to the EUR-ISDA-EURIBOR Swap Rate-11.00 for a Designated Maturity of two years as determined by the Determination Agent on the Interest Determination Date;</p>

EUR-ISDA-EURIBOR Swap Rate-11.00

means that the rate for a Reset Date will be the annual swap rate for euro swap transactions with a maturity of the Designated Maturity, expressed as a percentage, which appears on the Reuters Screen ISDAFIX2 Page under the heading "EURIBOR BASIS - FRF" and above the caption "11.00 AM FRANKFURT" as of 11.00 a.m., Frankfurt time, on the Interest Determination Date. If such rate does not so appear on the Reuters Screen ISDAFIX2 Page, the rate for that Reset Date will be determined by the Determination Agent in its sole discretion by reference to a substitute screen page.

If no such substitute screen page is available, the rate for the Reset Date will be determined by the Determination Agent as if the parties had specified "EUR-Annual Swap Rate-Reference Banks" (as defined below) as the applicable floating rate option;

EUR-Annual Swap Rate Reference Banks

means that the rate for a Reset Date will be a percentage determined on the basis of the mid-market annual swap rate quotations provided by the Reference Banks at approximately 11:00 a.m., Frankfurt time, on the Interest Determination Date.

For this purpose, the mid-market annual swap rate means the arithmetic mean of the bid and offered rates for the annual fixed leg, calculated on a 30/360 day count basis, of a fixed-for floating euro interest rate swap transaction with a term equal to the Designated Maturity commencing on that Reset Date with an acknowledged dealer of good credit in the swap market, where the floating leg, calculated on an Actual/360 day count basis, is equivalent to EUR-EURIBOR-Telerate (as defined in the ISDA 2000 definitions) with a Designated Maturity of six months.

The Determination Agent will request the principal office of each of the Reference Banks to provide a quotation of its rate. If at least three quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest).

If at least three Reference Banks are not available to give sufficient quotations of swap rates as set out above, then the swap rates will be determined by the Determination Agent in its sole discretion;

Interest Determination Date means the day that is two Target Settlement Days prior to the Reset Date;

Reference Banks means five leading swap dealers in the interbank market;

Reset Date means the first day of the Interest Period;

TARGET means the Trans-European Automated Real-time Gross settlement Express Transfer system; and

Target Settlement Day means any day on which TARGET is open.

(ii) Calculation Agent responsible for calculating the interest due: Morgan Stanley Capital Services Inc. will act as the Determination Agent.

JPMorgan Chase Bank will act as the Calculation Agent.

As soon as practicable after the relevant time on each date that the Determination Agent is required to calculate any Rate of Interest pursuant to paragraph 19(i) above, the Determination Agent will cause the relevant Rate of Interest to be notified to the Calculation Agent and, upon receipt of such notification, the Calculation Agent will calculate the relevant Interest Amount.

(iii) Provisions for determining Coupon where calculation by reference to Index/Formula is impossible or impracticable: Not Applicable

(iv) Specified Period(s)/ Specified Interest Payment Dates: 7th February in each year, from and including 7th February, 2010, up to and including the Maturity Date.

(v) Business Day Convention: Not Applicable

(vi) Additional Business Centre(s): Not Applicable

(vii)	Minimum Rate of Interest:	3.00 per cent. per annum
(viii)	Maximum Rate of Interest:	10.00 per cent. per annum
(ix)	Day Count Fraction:	Actual/Actual (ISMA), unadjusted
20.	Dual Currency Note Provisions	Not Applicable

PROVISIONS RELATING TO REDEMPTION

21.	Issuer Call:	Not Applicable
22.	Investor Put:	Not Applicable
23.	Final Redemption Amount:	EUR 1,000 per Note of EUR 1,000 Specified Denomination
24.	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 Condition 7(e):	As set out in the Conditions

GENERAL PROVISIONS APPLICABLE TO THE NOTES

25.	Form of Notes:	Temporary Global Note exchangeable for a Permanent Global Note which is exchangeable for Definitive Notes on not less than 60 days' notice given at any time.
26.	Additional Financial Centre(s) or other special provisions relating to Payment Dates:	Not Applicable
27.	Talons for future Coupons or Receipts to be attached to Definitive Notes (and dates on which such Talons mature):	Yes, if the Permanent Global Note is exchanged for Definitive Notes before 7th February, 2008 one Talon for future coupons will be attached to such Definitive Notes, otherwise no Talons will be attached to any Definitive Notes.
28.	Details relating to Partly Paid Notes: amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences of failure to pay, including any right of the Issuer to forfeit the Notes and interest due on late payment:	Not Applicable
29.	Details relating to Instalment Notes: amount of each instalment, date on which each payment is to be made:	Not Applicable

30. Redenomination applicable: Redenomination not applicable
31. Other terms or special conditions: Not Applicable

DISTRIBUTION

32. If syndicated, names of Managers: Not Applicable
- Stabilising Manager (if any): Not Applicable
33. If non-syndicated, name of relevant Dealer: Morgan Stanley & Co. International Limited
- Total commission and concession: Not Applicable
34. Whether TEFRA D rules applicable or TEFRA rules not applicable: TEFRA D
35. Additional selling restrictions: Not Applicable

OPERATIONAL INFORMATION

36. Any clearing system(s) other than Euroclear and Clearstream, Luxembourg and the relevant identification number(s): Not Applicable
37. Delivery: Delivery against payment
38. Additional Paying Agent(s) (if any): Not Applicable

ISIN: XS0210172721
 Common Code: 021017272

LISTING APPLICATION

These Final Terms comprise the final terms required to list the issue of Notes described herein pursuant to the €10,000,000,000 Euro Medium Term Note Programme of BES Finance Ltd.

RESPONSIBILITY

The Issuer and the Guarantor accept responsibility for the information contained in these Final Terms

Signed on behalf of the Issuer:

Signed on behalf of the Guarantor:

By:.....
Duly authorised

By:.....
Duly authorised

PART B - OTHER INFORMATION

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| 1. | Ratings: | The Notes have not been rated. |
| 2. | Reasons for the offer: | The net proceeds from the issue of the Notes will be applied by the Issuer for general corporate purposes. |
| 3. | Estimated net proceeds: | EUR 250,000,000 |
| 4. | Estimated expenses: | £3,500 |

SCHEDULE

TERMS AND CONDITIONS OF THE NOTES

This Note is one of a Series (as defined below) of Notes issued by Banco Espírito Santo S.A. (formerly known as Banco Espírito Santo e Comercial de Lisboa, S.A.) (the "Bank"), or BES Finance Ltd. ("BES Finance" and, together with the Bank in its capacity as an issuer of Notes, the "Issuers" and each an "Issuer") as specified in the applicable Pricing Supplement constituted by a Trust Deed dated 3rd February, 1997 (such Trust Deed as modified and/or supplemented and/or restated from time to time, the "Trust Deed") made between the Issuers and J.P. Morgan Trustee and Depositary Company Limited (under its former name of Chase Manhattan Trustees Limited) (the "Trustee", which expression shall wherever the context permits include all other persons or companies for the time being acting as trustee under the Trust Deed).

