

The securities issues of Raiffeisen Centrobank AG are subject to these Securities Terms. The Final Terms (see Chapter VI of the Base Prospectus of 21 July 2008) will contain any supplementary information specific to the individual securities. Raiffeisen Centrobank AG retains the right to change these Securities Terms.

Where a non-binding translation of these Securities Terms is attached, it is hereby noted that the Austrian Financial Markets Authority has not reviewed the correctness of such translation.

## SECURITIES TERMS

to Final Terms No. 335 of 19 June 2009  
(which replaced the FT No. 335 of 4 June 2009)

of  
Raiffeisen Centrobank AG

for *Portfolio Navigator*  
*Guarantee Certificates* (see Final Terms, line 1)

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## § 1. Investor Rights

1. Raiffeisen Centrobank AG, Tegetthoffstraße 1, 1010 Vienna ("Issuer") will issue as of 7 July 2009 (see FT, line 40) a total volume of up to 1,500,000 EURO (see FT, line 49) Portfolio Navigator Guarantee Certificates (see FT, line 1) pursuant to these Securities Terms, ISIN AT0000A0DSU4 (see FT, line 2) on the Dow Jones Euro STOXX 50® (see FT, line 10-12).
2. The structured security entitles the holder the right to claim redemption pursuant to § 9.
3. The structured securities are listed on an exchange and can be traded continuously in denominations of one (see FT, line 51) or a multiple thereof on every exchange trading day on the exchange and over the counter.
4. The issuance of structured securities is done in the form of a continuous issue.
5. The issue price of the securities is fixed taking into account several different factors (e.g. price of the underlying instrument of the security on a certain date and the fluctuation range, current interest rates, exchange rates, future dividend expectations and product-specific parameters). The issue price amounts to 100 % plus 3 % issue surcharge (see FT, lines 53, 54).

## § 2. General Risks

1. The Issuer has the intention – under usual market conditions – to quote current buy and sell prices. The Issuer, however, does not enter into any legal obligation vis-à-vis the holder of structured products to quote such prices or with respect to the amount or the determination of such prices. Therefore, the buyer of a structured security cannot rely on being able to sell a structured product at a certain time or for a certain price. Market disruptions (see § 13), for example, can delay the determination of prices.
2. The structured securities are risky instruments used to invest assets. If the underlying instrument of the respective certificate develops adversely, there is a risk of loss of a greater part or of the total amount of the invested capital. The holder of structured securities therefore also carries the risk that the financial situation of the Issuer of the structured securities could change for the worse.
3. The value of structured securities is influenced not only by the changes to the price of the underlying instrument, but additionally by a number of other factors such as the maturity of the structured securities (and other product-specific parameters) as well as by the frequency and intensity of price fluctuations (volatility) of the underlying instrument. A reduction in the value of a structured security may occur even if the price of the underlying instrument remains constant.

## § 3. Currency Risks

In the case of a securitized claim in the form of a structured security relating to a foreign currency and/or being calculated in a foreign currency unit, or if the value of the underlying instrument of the security is denominated in such a foreign currency or currency unit, then the risk of loss shall not depend solely on the development of the value of the underlying security, but also on the adverse developments

on the foreign exchange markets. Adverse developments on foreign exchange markets can heighten the risk of loss in the following ways:

- the value of the structured securities acquired is accordingly reduced;
- there is a decrease in the potential settlement amount to be received, or
- the price of the underlying instrument decreases accordingly.

Even in the case of structured securities hedged against currency risks by fixing the rate of exchange, interest rate risks can still arise due to the divergent interest rate levels that can have a negative influence on the price of a structured security.

#### **§ 4. Influence of Ancillary Costs on Earnings Opportunities**

Commissions and other transaction costs that arise when buying or selling structured products can give rise to costs – especially in combination with a low order value – that may extremely reduce the earnings opportunities of the structured securities. Therefore, investors are recommended to inform themselves of the costs of buying or selling a structured product before investing.

#### **§ 5. Using Credit**

If a holder of structured securities finances the acquisition of such securities by taking out a loan, he or she must not only repay the loss if expectations are not realized, but must also repay the loan with interest. This substantially increases the risk of loss. The holder of a structured product should therefore never rely on being able to repay the loan and interest from the profit made on the trade in structured securities. Rather, the buyer of structured securities has to examine his or her financial situation before the purchase to ascertain whether he or she will be able to pay interest, and if necessary, to repay the loan on short notice even if the expected profit turns out to be a loss.

#### **§ 6. Influence of Trades, especially of Hedging Transactions by the Issuer, on the Structured Securities**

The Issuer has the right to buy or sell on the open market or in non-public transactions the structured products at any time during the term of the structured securities. Within the scope of its regular business activities, the Issuer engages in trading in the underlyings of the structured securities and furthermore hedges fully or in part against the financial risks related to the structured securities by entering into hedging transactions in the respective underlying instruments.

These activities of the Issuer can have an influence on the price of the underlying determined in the market as well as on the value of the structured securities or on redemption obligations vis-à-vis the holders of the structured securities.

The Issuer is not under any obligation to inform the holders of structured securities of any such buy or sell trades or any other event (such as a hedging transaction) that could have an influence on the development of the price of structured products or the price of the underlying instrument. The holders of

structured securities must therefore inform themselves on their own to gain a picture of the development of the prices of structured securities and their underlying instruments.

### § 7. Form of the Structured Securities; Transferability

1. The structured securities are all represented in global certificates pursuant to § 24 lit b Securities Custody Act, Federal Law Gazette No. 424/1969 as amended by Federal Law Gazette No 650/1987, requiring the signature of two authorized signatories (member of the executive board, director or holder of unlimited procuracy).
2. The global certificates are deposited for inspection with Oesterreichische Kontrollbank Aktiengesellschaft in its function as a central securities depository. As co-ownership shares, the structured securities are transferable.
3. The structured securities can be individually transferred within the scope of securities giro transaction.
4. There is no entitlement to receive the structured securities physically.

### § 8. Maturity

1. The maturity of structured securities starts on 7 July 2009 (see Final Terms, line 40) and ends on 28 June 2013 (see FT, line 41). The securities are available for subscription during the period 4 June 2009 to 2 July 2009 (see FT, line 50).

### § 9. Redemption

1. Unless previously redeemed, purchased or cancelled as provided in line 39, on redemption date, the holder of a guarantee certificate automatically receives payment of a guaranteed amount defined by the Issuer at the start of the issue (guaranteed amount; see line 27) in the corresponding currency of the product. Additionally, the holder has the right to claim the payout of a profit share, the amount of which may depend on the development of the Index.
2. The Guarantee Certificates neither grant the right to claim coupon payments nor payment of dividends.
3. The Guarantee Amount is 100 % of the notional value.
4. The "Redemption Amount" will be calculated as follows:

$$\text{Denomination} \times [100 \% + [P \times \text{Max} (0, \text{Final Performance} - 1)]]$$

where,

"P" means Participation. The Participation is 100 % (see FT line 24).

"Final Performance" means the arithmetic mean of the Annual Returns<sub>y</sub> on the Observation Dates.

a. Calculation regarding annual returns and cash amounts:

“**Annual Return<sub>y</sub>**” means, a level as calculated and determined by the Issuer on each Observation Date<sub>y</sub> (see line 30) in accordance with the following formula:

$$\prod_{t=1}^{52 \times y} \text{Performance}_t$$

where,

“**Performance<sub>t</sub>**” means, in respect of each Performance-Observation Date<sub>t</sub> a rate as calculated and determined by the Issuer in accordance with the following formula:

$$\left( \frac{\text{IndexLevel}_t}{\text{IndexLevel}_{t-1}} \right) \times \text{Equity Weight}_{t-1} + \text{Cash Weight}_{t-1} \times (1 + \text{Cash}_t)$$

Equity Weight<sub>t-1</sub> and Cash Weight<sub>t-1</sub> shall have their meanings as described below in para 4 b.:

“**Cash<sub>t</sub>**” means in respect of each Performance-Observation Date<sub>t</sub>, an amount as calculated and determined by the Issuer in accordance with the following formula:

$$\text{Prevailing Rate}_t \times \frac{N}{360}$$

where,

“**Prevailing Rate<sub>t</sub>**” means, the rate obtained one Target Settlement Day after Performance-Observation Date<sub>t-1</sub> by reference to the Floating Rate Option, which is 3M EUR EURIBOR (Bloomberg Ticker: EUR003M Index).