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

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

References herein to "the Issuer" shall be to whichever of the Bank or BES Finance is specified as the Issuer in the applicable Pricing Supplement.

The Notes, the Receipts (as defined below) and the Coupons (as defined below) also have the benefit of an amended and restated Agency Agreement (the "Principal Agency Agreement") dated 6th August, 2004 made among the Issuers, the Trustee, JPMorgan Chase Bank as issuing and principal paying agent and agent bank (the "Agent", which expression shall include any successor agent specified in the applicable Pricing Supplement) and the other paying agents named therein (together with the Agent, the "Paying Agents", which expression shall include any additional or successor paying agents).

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

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

The applicable Pricing Supplement will state whether this Note is (i) a senior Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, that such Note is guaranteed on an

unsubordinated basis by the Bank, acting through its London branch, as described in Condition 4(i) (a "Senior Note"), (ii) a dated subordinated Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, guaranteed on a subordinated basis by the Bank, acting through its London branch, as described in Condition 4(ii) (a "Dated Subordinated Note") or (iii) an undated subordinated Note issued by BES Finance or the Bank and, where the Issuer is BES Finance, guaranteed on a subordinated basis by the Bank, acting through its London branch, as described in Condition 4(iii) (an "Undated Subordinated Note").

The Trustee acts for the benefit of the holders of the Notes (the "Noteholders", which expression shall, in relation to any Notes represented by a global Note, be construed as provided below), the holders of the Receipts (the "Receiptholders") and the holders of the Coupons (the "Couponholders", which expression shall, unless the context otherwise requires, include the holders of the Talons), all in accordance with the provisions of the Trust Deed.

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

Copies of the Trust Deed and the Agency Agreement are available for inspection at, and a copy of the applicable Pricing Supplement may be obtained from, the specified office of each of the Trustee (being at 6th August, 2004 at Trinity Tower, 9 Thomas More Street, London E1W 1YT), the Agent, the Paying Agent whose specified office is in Luxembourg (in relation to any Notes listed on the Luxembourg Stock Exchange) and the other Paying Agents during normal business hours save that, if this Note is an unlisted Note of any Series, the applicable Pricing Supplement will only be available for inspection by a Noteholder holding one or more unlisted Notes of that Series and such Noteholder must produce evidence satisfactory to the relevant Paying Agent or, as the case may be, the Trustee as to identity. The Noteholders, the Receiptholders and the Couponholders are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Trust Deed, the Agency Agreement and the applicable Pricing Supplement which are applicable to them.

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

Where the Bank is acting as an Issuer through its head office or its Madeira Free Trade Zone branch or its Cayman Islands branch in relation to the relevant Notes as specified in the applicable Pricing Supplement, all references in these Terms and Conditions to the Bank shall be deemed to be references to the Bank acting through its head office or the branch specified therein. Where the Bank is acting as Guarantor in relation to Notes issued by BES Finance, as indicated in the applicable Pricing Supplement, all references in these Terms and Conditions to the Bank shall be deemed to be references to the Bank acting through its London branch.

1. Form, Denomination and Title

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

This Note is a Senior Note, a Dated Subordinated Note or an Undated Subordinated Note, as indicated in the applicable Pricing Supplement.

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

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

Definitive Notes are issued with Coupons attached, and if applicable Talons for further Coupons unless they are Zero Coupon Notes in which case references to interest (other than in relation to interest

due after the Maturity Date), Coupons and Couponholders in these Terms and Conditions are not applicable.

Subject as set out below, title to the Notes, Receipts and Coupons will pass by delivery. The Issuer, the Bank (where the Issuer is BES Finance), the Trustee and any Paying Agent may deem and treat the bearer of any Note, Receipt or Coupon as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes but, in the case of any global Note, without prejudice to the provisions set out in the next succeeding paragraph.

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

References to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee and the Agent.

2. Status of the Notes

(i) The Senior Notes and the relative Receipts and Coupons are direct, unconditional, unsecured (subject to the provisions of Condition 3) and unsubordinated obligations of the Issuer and rank and will rank *pari passu* with all present and future unsecured and unsubordinated obligations of the Issuer, without any preference among themselves by reason of priority of date of issue, currency of payment or otherwise, except for obligations given priority by law.

(ii) Dated Subordinated Notes and the relative Receipts and Coupons are direct, unsecured obligations of the Issuer and rank and will rank *pari passu* among themselves and at least *pari passu* with all other present and future dated subordinated obligations of the Issuer, save for those that have been accorded by law preferential rights.

In the event of the winding up of the Issuer, the claims of the holders of the Dated Subordinated Notes and the relative Receipts and Coupons against the Issuer will be subordinated in right of payment to the claims of all other creditors (other than holders of Subordinated Indebtedness, if any) of the Issuer in the manner provided in the Trust Deed.

"Subordinated Indebtedness" means all indebtedness of the Issuer under the terms of which the right to payment of the person(s) entitled thereto is, or is expressed to be, subordinated, in the event of the winding up of the Issuer, to the right to payment of all unsubordinated creditors of the Issuer and so that for the purpose of this definition indebtedness shall include all liabilities, whether actual or contingent, under guarantees or indemnities.

(iii) The Undated Subordinated Notes and the relative Receipts and Coupons relating thereto (if any) constitute direct, unsecured obligations of the Issuer which are subordinated to the claims of Senior Creditors of the Issuer in that payments are conditional upon the Issuer and (where the Issuer is BES Finance) the Bank being solvent at the time of payment and no such payment shall be made except to the extent that such payment could be made and the Issuer and (where the Issuer is BES Finance) the Bank would still be solvent immediately thereafter. For this purpose, BES Finance or, as the case may be, the Bank shall be considered to be solvent if both (i) it is able to pay its debts to its Senior Creditors as they fall due and (ii) its Assets exceed its Liabilities to its Senior Creditors.

Furthermore, in order to allow each of the Issuer and the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 12/92 as amended), any amounts which, under these Terms and Conditions, would be payable as principal or interest under the Undated Subordinated Notes, will be available to meet the losses of the Issuer or of the Bank, provided: (a) that there has been (i) consumption of the whole of the reserves and retained earnings; (ii) writing down of the ordinary share capital of the Issuer and the Bank and (iii) writing down of the Issuer's and the Bank's preference shares (including any preference share capital guaranteed by the Bank); and (b) that therefore the Issuer's and the Bank's total shareholders' equity and the preference shares interests of the Issuer and the Bank have been reduced to zero.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Issuer or of the Bank, the unpaid amounts of interest first and then principal will be cancelled and utilised to the extent that may be necessary to meet the losses of the Issuer or of the Bank. The cancelled amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down or cancelled in the event of (i) the winding-up, liquidation or bankruptcy of the Issuer or of the Bank, in which event such reinstatement will be deemed to take effect at the moment which immediately precedes the commencement of the winding-up, liquidation or bankruptcy proceedings; or of (ii) a decision being taken by the shareholders of the Issuer or of the Bank to allow a dividend to be paid or to reinstate the cancelled or written down amounts, in each case subject to the approval of the Bank of Portugal. In both the above cases and at all times, cancelled or written down amounts will revert to being treated as subordinated credits of the corresponding holders, without prejudice to the subordination regime applying thereto.