“**N**” means, in respect of each Performance-Observation Date<sup>t</sup>, the number of days from and including Performance-Observation Date<sup>t-1</sup>, to and excluding Performance-Observation Date<sup>t</sup>.

“**Index Level<sub>t</sub>**” means, in respect of an Performance-Observation Date<sub>t</sub> the official level of the Index at the Valuation Time on the Scheduled Trading Day that is Performance-Observation Date<sub>t</sub>, if such day is a Disrupted Day, the following Scheduled Trading Day will be used for such Performance-Observation until the fifth Disrupted Day, where the Issuer shall determine the official level of the Index at the Valuation Time in its sole discretion.

“**Index Level<sub>t-1</sub>**” in respect of the first Performance-Observation Date<sub>t</sub> the official level of the Index at the Valuation Time on the Scheduled Trading Day that is Performance-Observation Date<sub>t-1</sub>, and if such day is a Disrupted Day the next Scheduled Trading Day that is not a

Disrupted Day, and in respect of all subsequent Performance-Observation Dates  $t$  the Index Level  $t$  from the immediately preceding Performance-Observation Date  $t$ .

b. Calculation regarding Equity and Cash Weighting:

“**Equity Weight** $_{t-1}$ ” means in respect of Performance-Observation Date  $t$  where  $t = 1$  to 208 shall be determined by the Table below where if the Realised Volatility  $t-1$  is greater than or equal to the relevant “Minimum RV” but less than the relevant “Maximum RV” for the purposes of interpreting the Table (see below), it shall be deemed to have been within the “Range” and the associated weighting shall apply.

“**CashWeight** $_{t-1}$ ” means in respect of Performance-Observation Date  $t$  where  $t = 1$  to 208 shall be determined by the Table below where if the Realised Volatility  $t-1$  is greater than or equal to the relevant “Minimum RV” but less than the relevant “Maximum RV” for the purposes of interpreting the Table, it shall be deemed to have been within the “Range” and the associated weighting shall apply.

“**Table**” means,

Range		Equity Weight $_{t-1}$ %	Cash Weight $_{t-1}$ %
Minimum RV %	Maximum RV %		
0.0	16	100	0
16	18	90	10
18	20	75	25
20	22	60	40
22	25	50	50
25	30	40	60
30	40	30	70
40	50	20	80
above 50		10	90

c. Calculation regarding realized volatility:

“**Realised Volatility** $_{t-1}$ ” means, a rate (in percentage) as calculated and determined by the Issuer in accordance with the following formula:

$$\sqrt{252 \times \frac{1}{20} \sum_{k=1}^{20} (R_{t-1})^2}$$

where,

“ $R_{t-1}$ ” means, a rate in respect of each Performance-Observation Date  $t$  as calculated and determined by the Issuer in accordance with the following formula:

$$\ln\left(\frac{\text{IndexLevel}_k}{\text{IndexLevel}_{k-1}}\right)$$

where,

“ $k$ ” means a Scheduled Trading Day that is on Performance-Observation Date  $t_{-1}$  where ( $k=20$ ) and the 19 preceding Scheduled Trading Days immediately preceding such Performance-Observation Date  $t_{-1}$ , where ( $k=1$  to 19) where the 20<sup>th</sup> preceding Scheduled Trading Day shall be  $k=0$  where the first level of the Index shall be observed.

“ $\ln$ ” means the natural logarithm;

“**Index Level  $k$** ” in respect of an Scheduled Trading Day  $k$  the official level of the Index at the Valuation Time on such day  $t_{-1}$ , if such day is a Disrupted Day, Index Level  $k$  for such Scheduled Trading Day shall deemed equal to Index Level  $k_{-1}$ .

“**Index Level  $k_{-1}$** ” in respect of the first Scheduled Trading Day  $k$  ( $k=1$ ) the official level of the Index at the Valuation Time on the Scheduled Trading Day  $k-1$  ( $k=0$ ), and if such day is a Disrupted Day the next Scheduled Trading Day that is not a Disrupted Day, and in respect of all subsequent Scheduled Trading Days  $k$  the level of Index Level  $k$  on the immediately preceding Scheduled Trading Day.

“**Initial Fixing Date**” means, 3 July 2009 (see below „**Performance-Observation Date  $t$** “).

“**Performance-Observation Dates  $t$** ”: Performance-Observation Dates shall be observed each Friday from 3 July 2009 where  $t=0$  to and including the final Observation Date where  $t = 208$ . For the avoidance of doubt each Performance-Observation Date shall be a Scheduled Trading Day and if not the next following Scheduled Trading Day shall be such Performance-Observation Date.

“**Observation Dates  $y$** ” means, subject as provided in line 48, 02 July 2010, 01 July 2011, 29 June 2012 and 28 June 2013 (where  $y= 1, 2, 3,$  and 4).

#### 5. Definitions:

“**TARGET Settlement Day**” means any day on which TARGET (the Trans-European Automated Real-time Gross settlement Express Transfer system) is open.

“**Scheduled Trading Day**”: Any day on which: (i) the Index Sponsor is scheduled to publish the level of the Index; and (ii) the Related Exchange is scheduled to be open for trading for its regular trading session.

**“Exchange Business Day”:** Any Scheduled Trading Day on which: (i) the Index Sponsor publishes the level of the Index; and (ii) the Related Exchange is open for trading during its regular trading session, notwithstanding the Related Exchange closing prior to its Scheduled Closing Time.

**“Valuation Time”:** (i) For the purposes of determining whether a Market Disruption Event has occurred: (a) in respect of any Component Security, the Scheduled Closing Time on the Exchange in respect of such Component Security, and (b) in respect of any options contracts or future contracts on the Index, the close of trading on the Related Exchange; and (ii) in all other circumstances, the time at which the official closing level of the Index is calculated and published by the Index Sponsor.

**“Disrupted Day”** means any Scheduled Trading Day on which: (i) the Index Sponsor fails to publish the level of the Index; (ii) the Related Exchange fails to open for trading during its regular trading session; or (iii) a Market Disruption Event (as described in line 47) has occurred.

**“EURIBOR®”** (Euro Interbank Offered Rate) is the benchmark rate of the large euro money market that has emerged since 1999. It is sponsored by the European Banking Federation, which represents the interests of some 5000 European banks and by the Financial Markets Association. Euribor® is the rate at which euro interbank term deposits are offered by one prime bank to another prime bank and is published at 11.00 a.m. CET for spot value (T+2). For these certificates the EURIBOR with the Designated Maturity of 3 months is relevant.

Please be aware that additionally to the Risk Factors as mentioned in Chapter III A) and B) of the Base Prospectus there is a further risk that the interest rate level (of Euribor 3 Months) may fluctuate on a daily basis and cause the value of the securities to change (interest rate risk).

The interest rate risk is one of the central risks of interest-bearing securities. The interest rate level on the money and capital markets may fluctuate on a daily basis and cause the value of the securities to change on a daily basis. The interest rate risk is a result of the uncertainty with respect to future changes of the market interest rate level. The market interest rate level is strongly affected by public budget policy, the policies of the central bank, the overall economic development and inflation rates, as well as by foreign interest rate levels and exchange rate expectations. However, the importance of individual factors cannot be directly quantified and may change over time. The interest rate risk may cause price fluctuations during the term of any interest-bearing security. In particular, investors in (fixed) interest-bearing securities are exposed to an interest rate risk that could result in a diminution in value if the market interest rate level increases. In general, the effects of this risk increase as the market interest rates increase. Conversely, a decreasing market interest rate level may result in an increase in the market value of the (fixed) interest-bearing securities.

## § 10. Underlying Instrument

The underlying instrument of the structured security is Dow Jones EURO STOXX 50®-Index.

*Indexdescription:*

*The Dow Jones EURO STOXX 50®-Index is published by STOXX Ltd. as part of a family of different stock indices Europe-wide. The index is a free float-market capitalization index, which consists of 50 blue chips of members of the European Monetary Union. It is a capitalization weighted price index, which is not revised by dividends.*

*Disclaimer:*

*STOXX and Dow Jones have no relationship to the issuer, other than the licensing of the Dow Jones Euro STOXX 50® Index and the related trademarks for use in connection with the structured securities.*

*STOXX and Dow Jones do not:*

- *Sponsor, endorse, sell or promote the structured securities.*
- *Recommend that any person invest in the structured securities or any other securities.*
- *Have any responsibility or liability for or make any decisions about the timing, amount or pricing of the structured securities.*
- *Have any responsibility or liability for the administration, management or marketing of the structured securities.*
- *Consider the needs of the structured securities or the owners of the structured securities in determining, composing or calculating the Dow Jones Euro STOXX 50® Index or have any obligation to do so.*

*STOXX and Dow Jones will not have any liability in connection with the structured securities.*

*Specifically,*

- *STOXX and Dow Jones do not make any warranty, express or implied and disclaim any and all warranty about:*
- *The results to be obtained by the structured securities, the owner of the structured securities or any other person in connection with the use of the Dow Jones Euro STOXX 50® Index and the data included in the Dow Jones Euro STOXX 50® Index;*
- *The accuracy or completeness of the Dow Jones Euro STOXX 50® Index and its data ;*

*The merchantability and the fitness for a particular purpose*

## **§ 11. Interest**

There are no interest payments on structured securities.

## **§ 12. Redemption date/Due Date of Payment**

1. The due date of payment is 3 banking business days after the Maturity Date (see FT line 43).
  2. If the securities are admitted to trading on a regulated market in Hungary, Poland, Slovenia, Slovakia, the Czech Republic or Romania, they might be listed and settled in a foreign currency.
  3. If the due date is not a banking business day, the payment shall be made on the next following banking business day. The holder of structured securities shall not have the right to demand interest or any other compensation for such a delay in payment.
  4. Any taxes, charges or other duties falling due upon the payment of the money shall be borne and paid by the holder of the structured securities. The Issuer or the warrants agent shall have the right to retain money amounts for taxes, charges or other duties that are to be paid by the holder of the structured securities in accordance with the preceding sentence.
1. A "Banking Business Day" means a day on which commercial banks are open for business in Austria, Germany and London.

### § 13. Market Disruption; Substitute Price

#### 1. A Market Disruption means either:

##### (I) (a) the occurrence or existence, in respect of any Component Security, of:

(1) a Trading Disruption, which the Issuer determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded;

(2) an Exchange Disruption, which the Issuer determines is material, at any time during the one hour period that ends at the relevant Valuation Time in respect of the Exchange on which such Component Security is principally traded; OR

(3) an Early Closure; AND

(b) the aggregate of all Component Securities in respect of which a Trading Disruption, an Exchange Disruption or an Early Closure occurs or exists comprises 20 per cent. or more of the level of the Index; OR

##### (II) the occurrence or existence, in respect of futures or options contracts relating to the Index, of: (a) a Trading Disruption; (b) an Exchange Disruption, which in either case the Issuer determines is material, at any time during the one hour period that ends at the Valuation Time in respect of the Related Exchange; or (c) an Early Closure.

For the purposes of determining whether a Market Disruption Event exists in respect of the Index at any time, if a Market Disruption Event occurs in respect of a Component Security at that time, then the relevant percentage contribution of that Component Security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index attributable to that Component Security to (y) the overall level of the Index, in each case using the official opening weightings as published by the Index Sponsor as part of the market "opening data".

**"Trading Disruption"** means, any suspension of or limitation imposed on trading by the relevant Exchange or Related Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the relevant Exchange or Related Exchange or otherwise: (i) relating to any Component Security on the Exchange in respect of such Component Security; or (ii) in futures or options contracts relating to the Index on the Related Exchange.

**"Exchange Disruption"** means, any event (other than an Early Closure) that disrupts or impairs (as determined by the Issuer) the ability of market participants in general to effect transactions in, or obtain market values for: (i) any Component Security on the Exchange in respect of such Component Security; or (ii) futures or options contracts relating to the Index on the Related Exchange.

**"Early Closure"** means the closure on any Exchange Business Day of the Exchange in respect of any Component Security or

the Related Exchange prior to its Scheduled Closing Time unless such earlier closing is announced by such Exchange or Related Exchange (as the case may be) at least one hour prior to the earlier of: (i) the actual closing time for the regular trading session on such Exchange or Related Exchange (as the case may be) on such Exchange Business Day; and (ii) the submission deadline for orders to be entered into

the Exchange or Related Exchange system for execution at the relevant Valuation Time on such Exchange Business Day.

2. Definitions:

„Component Security“: Each component security of the Index.

“Exchange” in respect of each Component Security of the Index the principal stock exchange on which such Component Security is principally traded.

“Related Exchange” means EUREX.

## § 14. Adjustment Rules

1. In case that the Index

- a. is not calculated and published by the designated Index Sponsor, but rather by a Successor Sponsor to the sponsor (“Successor Sponsor”) who is accepted as such by the Issuer; or
  - b. was replaced by a subsequent Index which at the Issuers own discretion is similar to the relevant Index with regard to the type and method of calculation;
- then this Index will be deemed to be the Index so calculated and published by the Successor Sponsor or this subsequent Index is viewed as a new Index and replaces the previous relevant Index.

2. If the Index Sponsor (or the Successor Sponsor).

on or immediately prior to any Performance-Observation Date

- i. makes a material change in the formula for or the method of calculation relating to an Index (“Index Modification”), or
- ii. permanently cancels the calculation of an Index and no successor sponsor exists (“Index Cancellation”), or
- iii. on the Initial Fixing Date or any Performance Date fails to calculate and announce a relevant Index (“Index Disruption”),

then the Issuer may determine a substitute index (“substitute index”) which is calculated in accordance with the formula for and method of calculation and the composition and weighting of the prices and shares in the index last in effect when the Index was last published or that applied immediately prior to the Index Modification, Index Cancellation or Index Disruption, and calculate the redemption amount on this basis.

3. These adjustments and the determination of the point in time as of when they shall apply, is fixed by the Issuer at its own discretion and shall be binding (unless there is an obvious error) for all concerned parties. The Issuer shall as soon as reasonably practicable under the circumstances notify the holders of the securities, as the case may be, of these adjustments. Without limiting the obligation of the Issuer to notify the parties shall not affect the validity of these adjustments on this transaction.
4. If a Performance-Observation Day is Disrupted Day the adjustment is made as described in § 9 (“Index Level<sub>t</sub>”, “Index Level<sub>t-1</sub>”, “Index Level<sub>k</sub>” and “Index Level<sub>k-1</sub>”).

## § 15. Payout of Amounts

The pay out of the respective amounts is done exclusively in the respective product currency.