During any period of cancellation or writing down such cancelled or written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Issuer, no Noteholder (having a debt or a liability towards the Issuer) may exercise any set-off or other similar rights against any amounts held by the Issuer.

Without prejudice to the foregoing, the Undated Subordinated Notes will, in the event of a distribution of the assets in the dissolution or liquidation of the Issuer, rank senior to the share capital of the Issuer.

A report as to the solvency of BES Finance or, as the case may be, the Bank by (a) two directors of BES Finance or, as the case may be, the Bank or, if the directors have not reported to BES Finance or, as the case may be, the Bank within 14 days before any payment needs to be made pursuant to Condition 6, the auditors of BES Finance or, as the case may be, the Bank or (b) if BES Finance or, as the case may be, the Bank is being wound up, its liquidator shall, in each case in the absence of manifest error, be treated and accepted by the Issuer, the Bank (where the Issuer is BES Finance), the Trustee and the holders of Undated Subordinated Notes as correct and sufficient evidence thereof.

For the purposes of this Condition 2(iii):

- (A) "Assets" means, in the case of BES Finance, the total gross assets of BES Finance and, in the case of the Bank, the total consolidated gross assets of the Bank and "Liabilities" means, in the case of BES Finance, the total gross liabilities of BES Finance and, in the case of the Bank, the total consolidated gross liabilities of the Bank, all as shown by, in the case of BES Finance, the latest published audited balance sheet of BES Finance and, in the case of the Bank, the latest published audited consolidated balance sheet of the Bank, but in each case adjusted for contingencies and for subsequent events in such manner and to such extent as such directors, auditors or liquidator, as the case may be, may determine to be appropriate; and
- (B) "Senior Creditors" means creditors of the Issuer or, as the case may be, the Bank who (x) are depositors or other unsubordinated creditors of the Issuer or, as the case may be, the Bank or (y) are subordinated creditors of the Issuer or, as the case may be, the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Undated Subordinated Notes or (in respect of the Bank) persons entitled to claim under the Guarantee in respect of such Notes.

3. Negative Pledge

This Condition 3 shall apply only to Senior Notes and references to "Notes" shall be construed accordingly.

So long as any of the Notes remains outstanding (as defined in the Trust Deed), neither the Issuer nor the Bank (where the Issuer is BES Finance) shall create or permit to be outstanding any mortgage, charge, lien, pledge or other similar encumbrance or security interest upon the whole or any part of its undertaking or assets, present or future (including any uncalled capital), to secure any Indebtedness (as defined below) or any guarantee or indemnity given in respect of any Indebtedness, without, in the case of the creation of an encumbrance or security interest, at the same time and, in any other case, promptly granting to the Noteholders either, at the option of the relevant Issuer, an equal and rateable interest in the same or providing to the Noteholders such other security as the Trustee shall, in its absolute discretion, deem to be not materially less beneficial to the Noteholders or as shall be approved by an Extraordinary Resolution (as defined in the Trust Deed) of the Noteholders.

“Indebtedness” means any borrowings having an original maturity of more than one year in the form of or represented by bonds, notes, debentures or other securities (not comprising, for the avoidance of doubt preference shares or other equity securities) but excluding any Covered Bonds (as defined below):

- (1) where more than 50 per cent. in aggregate principal amount of such bonds, notes, debentures or other securities are initially offered outside the Portuguese Republic; and
- (2) which with the consent of the Issuer or the Bank (where the Issuer is BES Finance), are, or are intended to be, listed or traded on any non-Portuguese domestic stock exchange, over-the-counter or other organised market for securities (whether or not initially distributed by way of private placing).

“Covered Bonds” means any mortgage-backed bonds and/or covered bonds or notes (*Obrigações Hipotecárias*) issued by any of the Issuers, the obligations of which benefit from a special creditor privilege (“*privilégio creditório especial*”) as a result of them being collateralised by a defined pool of assets comprised of mortgage loans or other loans permitted by applicable Portuguese legislation to be included in the pool of assets and where the requirements for that collateralisation are regulated by applicable Portuguese legislation.

4. Status of the Guarantee

The Bank, acting through its London branch, has in the Trust Deed unconditionally and irrevocably guaranteed the due and punctual payment by BES Finance of the principal of, and interest on, the Notes issued by BES Finance and all other amounts payable under or pursuant to the Trust Deed.

The obligations of the Bank, acting through its London branch, under the Guarantee constitute:

- (i) in the case of Senior Notes issued by BES Finance, direct, unconditional, unsecured (subject to the provisions of Condition 3) and unsubordinated obligations of the Bank and rank and will rank *pari passu* with all present and future unsecured (subject as aforesaid) and unsubordinated obligations (including those arising under deposits received in its banking business) of the Bank, except for obligations given priority by law;
- (ii) in the case of Dated Subordinated Notes issued by BES Finance, direct, unsecured obligations of the Bank but, in the event of the dissolution or liquidation of the Bank, subordinated in right of payment to the claims of depositors and other unsecured creditors of the Bank (other than creditors in respect of indebtedness of the Bank which is subordinated to at least the same extent as the obligations of the Bank under its guarantee in respect of such Dated Subordinated Notes); and
- (iii) in the case of Undated Subordinated Notes issued by BES Finance, direct, unsecured obligations of the Bank which, to the extent permitted by Portuguese law, are subordinated to the claims of Senior Creditors of the Bank, in that payment under the Guarantee is conditional upon the Bank being solvent at the time of payment and that no such payment shall be made except to the extent that the Bank could make such payment and still be solvent immediately thereafter. For this purpose, the Bank shall be considered to be solvent if both (i) it is able to pay its debts to the Senior Creditors of the Bank as they fall due and (ii) its Assets exceed its Liabilities to Senior Creditors of the Bank.

Without prejudice to the foregoing, the obligations of the Bank, acting through its London branch, under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance will, in the event of a distribution of the assets in the dissolution or liquidation of the Bank, rank senior to the share capital of the Bank.

A report as to the solvency of the Bank by (a) two directors of the Bank or, if the directors have not reported to BES Finance within 14 days before any payment needs to be made pursuant to this Condition 4(iii), the auditors of the Bank or (b) if the Bank is being wound up, its liquidator shall, in each case in the absence of manifest error, be treated and accepted by BES Finance, the Bank, the Trustee and the holders of Undated Subordinated Notes issued by BES Finance as correct and sufficient evidence thereof.

For the purposes of this Condition 4(iii):

(A) "Assets" means the total consolidated gross assets of the Bank and "Liabilities" means the total consolidated gross liabilities of the Bank, all as shown by the latest published audited consolidated balance sheet of the Bank but adjusted for contingencies and for subsequent events in such manner and to such extent as such directors, auditors or liquidator, as the case may be, may determine to be appropriate; and

(B) "Senior Creditors of the Bank" means creditors of the Bank who (x) are depositors or other unsubordinated creditors of the Bank or (y) are subordinated creditors of the Bank other than those whose claims rank *pari passu* with or junior to the claims of the holders of Undated Subordinated Notes and persons entitled to claim under the Guarantee in respect of such Notes.

The obligations of the Bank under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance are conditional upon the Bank being solvent immediately before and after payment by the Bank. Any amount which might otherwise have been allocated in or towards payment by BES Finance of principal and interest in respect of the Undated Subordinated Notes will be available to meet the losses of the Bank.

Furthermore, in order to allow the Bank to continue its business activities (in accordance with the Bank of Portugal Regulation 12/92), any amounts which, under these Conditions, would be payable as principal or interest under the Guarantee in respect of Undated Subordinated Notes issued by BES Finance, will be available to meet the losses of the Bank, provided: (a) that there has been (i) consumption of the whole of the reserves and retained earnings; (ii) writing down of the ordinary share capital of the Bank and (iii) writing down of the Bank's preference shares (including any preference share capital guaranteed by the Bank); and (b) that therefore the Bank's total shareholders' equity and the preference shares interests of the Bank have been reduced to zero.

In the above circumstances where unpaid principal and interest may be used to meet the losses of the Bank, the unpaid amounts of interest first and then principal will be cancelled and utilised to the extent that may be necessary to meet the losses of the Bank. The cancelled amounts will only be reinstated as subordinated credits of the corresponding holders as if such amounts had never been written down or cancelled in the event of (i) the winding-up, liquidation or bankruptcy of the Bank, in which event such reinstatement will be deemed to take effect at the moment which immediately precedes the commencement of the winding-up, liquidation or bankruptcy proceedings; or of (ii) a decision being taken by the shareholders of the Issuer or of the Bank to allow a dividend to be paid or to reinstate the cancelled or written down amounts, in each case subject to the approval of the Bank of Portugal. In both the above cases and at all times, cancelled or written down amounts will revert to being treated as subordinated credits of the corresponding holders, without prejudice to the subordination regime applying thereto.

During any period of cancellation or writing down such cancelled or written down amounts shall not bear interest.

In the event of liquidation, bankruptcy or analogous proceedings of the Bank, no Noteholder (having a debt or a liability towards the Bank) may exercise any set-off or other similar rights against any amounts held by the Bank.

5. Interest

(a) Interest on Fixed Rate Notes

Each Fixed Rate Note bears interest on its outstanding nominal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date at the rate(s) per annum equal

to the Rate(s) of Interest. Interest will be payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date.

Except as provided in the applicable Pricing Supplement, the amount of interest payable on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Pricing Supplement, amount to the Broken Amount so specified.

As used in these Terms and Conditions, "Fixed Interest Period" means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

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

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

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

In these Terms and Conditions:

"Determination Period" means the period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date); and

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

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

(i) Interest Payment Dates

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

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

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

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

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

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

- (A) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and any Additional Business Centre specified in the applicable Pricing Supplement; and
- (B) either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (if other than London and any Additional Business Centre and which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively), or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System (the "TARGET System") is open.

Interest will be paid subject to and in accordance with the provisions of Condition 6.

(ii) *Rate of Interest*

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

(A) *ISDA Determination for Floating Rate Notes*

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

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

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

When this sub-paragraph (A) applies, in respect of each relevant Interest Period the Agent will be deemed to have discharged its obligations under Condition 5(b)(ii) in respect of the determination of the Interest Rate if it has determined the Rate of Interest in respect of such Interest Period in the manner provided in this sub-paragraph (A).

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

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

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

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

The Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (1) above, no such quotation appears or, in the case of (2) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph.

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

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

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

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

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

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

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

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

- (i) if "Actual/365" or "Actual/Actual (ISDA)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (ii) if "Actual/365 (Fixed)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365;
- (iii) if "Actual/365 (Sterling)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (iv) if "Actual/360" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 360;
- (v) if "30/360", "360/360" or "Bond Basis" is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (a) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (b) the last day of the Interest Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and
- (vi) if "30E/360" or "Eurobond Basis" is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of the final Interest Period, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

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

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

(vi) *Determination or calculation by Trustee*

If for any reason the Agent at any time after the Issue Date defaults in its obligation to determine the Rate of Interest or calculate any Interest Amount in accordance with sub-paragraph (ii) above, the Trustee shall determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it shall think fit to the foregoing provisions of this Condition but subject always to any Minimum Rate of Interest and/or Maximum Rate of Interest specified in the applicable Pricing Supplement) it shall deem fair and reasonable in all the circumstances or, as the case may be, the Trustee shall calculate the Interest Amount(s) in such manner as it shall deem fair and reasonable in all the circumstances and each such determination or calculation shall be deemed to have been made by the Agent.

(vii) *Certificates to be Final*

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

(c) Interest on Dual Currency Interest Notes

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

(d) Interest on Partly Paid Notes

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

(e) Undated Subordinated Notes

Interest on Undated Subordinated Notes shall accrue from day to day and shall be payable on each Compulsory Interest Payment Date (as defined below) in respect of the interest accrued in the Interest Period ending on (but excluding) such Compulsory Interest Payment Date. On any Optional Interest Payment Date (as defined below) there may be paid (if the Issuer so elects and gives not less than 30 days' notice of such election to the holders of Undated Subordinated Notes in accordance with Condition 14) the interest accrued in the Interest Period ending on (but excluding) such Optional Interest Payment Date (an "Accrual Period") but the Issuer shall not have any obligation to make such payment and any failure to pay shall not constitute a default by the Issuer for any purpose; and any interest not so paid shall, so long as the same remains unpaid, constitute "Arrears of Interest". The Issuer may at its option, after giving notice to the holders of Undated Subordinated Notes in accordance with Condition 14 at any time pay all or part of the Arrears of Interest (being, if part only, the whole of the interest accrued on all the Undated

Subordinated Notes during any one or more accrual Period(s) but so that, in the case of any such partial payment, the interest accrued during any Accrual Period shall not be paid prior to that accrued during any earlier Accrual Period. All Arrears of Interest shall become due in full on whichever is the earliest of (i) the date on which any dividend or other distribution is next declared, paid or made on any class of stock or share capital of the Issuer or (where the Issuer is BES Finance) the Bank, (ii) the date set for any repayment permitted under Condition 7(b) or (c) and (iii) the commencement of winding up of the Issuer or (where the Issuer is BES Finance) the Bank. If notice is given by the Issuer of its intention to pay all or part of the Arrears of Interest, the Issuer shall be obliged to do so upon the expiry of such notice. Neither Arrears of Interest nor any Interest due but unpaid shall bear interest. Payment of Arrears of Interest is subject to the approval of the Bank of Portugal.