## § 16. Termination

1. As a rule, it shall be irrevocably excluded out that a holder of a security has the right to terminate the securities.
2. The Issuer shall have the right to terminate the securities not yet settled prematurely by making an announcement as defined in § 22 par. 1.a stating the termination amount:
  - a. should the listing of the respective underlying instrument be irrevocably ceased on the relevant exchange or price-fixing entity or on its primary exchange for any reason whatsoever;
  - b. upon occurrence of a hedging disruption and/or increased hedging costs;
  - c. if, as a result of any change in the legal situation or any proposed change in the legal situation or any change in the official application, enforcement or interpretation of this legal situation, the Issuer, as the case may be, has or will be obligated to pay additional amounts on any structured securities and such obligation cannot be avoided by the Issuer, as the case may be, by any reasonable measures available to it which in the good faith opinion of the Issuer will not have a material adverse impact on the conduct of its business.
  - d. if, in the Issuer's opinion liquidity is very low in the shares included in the index on the relevant exchange/price-fixing entity or on the primary exchange or on a derivatives exchange on which futures or options contracts on such index are traded.
3. In the event the issue is terminated prematurely, the Issuer shall automatically pay to every security holder for every security held an amount in the product currency ("termination amount") five banking business days after the termination date that in the opinion of the Issuer is an equitable amount and it has defined as the appropriate market price of the security.
4. **"Hedging Disruption"** shall mean that the Issuer is in no position, upon application of economically reasonable efforts, (A) to conclude, continue or settle transactions and purchase, exchange, hold or sell assets respectively, which the Issuer deems necessary for the hedging of price risks related to the underlying (or several thereof) with regard to its obligations under the respective structured securities deemed necessary, or the Issuer (B) is in no position to realise, recover or forward the proceeds of the transactions and assets respectively.
5. **"Increased Hedging-Costs"** means that the Issuer has to pay a substantially higher amount (in comparison to the issue date) of taxes, charges, expenditures and fees (excluding brokerage fees) in order to (A) conclude, continue or settle transactions and purchase, exchange, hold or sell assets respectively, which the Issuer deems necessary for the hedging of price risks related to the underlying (or several thereof) with regard to its obligations under the respective structured securities deemed necessary, or the Issuer (B) is in no position to realise, recover or forward the proceeds of the transactions and assets respectively, under the condition that amounts which have only increased due to the fact that the creditworthiness of the Issuer has decreased are not regarded as Increased Hedging Costs.

## § 17. Taxation

The description refers exclusively to the relevant provisions of the taxation of income on capital assets and of other income on securities held by individual non-business investors resident in the respective country (thus treatment of income not from business operations). The explanations do not comprise all aspects of these types of taxation. The description does not deal with the individual tax situation of individual investors.

The information presented herein does not replace the necessary advice that must be obtained from a tax advisor in every individual case, considering the respective product, the investor's tax position and the recent legal position in the respective country, before reaching a decision to buy. Before buying a security, interested investors should in any case seek advice from their local tax advisors on the tax consequences of the acquisition, holding, sale and redemption of these securities. This is particularly true considering the current amendments to taxation law. The explanations provide general information based on the legal framework as per June 2008. The information has not been confirmed by court rulings or any explicit statements of the tax authorities and therefore should not be understood to mean that the tax consequences described are guaranteed to occur. Changes in the law, jurisdiction and administrative practice as well as deviating judgements of tax authorities due to the scope of potential divergent interpretations cannot be excluded and are not within the liability of the Issuer. The individual tax status and assumptions thereon made by the investor are not subject of the contract between the Issuer and the investor.

The Issuer does not assume any responsibility for the withholding of the mentioned withholding taxes

### A. Regarding holders of securities who are subject to taxation in Austria

#### 1. Warrants

Returns on securities are income from speculation dealings pursuant to § 30 par.1 fig. 2 Income Tax Act (margin no. 7757a ff income tax law 2000-decree 2005 of 2 Jan. 2006).

As the legal situation concerning the taxation of warrants in Austria before November 2005 was not explicitly regulated, the Federal Ministry of Finance has ruled, that for warrants issued prior to 1st Dec. 2005 which were declared to be subject to capital yields tax at the time of issue, the stance adopted by the respective custodian was not to change. However, a warrants holder has the possibility of obtaining the refund of the capital yields tax paid by requesting a tax assessment, or, if the conditions for such tax assessment are not given, by submitting an application to the competent tax office pursuant to § 240 par. 3 Federal Tax Code.

#### 2. Leverage securities (Turbo Certificates, Range Turbo Certificates and Capped Warrants):

Returns on securities are income from speculation dealings pursuant to § 30 par.1 fig. 2 Income Tax Act (margin no. 7757a ff income tax law 2000-decree 2005 of 2nd Jan. 2006) if at the time of the start of the issue (see Final Terms Chapter VI. "4.1.9 Issue Date") the capital expenditure for the respective security is smaller than or equal to 20% in relation to the price of the underlying instrument.

If at the time of the start of the issue the capital expenditure for the respective security is more than 20% in relation to the price of the underlying instrument, then the returns on the securities are income on

capital assets pursuant to § 27 par. 1 fig. 4 Income Tax Act 1988 and are therefore subject to capital yields tax.

Due to the unclear legal situation prior to the decree of 2005 (margin no. 7757b income tax law 2000 - decree 2005 of 2nd Jan. 2006) the following transition rules apply to leverage products:

- If, prior to 1<sup>st</sup> October 2005 leverage products were issued not having a subordinated capital expenditure ("leverage is smaller than 5" - see margin no. 6197b) and were treated as capital yields tax free on 1<sup>st</sup> October 2005, then until the expiry of these securities no capital yields tax or credit shall apply.
- If, prior to 1<sup>st</sup> October 2005 leverage products were issued that had a subordinated capital expenditure ("as of leverage 5" - see margin no. 6197b) and were treated as capital yields tax obligatory on 1<sup>st</sup> October 2005, then until the expiry of these securities, capital yields tax shall be deducted and a credit shall apply.

However, a securities holder has the possibility of obtaining a refund of the capital yields tax paid by requesting a tax assessment, or, if the conditions for such tax assessment are not given, by submitting an application to the competent tax office pursuant to § 240 par. 3 Federal Tax Code.

### **3. Discount, Investment, Bonus, Speed, Lock-In, Outperformance, Centrobank, Twin Win, Reverse Bonus and Express Certificates:**

Returns on securities pursuant to § 97 par. 1 in conjunction with § 93 par. 3 and § 124b fig. 85 Income Tax Act are subject to a final 25 % capital yields tax. This means that income and inheritance tax obligations are also covered. Pursuant to § 78 Insurance Surveillance Act, the certificates are suitable as cover for actuarial provisions (eligible for cover).

### **4. Reverse Convertibles:**

Interest income is income on capital assets pursuant to § 27 par. 1 fig 4 Income Tax Act and is therefore subject to income tax.

Interest income is subject to a capital yields tax of 25 % pursuant to § 93 par. 3 Income Tax Act, if the interest paying agent is seated in Austria. The interest paying agent is the credit institution that pays out or credits to the investor interest earned on redemptions or the sale of securities.

With the deduction of the capital yields tax, the income tax is generally deemed to be paid (final taxation effect). Therefore, in this case investors are not obligated to include interest income on reverse convertibles in their income tax reports.

If the income tax due according to the taxation schedule is lower than the capital yields tax, the investor may request an assessment of interest income at the lower income tax rate. Capital yields tax is credited against income tax in this case or the excess amount is refunded. Expenses in connection with securities (fees, commissions, etc.) may not be deducted for taxation purposes pursuant to § 20 par 2 Income Tax Act (deduction prohibition).

Redemption gains or gains on sales from the redemption or sale of securities within one year of acquisition of the securities are taxable pursuant to § 30 Income Tax Act. This type of income on speculation gains is subject to the general income tax schedule.

The redemption by delivery of shares creates a new acquisition transaction for the investor, namely, the acquisition of shares. Gains on sales made from selling such shares within one year are subject to full taxation pursuant to § 30 Income Tax Act. Gains on sales after the end of the speculation period are not subject to income tax if the percentage of the share represents less than 1 %.

#### **5. Guarantee Certificates:**

According to the current legal opinion of the Issuer, returns on certificates pursuant to § 97 par. 1 in conjunction with § 93 par. 3 and § 124b fig. 85 Income Tax Act are subject to 25 % capital yields tax. This means that income and inheritance tax obligations are also covered. Pursuant to § 14 Income Tax Act, the certificates are suitable for provisions for pension and severance payments as well as pursuant to § 78 Insurance Surveillance Act as cover for actuarial provisions (eligible for cover).