For the purposes of this paragraph (e):

“Compulsory Interest Payment Date” means any Interest Payment Date in relation to which any dividend or other distribution has been declared, paid or made on any class of the stock or share capital of the Issuer or (where the Issuer is BES Finance) the Bank in the immediately preceding interest period; and

“Optional Interest Payment Date” means any Interest Payment Date other than a Compulsory Interest Payment Date.

(f) Accrual of Interest

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

6. Payments

(a) Method of Payment

Subject as provided below:

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

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

(b) Presentation of Notes, Receipts and Coupons

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

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

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

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

Upon the date on which any Floating Rate Note, Dual Currency Note, Index Linked Note or Long Maturity Note in definitive form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A "Long Maturity Note" is a Fixed Rate Note (other than a Fixed Rate Note which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

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

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

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

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

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

(c) Payment Day

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

- (i) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
 - (A) the relevant place of presentation;
 - (B) London;
 - (C) any Additional Financial Centre specified in the applicable Pricing Supplement; and
- (ii) either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (if other than the place of presentation, London and any Additional Financial Centre and which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the TARGET System is open.

(d) Interpretation of Principal and Interest

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

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

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 8 or pursuant to any undertakings given in addition thereto or in substitution therefor pursuant to the Trust Deed.

7. Redemption and Purchase

(a) At Maturity

Unless previously redeemed or purchased and cancelled as specified below, each Note (including each Index Linked Redemption Note and Dual Currency Redemption Note) will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement in the relevant Specified Currency on the Maturity Date.

(b) Redemption for Tax Reasons

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

- (i) the Issuer satisfies the Trustee immediately prior to the giving of such notice that, on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8 or the Bank (where the Issuer is BES Finance) would be unable for reasons outside its control to procure payment by BES Finance and in making payment itself would be required to pay such additional amounts, in either case as a result of any change in, or amendment to, the laws or regulations of any Relevant Tax Jurisdiction 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 of the first Tranche of the Notes; and
- (ii) such obligation cannot be avoided by the Issuer or the Bank (where the Issuer is BES Finance) 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 Bank (where the Issuer is BES Finance) would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any notice of redemption pursuant to this Condition 7(b), the Issuer shall deliver to the Trustee a certificate signed by two Directors of the Issuer or two Directors of the Bank (where the Issuer is BES Finance) stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer or the Bank (where the Issuer is BES Finance) has or will become obliged to pay such additional amounts as a result of such change or amendment. The Trustee shall be entitled to accept such certificate and opinion as sufficient evidence of the satisfaction of such conditions precedent in which event they shall be conclusive and binding on the Noteholders, the Receiptholders and the Couponholders.

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

“Relevant Tax Jurisdiction” means (i), in respect of payments made by BES Finance, the Cayman Islands, (ii) in respect of payments where the Bank is specified in the applicable Pricing Supplement as Issuer and as acting through its head office or its Madeira Free Trade Zone branch, Portugal (including Madeira); (iii) in respect of payments where the Bank is specified in the applicable Pricing Supplement as Issuer and as acting through its Cayman Islands branch, the Cayman Islands; and (iv) in respect of payments made by the Bank, acting through its London branch, where the Issuer is BES Finance, the United Kingdom.

(c) Redemption at the Option of the Issuer (Issuer Call)

If Issuer Call is specified in the applicable Pricing Supplement, the Issuer shall (after obtaining the consent of the Bank of Portugal whenever it is required in the case of Dated Subordinated Notes and Undated Subordinated Notes), having given:

- (i) not less than 30 nor more than 60 days' notice to the Noteholders in accordance with Condition 14; and
- (ii) not less than 15 days before the giving of the notice referred to in (i), notice to the Agent and the Trustee,

(which notices shall be irrevocable), redeem all or some only of the Notes then outstanding on any Optional Redemption Date and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount or not more than a Higher Redemption Amount, in each case as may be specified in the applicable Pricing Supplement. In the case of a partial redemption of Notes, the Notes to be redeemed (“Redeemed Notes”) will be selected individually by lot, in the case of Redeemed Notes represented by definitive Notes, and in accordance with the rules of Euroclear and/or Clearstream, Luxembourg, in the case of Redeemed Notes represented by a global Note, not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the “Selection Date”). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 15 days prior to the date fixed for redemption. The aggregate nominal amount of Redeemed Notes represented by definitive Notes shall bear

the same proportion to the aggregate nominal amount of all Redeemed Notes as the aggregate nominal amount of definitive Notes outstanding bears to the aggregate nominal amount of the Notes outstanding, in each case on the Selection Date, provided that such first mentioned nominal amount shall, if necessary, be rounded downwards to the nearest integral multiple of the Specified Denomination, and the aggregate nominal amount of Redeemed Notes represented by a global Note shall be equal to the balance of the Redeemed Notes. No exchange of the relevant global Note will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this paragraph (c) and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 14 at least five days prior to the Selection Date.

(d) Redemption at the Option of the Noteholders (Investor Put)

If Investor Put is specified in the applicable Pricing Supplement (provided that Investor Put may not be specified if this is a Dated Subordinated Note or an Undated Subordinated Note), upon the holder of any Note giving to the Issuer in accordance with Condition 14 not less than 30 nor more than 60 days' notice (which notice shall be irrevocable) or such other period of notice as is specified in the applicable Pricing Supplement the Issuer will, upon the expiry of such notice, redeem, subject to, and in accordance with, the terms specified in the applicable Pricing Supplement, in whole (but not in part), such Note on the Optional Redemption Date and at the Optional Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date.

If this Note is in definitive form, to exercise the right to require redemption of this Note the holder of this Note must deliver such Note at the specified office of any Paying Agent at any time during normal business hours of such Paying Agent falling within the notice period, accompanied by a duly completed and signed notice of exercise in the form (for the time being current) obtainable from any specified office of any Paying Agent (a "Put Notice") and in which the holder must specify a bank account (or, if payment is by cheque, an address) to which payment is to be made under this Condition accompanied by, if this Note is in definitive form, this Note or evidence satisfactory to the Paying Agent concerned that this Note will, following delivery of the Put Notice, be held to its order or under its control.