## **B. Holders of securities who do not have their habitual place of residence or domicile in Austria**

If an investor does not have his or her habitual place of residence or domicile in Austria, then capital yields from the redemption or sale of certificates are not subject to income tax in Austria.

If such capital yields are paid out by an Austrian interest paying agent, the capital yields tax is not deducted, if the investor has furnished proof or credibly documented the status of non-resident to the paying agent.

Capital yields from the redemption or sale of certificates shall generally be subject to EU withholding tax as of 1<sup>st</sup> July 2007, if they are paid out by a domestic paying agent to a natural person who has his or her domicile in another member state of the EU. The paying agent is the credit institution which pays out the capital yields to the investor.

EU withholding tax is 20 % for payments as of 1<sup>st</sup> July 2008 and 35 % for payments as of 1<sup>st</sup> July 2011. EU withholding tax is not levied if the investor presents to the paying agent a confirmation of his or her home tax office on the disclosure of the capital yields.

Interest income from the reverse convertibles and coupon payments on the guarantee certificates, described in this prospectus are deemed by the Federal Ministry of Finance to be interest income subject to EU withholding tax. All other income on capital from the certificates described in this prospectus does not constitute interest income that would be subject to EU withholding tax in the opinion of the Federal Ministry of Finance.

## **C. The following applies to holders of securities subject to taxation in the Federal Republic of Germany:**

The following presentation is limited to the presentation of taxation of privately-held assets (*Privatvermögen*) pursuant to the German Income Tax Act (excluding Church Tax (*Kirchensteuer*)) without German paying agent (*Zahlstelle*) and is based on the current state of the law. In addition it includes an outlook to the investment flat rate tax (*Abgeltungssteuer*) which passed German upper house of parliament on July 6th, 2007 as part of the Unternehmensteuerreform 2008.

### **A. Current Taxation**

#### **1. Warrants (with cash settlement/with delivery of underlying value) and Capped Warrants**

A profit from the sale of a warrant is only then subject to taxation as a private sale if the period between acquisition and disposition is no more than one year (Disposition of securities within the meaning of § 23 (1) No. 2 EStG, BMF dated 27 November, 2001, BStBl. I 2001, 986, Margin Notes 17 and 22). This also applies to the exercise of an option with cash settlement, provided that the period between acquisition and exercise is no more than one year (forward transaction within the meaning of § 23 (1) No. 4 EStG, BMF dated 27 November, 2001, BStBl. I 2001, 986, Margin Notes 16 and 21). The purchase price and ancillary purchase costs of the warrants are then deemed to be income-related expenses (*Werbungskosten*) pursuant to § 23 (3) Sentence 5 EStG. Losses from the warrants may only be offset against profits received by the tax payer from private sales (*private Veräußerungsgeschäfte*) in the same calendar year (§ 23 (3) Sentence 8 EStG). Losses which may not be offset reduce, to a limited extent, the earnings from private sales of the immediately preceding or the following assessment periods (§ 23 (3) Sentence 9 EStG).

Dispositions and redemptions with cash settlement which occur after a holding period of more than one year are not subject to taxation.

In the event that a call option is exercised and the underlying value is delivered, this will not have any direct tax consequences regardless of the holding period. The option premium paid is included in the purchase price of the acquired shares (BMF dated 27 November, 2001, BStBl. I 2001, 986, Margin Note 15) and, as the case may be, may have profit-reducing effect upon a later taxable sale of these shares. The exercise of a put option and delivery of the underlying value results in taxable profits from a private sale if the underlying value subject to the disposition was acquired within one year prior to the disposition (BMF dated 27 November, 2001, BStBl. I 2001, 986, Margin Note 20).

The tax treatment of the expiration of an option within the one year holding period is now clarified by the decision of 19 December, 2007 (IX R 11/06) of the German Fiscal High Court. The Court decided, that the expiration of an option has no tax consequences. The German fiscal authorities are in agreement with this decision (BMF dated 27 November, 2001, BStBl. I 2001, 986, Margin Notes 18 and 23).

## **2. Turbo, Range Turbo, Discount, Investment, Bonus, Reverse Bonus, Speed, Lock-In, Outperformance and Twin Win Certificates as well as Centrobank and Express Certificates without coupon and/or dividend payments and without (partial) capital guarantee:**

The tax treatment of certificates is not conclusively clarified as this time. According to current opinion, earnings from the disposition and redemption of the issued certificates with a holding period of more than one year should not be subject to taxation as neither compensation nor a capital repayment (at least in part) was guaranteed (§ 20 (1) No. 7 of the German Income Tax Act (*Einkommensteuergesetz* or "EStG"; see Circular of the German Federal Ministry of Finance (*Bundesministerium für Finanzen* or "BMF") dated 16 March, 1999, German Federal Tax Gazette (*Bundessteuerblatt* or "BStBl.") I 1999, 433). In particular, the sale proceeds should not represent earnings pursuant to § 20 (2) EStG. In general the German fiscal authorities have hitherto not differentiated into different underlying values (except for the Rexp, see Regional Finance Office (*Oberfinanzdirektion* or "OFD") Rheinland, No. 19/2007, dated 5 March 2007) but focused on whether the capital repayment was guaranteed in whole or in part or compensation was promised.

However, sale proceeds are subject to taxation as profits from a private sale if the period between acquisition and disposition was not more than one year (§ 23 (1) No. 2 EStG). This applies equally to profits from the redemption of certificates if the period between acquisition and redemption was no more than one year. Losses from such private sales (*private Veräußerungsgeschäfte*) may only be offset against the amount of profits which the tax payer earned from private sales in the same calendar year (§ 23 (3) Sentence 8 EStG). Losses which cannot be offset reduce, to a limited extent, the earnings from private sales of the immediately preceding or the following assessment periods (§ 23 (3) Sentence 9 EStG). Dispositions and redemptions which occur after a holding period of more than one year are not subject to taxation.

The Investment Tax Act (*Investmentsteuergesetz*) should not be applicable as a certificate is not a foreign investment unit (BMF dated 2 June, 2005, BStBl. I 2005, 728, Margin Note 9). However, a separate tax analysis for certificates not linked to a generally accepted index, especially for fund linked notes is recommended.

### **3. Guarantee Certificates as well as Centrobank and Express Certificates with coupon payments and/or (partial) capital guarantee:**

The tax treatment of certificates with partial capital guarantee is not conclusively clarified at this time.

As a capital repayment (at least in part) has been guaranteed but at the same time an issue yield does not exist due to the uncertain component, both current earnings and sale and redemption proceeds (i.e. all earnings generated from the certificate) are subject to taxation as income from capital assets pursuant to § 20 (1) No. 7 and § 20 (2) EStG (taxation according to market yield) according to the German fiscal authorities. As this is deemed to be income from capital assets pursuant to § 20 EStG, this rule applies regardless of the holding period.

The fiscal authorities and the German Fiscal High Court (Bundesfinanzhof) are of the opinion that the guarantee of even a partial capital repayment is sufficient to assume the existence of an other receivable within the meaning of § 20 (1) No. 7 EStG, see for example BMF dated 16 March, 1999, BStBl. 1999 I, Page 433 and the decision of the German Fiscal High Court of 4 December, 2007 (VIII R 53/05). The required repayment amount cannot be limited to an amount below which a guarantee can no longer be assumed. Rather, every guaranteed repayment is sufficient. This has been accepted in the abovementioned decision of the German Fiscal High Court. Accordingly to this decision capital repayments should be subject to tax in ratio between the partial capital guarantee and the nominal amount of the certificate. If, however, a certificate both guarantees partial capital repayments and coupon payments the calculation of the taxable amount is still a moot question. The abovementioned decision of the German Fiscal High Court has brought no clarity in this point.

The tax treatment of certificates without (partial) capital guarantee but with coupon payments is also not conclusively clarified at this time.