(e) Early Redemption Amounts

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

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

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

where:

"**RP**" means the Reference Price;

"**AY**" means the Accrual Yield expressed as a decimal; and

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

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

(f) Instalments

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

(g) Partly Paid Notes

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

(h) Purchases

The Issuer, the Bank (where the Issuer is BES Finance) or any of its Subsidiaries (as defined in the Trust Deed) may (after obtaining the consent of the Bank of Portugal whenever it is required in the case of Dated Subordinated Guaranteed Notes and Undated Subordinated Guaranteed Notes) at any time purchase Notes (provided that, in the case of definitive Notes, all unmatured Receipts, Coupons and Talons appertaining thereto are purchased therewith) at any price in the open market or otherwise. Such Notes may be held, reissued, resold or, at the option of the Issuer or the Bank (where the Issuer is BES Finance), surrendered to any Paying Agent for cancellation.

(i) Cancellation

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

(j) Late payment on Zero Coupon Notes

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

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

8. Taxation

All payments of principal and interest in respect of the Notes, Receipts and Coupons by BES Finance or the Bank will be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of any Relevant Tax Jurisdiction as defined in Condition 7 (b) or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In such event, BES Finance or the Bank will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes, Receipts or Coupons after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, Receipts or Coupons, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note, Receipt or Coupon:

- (i) presented for payment by or on behalf of a Noteholder, Receiptholder or Couponholder who is liable for such taxes or duties in respect of such Note, Receipt or Coupon by reason of his having some connection with any Relevant Tax Jurisdiction other than the mere holding of such Note, Receipt or Coupon; and/or
- (ii) presented for payment by or on behalf of a Noteholder, Receiptholder or Couponholder who is able to avoid such withholding or deduction by making a declaration of non-residence or other claim for exemption to the relevant tax authority; and/or

- (iii) presented for payment more than 30 days after the Relevant Date (as defined below) except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day; and/or
- (iv) presented for payment in the Relevant Tax Jurisdiction; and/or
- (v) 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 26th-27th November, 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive; and/or
- (vi) presented for payment by or on behalf of a holder who would be able to avoid such withholding or deduction by presenting the relevant Note, Receipt or Coupon to another Paying Agent in a Member State of the European Union.

As used herein, the "Relevant Date" means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Agent or the Trustee on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

9. Prescription

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

There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition 9 or Condition 6(b) or any Talon which itself would be void pursuant to Condition 6(b).

10. Events of Default

(A) This Condition 10(A) applies only to Senior Notes and in this Condition 10(A) references to "Notes" shall be construed accordingly.

If any one or more of the following events (each an "Event of Default") shall occur and be continuing:

- (i) default is made in the payment of any principal or interest due in respect of the Notes or any of them and such default continues, in the case of principal, for a period of five Portuguese Business Days or, in the case of interest, for a period of 10 Portuguese Business Days; or
- (ii) the Issuer or the Bank (where the Issuer is BES Finance) fails to perform or observe any of its other obligations in respect of the Notes or under the Trust Deed and (except where, in the opinion of the Trustee, such default is not capable of remedy where no such continuation or notice as is hereinafter referred to will be required) such failure continues for the period of 30 days (or such longer period as the Trustee may permit) after notice has been given to the Issuer or, as the case may be, the Bank requiring the same to be remedied; or
- (iii) the repayment of any indebtedness owing by the Issuer or by the Bank (where the Issuer is BES Finance) is accelerated by reason of default and such acceleration has not been rescinded or annulled, or the Issuer or the Bank (where the Issuer is BES Finance) defaults (after whichever is the longer of any originally applicable period of grace and 14 days after the due date) in any payment of any indebtedness or in the honouring of any guarantee or indemnity in respect of any indebtedness provided that no such event shall constitute an Event of Default unless the indebtedness whether alone or when aggregated with other indebtedness relating to all (if any) other such events which shall have occurred shall exceed U.S.\$10,000,000 (or its equivalent in any other currency or currencies) or, if greater, an amount equal to one per cent. of the Bank's Shareholders' Funds; or
- (iv) any order shall be made by any competent court or resolution passed for the winding up or dissolution of the Issuer or the Bank (where the Issuer is BES Finance) (other than for the

purpose of an amalgamation, merger or reconstruction approved by the Trustee or by an Extraordinary Resolution of the Noteholders); or

- (v) the Issuer or the Bank (where the Issuer is BES Finance) shall cease to carry on the whole or substantially the whole of its business (other than for the purpose of an amalgamation, merger or reconstruction approved by the Trustee or by an Extraordinary Resolution of the Noteholders); or
- (vi) the Issuer or the Bank (where the Issuer is BES Finance) shall stop payment or shall be unable to, or shall admit inability to, pay its debts as they fall due, or shall be adjudicated or found bankrupt or insolvent by a court of competent jurisdiction or shall make a conveyance or assignment for the benefit of, or shall enter into any composition or other arrangement with, its creditors generally; or
- (vii) a receiver, trustee or other similar official shall be appointed in relation to the Issuer or the Bank (where the Issuer is BES Finance) or in relation to the whole or a substantial part of the assets of either of them or a temporary manager of the Bank is appointed by the Bank of Portugal or an encumbrancer shall take possession of the whole or a substantial part of the assets of the Issuer or the Bank (where the Issuer is BES Finance), or a distress or execution or other process shall be levied or enforced upon or sued out against the whole or a substantial part of the assets of either of them and in any of the foregoing cases it or he shall not be discharged within 60 days; or
- (viii) the Bank sells, transfers, lends or otherwise disposes of the whole or a major part of its undertaking or assets (including shareholdings in its Subsidiaries or associated companies) and such disposal is substantial in relation to the assets of the Bank and its Subsidiaries as a whole, other than selling, transferring, lending or otherwise disposing on an arm's length basis; or
- (ix) except where the Issuer has been substituted as principal debtor pursuant to Condition 18, the Issuer (where the Issuer is BES Finance) ceases to be a Subsidiary wholly owned and controlled, directly or indirectly, by the Bank; or
- (x) (where the Issuer is BES Finance) the Guarantee is terminated or shall cease to be in full force and effect,

then the Trustee at its discretion may, and if so requested in writing by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to being indemnified to its satisfaction), give notice to the Issuer that the Notes are, and they shall accordingly thereby forthwith become, immediately due and repayable at their Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (as provided in the Trust Deed) provided that, in the case of any such Events of Default other than those described in sub-paragraphs (i) and (iv) above, the Trustee shall have certified to the Issuer that such Event of Default is in its opinion materially prejudicial to the interests of the Noteholders.

As used above:

"Bank's Shareholders' Funds" means, at any relevant time, a sum equal to the aggregate of the Bank's shareholders' equity as certified by the Auditors (as defined in the Trust Deed) of the Bank by reference to the latest audited consolidated financial statements of the Bank; and

"Portuguese Business Day" means a day on which commercial banks are open for business in Lisbon.

(B) This Condition 10(B) applies only to Dated Subordinated Notes and Undated Subordinated Notes and in this Condition 10(B) references to "Notes" shall be construed accordingly.