Recent decisions by the German Fiscal High Court (Bundesfinanzhof) again stressed the traditional view on the tax treatment of products generating a yield in return for providing a certain cash amount. However, we think that even under the principals adhered to by the German Fiscal High Court in the most recent decisions (BFH 11/07/2006, VIII R 67/04; BFH 20/11/2006, VIII R 43/05; BFH 20/11/2006, VIII R 7/02; BFH 13/12/2006, VIII R/05; BFH 13/12/2006, VIII R 62/04; BFH 13/12/2006, VIII R 79/03) all amounts received out of certificates as described in this paragraph, will still be taxable when coupon payments are promised. As a consequence not only the coupon payments will be subject to taxation but amounts paid out as (capital-) repayments because of an increase/decrease of the underlying or because of any other reason, will as well be subject to tax.

### **4. Centrobank and Express Certificates with "dividend payments":**

If the holder is not entitled to coupon payment but to dividend payment in the event an underlying share would entitle to a dividend payment, the tax treatment is unclear.

The fact that in such a case the payments are fully dependent on whether a direct holder of such a share would receive a dividend and therefore such a payment is not in any way granted, would speak in favor of not subjecting such a certificate to the tax treatment of a financial innovation as long as it does not as well include a (partial) capital guarantee.

However, no guideline for the treatment of such certificates has been issued by the German fiscal authorities nor has been a court decision dealt specifically with such an issue.

## 5. Reverse Convertible Bonds (Aktienanleihe):

According to the German fiscal authorities, reverse convertible bonds are receivables, the earnings of which depend on an uncertain event (BMF dated 2 March, 2001, BStBl. I 2001, 206, Margin Notes 12). Pursuant to § 20 (1) No. 7 Sentence 1 EStG, the current income is therefore subject to taxation as income from capital assets.

The treatment of profits and losses from a sale and losses following the exercise of the right of redemption has not yet been conclusively clarified at the highest court level. According to the opinion of the fiscal authorities (BMF dated 2 March, 2001, BStBl. I 2001, 206), an issue yield does not exist (§ 20 (2) Sentence 1 No. 4 EStG) as it is uncertain at the time of acquisition whether the right of redemption will be exercised or not. Consequently, such profits and losses will be taxed according to market yield (as difference between acquisition costs and amount paid out) pursuant to § 20 (2) Sentence 1 No. 4 Sentence 2 EStG, i.e. profits from the sale or redemption in the event of the actual repayment of the capital amount (non-exercise of the right) are subject to tax as capital income in the actual amount accrued and losses from the sale or redemption are considered as negative income from capital assets (BMF dated October 25, 2004, BStBl. I 2004, 1034). This should still be the case following the latest decisions of the German Fiscal High Court (Bundesfinanzhof). Even though the German Fiscal High Court denied negative income from capital assets (BFH v. 13.12.2006, VIII R 6/05) in cases where an issue yield exists, it should allow to calculate the yield on the basis of the so called market yield in case where yield repayments based on the value of the underlying are not possible to separate. However, the Regional Finance Office (Oberfinanzdirektion or "OFD") Rheinland issued a Circular dated 21 January, 2008, (No. 2/2008) that losses from the sale or redemption could no longer be considered as negative income from capital assets. There are ongoing discussions that this opinion could not be justified – as the Regional Finance Office Rheinland did – with the tax cases recently decided by the German Fiscal High Court, as there has been no guidance in the decisions to this regard and that this opinion might not be in line with the abovementioned Circular of the BMF dated 25 October, 2004. Therefore in such a case negative income should still be possible. As this is income from capital assets pursuant to § 20 EStG, this rule applies regardless of the holding period.

### Investment flat tax (Abgeltungssteuer)

#### **B. German Tax Reform 2008 (Unternehmensteuerreform 2008)**

On July 6th 2007 German Parliament has passed the so called Unternehmensteuerreform 2008. One part of the Unternehmensteuerreform 2008 is the introduction of an investment flat tax which includes fundamental changes to the principles of taxation of capital income (Einkünfte aus Kapitalvermögen) and capital gains (Einkünfte aus Veräußerungsgeschäften) for privately held assets.

This new investment income flat tax will be fully applicable for all certificates which have been acquired on January 1st 2009 or later.

1. The **Warrants and Capped Warrants** (see par.A.1) will remain taxable under the current rules if acquired before January 1st 2009. Thereafter the income flat tax will apply.
2. For **Warrants, Capped Warrants, Turbo, Range Turbo, Discount, Investment, Bonus, Reverse Bonus, Speed, Lock-In, Outperformance and Twin Win Certificates as well as Centrobank and Express Certificates (without coupon and/or dividend payments and without (partial) capital guarantee)** which have been acquired before this date but after March 14th of 2007, the investment flat tax will also be applicable if

- a. the capital income or capital gain out of a sale or redemption of the certificate paid out as realized after June 30th 2009 and
  - b. the time period between acquisition and alienation exceeded the period of 1 year.
3. For **Guarantee, Centrobank and Express Certificates (with coupon payments and/or (partial) capital guarantee)**, as well as **Centrobank and Express Certificates with "dividend payments" and Reverse Convertible Bonds (Aktienanleihe)** the investment flat tax will be applied on all amounts paid out on January 1st 2009 or later.

When the investment flat tax is to be applied, all capital income in the form of coupons or other payments and capital gains out of the sale or redemption of the certificates are treated as capital income within the meaning of section 20 part 2 no. 7 German Income Tax Act. In principle they are subject to a flat tax of 25 % plus 5.5 % solidarity surcharge thereon. This is applied to all certificates whether they are to be considered as being speculative or not.

Losses out of the sale or redemption of the certificates can only be netted with other positive capital income. In so far as this is not possible within the tax year assessment in which the losses occurred, these losses can be carried forward without restriction in future years to be then netted with positive capital income.

#### **D. The following applies to holders of securities subject to taxation in Poland:**

Explanations restricted to the taxation of private (individual) investors resident in Poland.

##### **1. Warrants**

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The same applies for the redemption of the product by cash settlement.

The redemption by settlement in kind (delivery of the underlying) is not taxable in Poland; the subsequent sale of the underlying triggers capital gains tax under the respective applicable tax provisions (depending on the nature of the underlying).

##### **2. Discount certificates**

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is (depending on the Austrian qualification) taxable under Article 30a PIT Act at a 19 % flat rate without the possibility to deduct related costs.

The redemption by settlement in kind (delivery of the underlying) is not taxable in Poland; the subsequent sale of the underlying triggers capital gains tax under the respective applicable tax provisions (depending on the nature of the underlying).

### **3. Investment, Bonus, Reverse Bonus, Speed, Lock-in, Outperformance and Twin Win certificates**

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is (depending on the Austrian qualification) taxable under Article 30a PIT Act at a 19 % flat rate without the possibility to deduct related costs.

### **4. Turbo and Range Turbo certificates as well as Capped Warrants**

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is taxable at a flat rate of 19 % without the possibility to deduct related costs. Depending on the taxation in Austria, the following two cases may be distinguished: 1) leverage less than five = revenues taxed as interest in Austria: tax base = interest revenue, no deduction of related costs (Art 30a PIT Act); 2) leverage at least five = revenues taxed as capital gains in Austria: tax base = capital gains less related costs, losses of the previous five years may be offset against other income (maximum 50 % of the losses per year – Art 30b PIT Act).

### **5. Guarantee certificates**

Current income is taxable under Article 30a PIT Act at a flat rate of 19 % without the possibility to deduct related costs.

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is (depending on the Austrian qualification) taxable under Article 30a PIT Act at a 19 % flat rate without the possibility to deduct related costs.

### **6. Reverse convertibles**

Current income is taxable under Article 30a PIT Act at a flat rate of 19 % without the possibility to deduct related costs.

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is (depending on the Austrian qualification) taxable under Article 30a PIT Act at a 19 % flat rate without the possibility to deduct related costs.

The redemption by settlement in kind (delivery of the underlying) is not taxable in Poland; the subsequent sale of the underlying (share) is taxable under Article 30b PIT Act at a flat rate of 19 % with the tax base being the capital gains less related costs.

## 7. Centrobank and Express certificates

Current income is taxable under Article 30a PIT Act at a flat rate of 19 % without the possibility to deduct related costs.

A sale of the product is taxable under Article 30b PIT Act at a flat rate of 19 %, whereby related costs are deductible and losses of the previous five years may be offset against other income (maximum 50 % of the losses per year).

The redemption by cash-settlement is (depending on the Austrian qualification) taxable under Article 30a PIT Act at a 19 % flat rate without the possibility to deduct related costs.

### **E. The following applies to holders of securities subject to taxation in the Slovak Republic:**

Explanations restricted to the taxation of private (individual) investors resident in the Slovak Republic.

#### **1. Warrants**

The sale of the product or the redemption at maturity (settlement in cash or in kind) is a taxable "transaction with derivatives" under Art 8 SITA.. The tax base is the capital gain less related costs, which is included in the general tax base of the Slovak investor; the applicable tax rate is 19 %. A loss from a transaction on one warrant can be offset with the profit from the transaction on another warrant under the condition that both transactions are realized within one taxation period (profit or loss is incurred).

Please note that, if warrants are sold before their expiration, a loss from these transactions belongs to the bucket "transfer of options" and cannot be offset with a profit from transactions, where warrants are held until their expiration. The general condition of offsetting profit or loss from the same buckets of income must be met.

#### **2. Discount, Investment, Bonus, Speed, Lock-in, Turbo, Range Turbo, Outperformance, Twin Win and Reverse Bonus Certificates as well as Capped Warrants (certificates qualifying as "instruments with embedded derivatives")**

The sale of the product or the redemption at maturity in the form of settlement in cash is a taxable "transaction with derivatives" under Art 8 SITA. The tax base is the capital gain less related costs, which is included in the general tax base of the Slovak investor; the applicable tax rate is 19 %. A loss from a transaction on one certificate can be offset with the profit from the transaction on another certificate under the condition that both transactions are realized within one taxation period (profit or loss is incurred) and belong to the same bucket of income. The general condition of offsetting profit or loss from the same buckets of income must be met.

#### **Redemption in the form of underlying asset:**

*Underlying asset (security) has negative development:*

If the underlying asset has negative development and the investor will receive at the redemption date instead of cash the relevant underlying asset which market price will be lower than the nominal value of

the certificate, there are no tax implications for the investor. Upon a later sale of the underlying, the difference between the sales revenue and the nominal value of the certificate is taxable other income according to Art 8 SITA, less deductible expenses plus expenditure related to the acquisition of the certificate.

*Underlying asset (security) has positive development:*

If the underlying asset has a positive development, and the investor will receive the underlying instrument instead of cash, this gain (difference between fair value of underlying asset at the moment of redemption and nominal value of certificate) will represent taxable income (Art 2 SITA). Upon a later sale of the underlying asset, the difference between the fair value of the underlying asset and the nominal value of the certificate should not be taxed twice; only the difference between the sales revenue and the fair value of the underlying asset at the moment of redemption is taxable income.

### **3. Guarantee, Express and Centrobank Certificates**

- Current income in the form of guaranteed coupon from guarantee certificate is taxable as interest income under Art 7 SITA at a flat tax rate of 19 %; related costs are not deductible. The interest income is included in the general tax base of the Slovak investor.
- Current income in the form of variable coupon from guarantee certificate provided that is paid to the investor regularly is taxable interest income under Art 7 SITA at a flat tax rate of 19 %; related costs are not deductible. The interest income is included in the general tax base of the Slovak investor.
- Current income in the form of "dividend" payments is taxable as "income from capital" under Art 7 SITA at a flat rate of 19 %; related costs are not deductible. In this case as the "dividends" investor will regularly receive do not result from his/her ownership on the registered capital of the company paying such "dividend", such "dividends" will not be tax free.
- The sale of the product (redemption amount and participation sum) or the redemption at maturity (settlement in cash) is a taxable "transaction with derivatives" under Art 8 SITA. The tax base is the capital gain less related costs, which is included in the general tax base of the Slovak investor; the applicable tax rate is 19 %. A loss from a transaction on one certificate can be offset with the profit from the transaction on another certificate under the condition that both transactions are realized within one taxation period (profit or loss is incurred) and belong to the same bucket of income. The general condition of offsetting profit or loss from the same buckets of income must be met.

### **4. Reverse Convertibles**

Current income is taxable as interest income under Art 7 SITA at a flat tax rate of 19 %; related costs are not deductible. The interest income is included in the general tax base of the Slovak investor.

The sale of the product or the redemption at maturity (settlement in cash or in kind) is a taxable "transaction with derivatives" under Art 8 SITA. Tax base is the capital gain less related costs, which is included in the general tax base of the Slovak investor; the applicable tax rate is 19 %. A loss from a transaction on one certificate can be offset with the profit from the transaction on another certificate under the condition that both transactions are realized within one taxation period (profit or loss is incurred) and belong to the same bucket of income. The general condition of offsetting profit or loss from the same buckets of income must be met.

F. The following applies to holders of securities subject to taxation in Slovenia:

Explanations restricted to the taxation of private (individual) investors resident in Slovenia.

1. **General:**

These financial instruments are not extensively traded on the Slovenian market. This information has been prepared in accordance with the current legislation and opinions of the Ministry of Finance of the Republic of Slovenia, or other competent authorities. The Securities Market Act ("SMA") of Slovenia defines in the first paragraph of Article 6 derivative financial instruments, which is only a general legal definition.

Financial instruments according to Article 6a of the SMA are:

- Securities and
- Derivative financial instruments

The explained taxation in Slovenia is the most likely taxation under the current legal situation and based on the experience made so far with the Slovenian tax authorities. As the legal situation in connection with the taxation of these structured securities is not clear, a ruling should be required from the Ministry of Finance of the Republic of Slovenia.

2. All products, if/as far as qualifying as „derivatives“ (Warrants, Discount, Investment, Bonus, Reverse Bonus, Speed, Lock-in, Turbo, Range Turbo, Guarantee, Outperformance, Twin Win and Express Certificates, Reverse Convertibles and Capped Warrants) are taxable as follows:

If the product is qualified as "derivative financial instrument" pursuant to Art 6a of the SMA, any income from the product is treated as a tax exempt "capital gain" (Art 32 PITA).

According to the Slovene personal income tax law capital gains realised by derivative financial instruments are not subject to taxation (Article 32 of the Personal Income Tax Law).

The subsequent sale of the in kind redemption is taxable under the general Slovenian taxation rules. In the case of the underlying being a share (e.g. Reverse Convertibles), the capital gain is taxable. The taxable base is the difference between the value of a share upon disposal and the acquisition value of the share, taking into account certain expenses incurred upon acquisition or disposal of the share. The tax rate depends on the holding period of the share and amounts to 20 % for a holding period of up to five years, 15 % for a holding period from five to ten years, 10 % for a holding period from 10 to 15 years and 5 % for a holding period from 15 to 20 years. Sales of shares that have been held for more than twenty years are tax exempt.

However there are following open questions:

- whether the **redemption amount** (when it is higher than the principal value) presents **interest income** due to the fact that the legal nature of certificates is debt security (no clear definition in the Slovene legislation) – especially in case when the certificate is not sold before maturity; or
- whether the **redemption amount** presents **capital gains** (either by a disposal of a debt security or derivative financial instrument), which is **not subject to taxation**.

3. All products, if/as far as qualifying as „debt securities“ (Warrants, Discount, Investment, Bonus, Reverse Bonus, Speed, Lock-in, Turbo, Range Turbo, Guarantee, Outperformance, Twin Win and Express Certificates, Reverse Convertibles and Capped Warrants) are taxable as follows:

**Capital gains** realised by a disposal of debt securities are exempt from taxation (Article 96 of the Personal Income Tax Law).