If any one or more of the following events (each an "Event of Default") shall occur:

- (i) default is made in the payment of any principal or interest due in respect of the Notes or any of them and such default continues, in the case of principal, for a period of five Portuguese Business Days (as defined in Condition 10(A)) or, in the case of interest, for a period of 10 Portuguese Business Days; or

- (ii) any order shall be made by any competent court or resolution passed for the winding up or dissolution of the Issuer or the Bank (where the Issuer is BES Finance) (other than for the purpose of an amalgamation, merger or reconstruction approved by the Trustee or by an Extraordinary Resolution of the Noteholders),

then the Trustee at its discretion may, and if so requested in writing by the holders of not less than 20 per cent. of the nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to being indemnified to its satisfaction), give notice to the Issuer that the Notes are, and they shall accordingly thereby forthwith become, immediately due and repayable at their Early Redemption Amount (as described in Condition 7(e)) together with accrued interest (as provided in the Trust Deed).

Notwithstanding the Trustee having given notice that the Dated Subordinated Notes or, as the case may be, the Undated Subordinated Notes are immediately due and repayable, the Issuer may only redeem such Notes with the prior approval of the Bank of Portugal.

There can be no assurance that the Bank of Portugal will give its approval to any such redemption. Noteholders should be aware of the fact that the Bank of Portugal's approval will depend on the capital adequacy of the Bank.

11. Replacement of Notes, Receipts, Coupons and Talons

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

12. Agent and Paying Agents

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

The Issuer and the Bank (where the Issuer is BES Finance) are entitled (with the prior written consent of the Trustee) to vary or terminate the appointment of any Paying Agent and/or appoint additional or other Paying Agents and/or approve any change in the specified office through which any Paying Agent acts, provided that:

- (i) so long as the Notes are listed on any stock exchange or admitted to listing by any relevant authority, there will at all times be a Paying Agent with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange or such other relevant authority;
- (ii) the Issuer undertakes that it will ensure that it maintains a paying agent in a Member State of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26th-27th November, 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; and
- (iii) there will at all times be a Paying Agent outside the United Kingdom and Portugal (including Madeira).

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

13. Exchange of Talons

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of

the Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

14. Notices

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

Until such time as any definitive Notes are issued, there may (provided that, in the case of Notes listed on a stock exchange or admitted to listing by another relevant authority, the rules of such stock exchange or other relevant authority permits), so long as the global Note(s) is or are held in its/their entirety on behalf of Euroclear and Clearstream, Luxembourg, be substituted for such publication in such newspaper(s) the delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by them to the holders of the Notes. Any such notice shall be deemed to have been given to the holders of the Notes on the seventh day after the day on which the said notice was given to Euroclear and Clearstream, Luxembourg. However, all notices regarding Notes which are listed on the Luxembourg Stock Exchange must be published in a daily newspaper of general circulation in Luxembourg.

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

15. Meetings of Noteholders, Modification and Waiver

The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the terms and conditions of the Notes, the Receipts, the Coupons or any of the provisions of the Trust Deed. Such a meeting may be convened by the Issuer or Noteholders holding not less than five per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than a clear majority in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes, Receipts or Coupons (including modifying the date of maturity of the Notes or any date for payment of interest thereof, reducing or cancelling the amount of principal on maturity or otherwise, modification of any Minimum Rate of Interest or Maximum Rate of Interest or altering the currency of payment of the Notes, Receipts or Coupons, modification of the majority required to pass an Extraordinary Resolution or modification of the Trust Deed concerning this exception), the quorum shall be one or more persons holding or representing not less than two-thirds, or at any adjourned such meeting one or more persons holding or representing not less than one-third, in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all Receiptholders and Couponholders.

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

- (i) any modification (except as mentioned above) of the Notes, the Receipts, the Coupons or the Trust Deed which is not, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders; or

- (ii) any modification of the Notes, the Receipts, the Coupons or the Trust Deed which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated.

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

The Trustee may also waive or authorise any breach or proposed breach of any of these Terms and Conditions or any of the provisions of the Trust Deed which, in the opinion of the Trustee, is not materially prejudicial to the interests of the Noteholders.

In connection with the exercise by it of any of its trusts, powers or discretions (including, without limitation, any modification, waiver, authorisation or substitution), the Trustee shall have regard to the general interests of the Noteholders as a class and shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number) and, in particular, but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Noteholders or Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Trustee shall not be entitled to require, nor shall any Noteholder or Couponholder be entitled to claim, from the Issuer, the Bank (where the Issuer is BES Finance) or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders or Couponholders except to the extent already provided for in Condition 8 and/or any undertaking given in addition to, or in substitution for, Condition 8 pursuant to the Trust Deed.

16. Further Issues

The Issuer shall be at liberty from time to time without the consent of the Noteholders, Receiptholders or Couponholders to create and issue further notes having terms and conditions the same as the Notes or the same in all respects save for the amount and date of the first payment of interest thereon and so that the same shall be consolidated and form a single Series with the outstanding Notes. The Trust Deed contains provisions for convening a single meeting of the Noteholders and the holders of notes of other Series in certain circumstances where the Trustee so decides.

17. Contracts (Rights of Third Parties) Act 1999

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

18. Substitution

The Trustee may, without the consent of the Noteholders, the Receiptholders or the Couponholders but (in the case of Dated Subordinated Notes and Undated Subordinated Notes) only with the prior consent of the Bank of Portugal, agree with the Issuer and the Bank (where the Issuer is BES Finance) to the substitution in place of the Issuer (or of any previous substitute under this Condition) as the principal debtor in respect of the Notes of either the Bank or another wholly-owned Subsidiary of the Bank, subject to:

- (a) where the new principal debtor is a wholly-owned Subsidiary of the Bank, the Notes being unconditionally and irrevocably guaranteed by the Bank on the same basis as that on which they were guaranteed prior to the substitution (where, immediately prior to the substitution, the Issuer is BES Finance or (being a previous substitute under this Condition) another wholly-owned subsidiary of the Bank) or on an equivalent basis to that on which they would have been guaranteed immediately prior to the substitution had the Issuer been BES Finance (where immediately prior to the substitution, the Issuer is the Bank);
- (b) the Trustee being satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution; and
- (c) certain other conditions set out in the Trust Deed being complied with.

Any such substitution shall be notified, if the Notes are listed on the Luxembourg Stock Exchange or any other stock exchange, to such stock exchange and to the Noteholders in accordance with Condition 14.

19. Enforcement

The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer and/or the Bank (where the Issuer is BES Finance) as it may think fit to enforce the provisions of the Trust Deed, the Notes, the Receipts and the Coupons, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed, the Notes, the Receipts or the Coupons unless:

- (a) it shall have been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least 20 per cent. in nominal amount of the Notes then outstanding; and
- (b) it shall have been indemnified to its satisfaction.

No Noteholder, Receiptholder or Couponholder shall be entitled to take proceedings directly against the Issuer or the Bank (where the Issuer is BES Finance) unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed fails to do so within a reasonable time and such failure is continuing.

20. Indemnification of Trustee

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from any obligation to take proceedings to enforce repayment unless indemnified to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and/or the Bank (where the Issuer is BES Finance) without accounting for any profit resulting therefrom and to act as trustee for the holders of any other securities issued by the Issuer or the Bank (where the Issuer is BES Finance).

21. Redenomination and Exchange

(a) Redenomination

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

The election will have effect as follows:

- (i) the Notes and the Receipts shall be deemed to be redenominated into euro in the denomination of euro 0.01 with a principal amount for each Note and Receipt equal to the principal amount of that Note or Receipt in the Specified Currency, converted into euro at the Established Rate, provided that, if the Issuer determines, after consultation with the Agent and with the approval of the Trustee, that the then market practice in respect of the redenomination into euro of internationally offered securities is different from the provisions specified in this Condition 21, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, the stock exchange (if any) on which the Notes may be listed, the Paying Agents and the Trustee of such deemed amendments;
- (ii) save to the extent that an Exchange Notice has been given in accordance with paragraph (iv) below, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of Notes presented (or, as the case may be, in respect of which Coupons are presented) for payment by the relevant holder and the amount of such payment shall be rounded down to the nearest euro 0.01;
- (iii) if definitive Notes are required to be issued after the Redenomination Date, they shall be issued at the expense of the Issuer in the denominations of euro 1,000, euro 10,000, euro 100,000 and (but only to the extent of any remaining amounts less than euro 1,000 or such smaller denominations as the Agent may approve) euro 0.01 and/or such other denominations as the Agent shall determine and notify to the Noteholders;
- (iv) if issued prior to the Redenomination Date, all unmatured Coupons denominated in the Specified Currency (whether or not attached to the Notes) will become void with effect from

the date on which the Issuer gives notice (the "Exchange Notice") that replacement euro-denominated Notes, Receipts and Coupons are available for exchange (provided that such securities are so available) and no payments will be made in respect of them. The payment obligations contained in any Notes and Receipts so issued will also become void on that date although those Notes and Receipts will continue to constitute valid exchange obligations of the Issuer. New euro-denominated Notes, Receipts and Coupons will be issued in exchange for Notes, Receipts and Coupons denominated in the Specified Currency in such manner as the Agent may specify and as shall be notified to the Noteholders in the Exchange Notice. No Exchange Notice may be given less than 15 days prior to any date for payment of principal or interest on the Notes;

- (v) after the Redenomination Date, all payments in respect of the Notes, the Receipts and the Coupons, other than payments of interest in respect of periods commencing before the Redenomination Date, will be made solely in euro as though references in the Notes to the Specified Currency were to euro. Payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee or, at the option of the payee, by a euro cheque;
- (vi) if the Notes are Fixed Rate Notes and interest for any period ending on or after the Redenomination Date is required to be calculated for a period ending other than on an Interest Payment Date, it will be calculated by applying the Rate of Interest to each Specified Denomination multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention;
- (vii) if the Notes are Floating Rate Notes the applicable Pricing Supplement specifies any relevant changes to the provisions relating to interest; and
- (viii) such other changes shall be made to these Terms and Conditions and/or the Trust Deed and/or the Agency Agreement as the Issuer and the Bank (where the Issuer is BES Finance) may decide, after consultation with the Agent and with the approval of the Trustee; and as may be specified in the notice, to conform them to conventions then applicable to instruments denominated in euro or to enable the Notes to be consolidated with one or more issues of other notes, whether or not originally denominated in the Specified Currency or euro. Any such other changes will not take effect until after they have been notified to the Noteholders in accordance with Condition 14.

(b) Exchange

Where exchange is specified in the applicable Pricing Supplement as being applicable, the Issuer may, without the consent of the Noteholders, the Receiptholders and the Couponholders, on giving prior notice to the Agent, the Trustee, Euroclear and Clearstream, Luxembourg and not less than 30 days' prior notice to the Noteholders in accordance with Condition 14, elect that, with effect from the Redenomination Date specified in the notice, the Notes shall be exchangeable for Notes expressed to be denominated in euro in accordance with such arrangements as the Issuer may decide, after consultation with the Agent and with the approval of the Trustee and as may be specified in the notice, including arrangements under which Receipts and Coupons unexpired at the date so specified become void.

(c) Definitions

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

"Established Rate" means the rate for the conversion of the Specified Currency (including compliance with rules relating to roundings in accordance with applicable European Community regulations) into euro established by the Council of the European Union pursuant to Article 109(4) of the Treaty;

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

"Redenomination Date" means (in the case of interest bearing Notes) any date for payment of interest under the Notes or (in the case of Zero Coupon Notes) any date, in each case specified as such by the Issuer in the notice given to the Noteholders pursuant to paragraph (a) or, as the case may be, (b) above

and which falls on or after the date on which the country of the Specified Currency first participates in the third stage of European economic and monetary union; and

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

22. Governing law and submission to jurisdiction

(a) The Trust Deed (except Clause 7 insofar as it relates to Dated Subordinated Notes and Undated Subordinated Notes), the Agency Agreement, the Notes (except Conditions 2(ii) and 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor), and Conditions 4(ii) and 4(iii)), the Receipts and the Coupons are governed by, and shall be construed in accordance with, English law. Clause 7 of the Trust Deed (insofar as it relates to Dated Subordinated Notes and Undated Subordinated Notes) and Conditions 2(ii), 2(iii) in relation to the Bank only (whether in its capacity as issuer or guarantor), 4(ii) and 4(iii) are governed by, and shall be construed in accordance with, Portuguese law. In each case, the application of such governing law shall be without prejudice to the applicability, under the conflicts of rules applicable in the relevant forum, in the light of such submission, of Cayman Islands law (in relation to matters concerning BES Finance) or Portuguese law (in relation to matters concerning the Bank as an Issuer or as a guarantor, as the case may be).

(b) Each of BES Finance and the Bank has in the Trust Deed irrevocably agreed, for the exclusive benefit of the Trustee, the Noteholders, the Receiptholders and the Couponholders that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Notes, the Receipts and/or the Coupons and that accordingly any suit, action or proceedings (together referred to as “Proceedings”) arising out of or in connection with the Trust Deed, the Notes, the Receipts and/or the Coupons may be brought in such courts.

Each of BES Finance and the Bank has in the Trust Deed irrevocably waived any objection which it may have now or hereafter to the laying of the venue of any such Proceedings in any such court and any claim that any such Proceedings have been brought in an inconvenient forum and has further irrevocably agreed that a judgment in any such Proceedings brought in the English courts shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.

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

Each of the Issuers has in the Trust Deed appointed the London branch of the Bank at its office in London for the time being (being at 6th August, 2004 at 33 Queen Street, London EC4 1ES) as its agent for service of process, and undertakes that, in the event of the London branch of the Bank ceasing so to act, it will appoint another person as its agent for service of process in England in respect of any Proceedings.

Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.