Any **current income** is taxable as interest income at a **flat rate of 15 %**. The tax rate will amount to 20 % from the year 2008 on. Related costs are not deductible.

The subsequent sale of an in kind redemption is taxable as capital gain. The taxable base is the difference between the value of a share upon disposal and the acquisition value of the share, taking into account certain expenses incurred upon acquisition or disposal of the share. The tax rate depends on the holding period of the share and amounts to 20 % for a holding period of nil to five years, 15 % for a holding period of five to ten years, 10 % for a holding period of 10 to 15 years and 5 % for a holding period of 15 to 20 years. Sales of shares that have been held for more than twenty years are taxed with 0% tax rate.

**G. The following applies to holders of securities subject to taxation in the Czech Republic:**

Explanations restricted to the taxation of private (individual) investors resident in the Czech Republic.

As part of the public finances reform that took place in 2007 taxation of securities by individuals has changed since the last major amendment to the Czech Income Taxes Act.

As of 1 January 2008 the conditions for an exemption regarding gains from the sale of the securities referred to below became stricter. The Czech Income Taxes Act newly requires that the exemption be applicable only to securities that:

- are investment securities according to the Czech Capital Markets Act (i.e. securities that are allowed to be traded on a capital market) or securities issued by a collective investment vehicle; where
- the time period between the acquisition of the security and its sale by the individual investor exceeds 6 months; and
- the direct or indirect participation of the individual in the capital or voting rights of the company in which issued the securities has not exceeded 5% in the preceding 24 months.

These (stricter) conditions apply to securities acquired by an individual after 31 December 2007. For securities acquired on or before 31 December 2007 the simple six-month holding test applies.

For securities that do not meet the conditions above, a five-year holding period test applies for the income tax exemption of the gain from the sale of the security.

In addition, the meaning of the term “security” has been commented on by the Czech regulator, i.e. the Czech National Bank, as Czech law provides only a sample list of instruments that qualify as “securities” for the purposes of the Czech Capital Markets Act (and in turn also for Czech income tax purposes). The opinion published by the Czech National Bank tends to conclude that investment certificates and warrants should qualify as “securities” even though certificates or warrants are not explicitly defined by Czech law. For an individual investor this should mean that under the assumption that these “securities” are capable of being traded on a capital market and are not issued to individual investors who have a substantial interest in the issuing entity, from the Czech personal income tax the

individual investor should be able to claim an exemption of the gain from the sale on the investment certificate or warrant.

### **1. Warrants**

Sales of the product within six months from its acquisition are taxable; the tax base in this case is the capital gain less related costs at a flat rate of 15%<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of products which take place more than six months after acquisition are not taxable<sup>2</sup>.

Redemption by settlement in kind is not taxable. Redemption by cash settlement is taxable; the redemption proceeds at a flat tax rate 15%<sup>1</sup>. Acquisition costs or other related costs are not deductible.

The subsequent sale of the in kind redemption is not taxable if it takes place at least six months after acquisition<sup>2</sup>. A sale within six months after its acquisition is taxable; the tax base is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply).

### **2. Investment, Bonus, Speed, Lock-in, Turbo, Range Turbo, Outperformance, Twin Win, Reverse Bonus certificates and Capped Warrants**

Sales of a product within six months from its acquisition are taxable; the tax base in this case is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of the product which take place more than six months after acquisition are not taxable<sup>2</sup>. Specify the product in each case

Redemption by a cash settlement is taxable; the redemption proceeds at a flat tax rate of 15%<sup>1</sup>. Acquisition costs or other related costs are not deductible.

### **3. Guarantee certificates**

Current income is considered to be interest and is taxable at a flat tax rate 15 %<sup>1</sup>. Related costs are not deductible.

Sales of the product within six months from the acquisition are taxable; the tax base in this case is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of the product which take place at least six months after the acquisition are not taxable<sup>2</sup>.

Redemption by cash settlement is taxable; the redemption proceeds at a flat tax rate of 15 %<sup>1</sup>. Acquisition costs or other related costs are not deductible.

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<sup>1</sup> Please note that based on the current version of the Czech Income Taxes Act, the flat personal income tax rate for the periods from 1 January 2009 will be reduced to 12.5%. There are discussions in the Czech government that the currently effective rate of 15% should continue to be applied even after 1 January 2009. In order for this to happen, the Czech Income Taxes Act would need to be amended.

<sup>2</sup> Please see the detailed discussion in the introductory part of the memorandum on the conditions under which an exemption from Czech personal income tax applies regarding gains from the sale of an instrument.

#### **4. Reverse convertible bonds**

Current income is considered to be interest and is taxable at a flat tax rate of 15 %<sup>1</sup>. Related costs are not deductible.

Sales of the product within six months from the acquisition is taxable; the tax base in this case is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of the product which take place at least six months after the acquisition are not taxable<sup>2</sup>.

Redemption by settlement in kind is not taxable. Redemption by cash settlement is taxable; the redemption proceeds at a flat tax rate of 15 %<sup>1</sup>. Acquisition costs or other related costs are not deductible.

The subsequent sale of the in kind redemption is not taxable if it takes place at least six months after the acquisition<sup>2</sup>. A sale within six months is taxable; the tax base is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply).

#### **5. Discount certificates**

Sales of the product within six months from the acquisition are taxable; the tax base in this case is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of the product which take place at least six months after acquisition are not taxable<sup>2</sup>.

Redemption by settlement in kind is not taxable. The redemption by cash settlement is taxable; the redemption proceeds at the flat tax rate of 15 %<sup>1</sup>. Acquisition costs or other related costs are not deductible.

The subsequent sale of the in kind redemption is not taxable if it takes place at least six months after the acquisition<sup>2</sup>. A sale within six months is taxable; the tax base is the capital gain less related costs at a flat tax rate of 15 %<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply).

#### **6. Express and Centrobank certificates**

Current income is considered to be interest and is taxable at a flat tax rate of 15 %<sup>1</sup>. Related costs are not deductible.

Sales of the product within six months from the acquisition are taxable; the tax base in this case is the capital gain less related costs at a flat tax rate of 15%<sup>1</sup>. Capital gains may be offset against losses from the sale of other financial instruments (the overall loss utilization rules/restrictions apply). Sales of the product which take place at least six months after acquisition are not taxable<sup>2</sup>.

Redemption by cash settlement is taxable; the redemption proceeds at a flat tax rate of 15 %<sup>1</sup>. Acquisition costs or other related costs are not deductible.

## H. The following applies to holders of securities subject to taxation in Hungary:

Explanations restricted to the taxation of private (individual) investors resident in Hungary. Please note that in certain cases capital gain can also be subject to 4% health tax in addition to the 25% personal income tax.

### 1. Warrants

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

Exercise of a **call-option** by delivery of a publicly traded underlying security is not taxable. Exercise of a call-option by delivery of a non-security underlying is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax with the tax base being the difference between the fair market value of the underlying and the exercise price and the purchase price of the call-option. Related costs are deductible. The subsequent **sale of the underlying** is taxable depending on the nature of the underlying.

Exercise of a **put-option** by selling the underlying security is taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup> with the tax base being the difference between the exercise price and the fair market value of the underlying and the purchase price of the put-option. In case of non-security underlyings, the exercise of a put-option is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax with the tax base being the difference between the exercise price and the fair market value of the underlying and the purchase price of the put-option.

If the underlying has previously been bought in order to settle the put-option, the difference between the fair market value of the underlying security and the original purchase price of the underlying security is taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup> with the acquisition expenses being deductible. In case of an underlying security which is traded at an EEA or OECD stock exchange, the 20 % flat rate (no health tax) applies. In case of a non-security underlying, the 25 % flat rate applies, but no health tax.

### 2. Investment, Bonus, Reverse Bonus, Speed, Lock-in, Outperformance, Turbo, Range Turbo and Twin Win certificates as well as Capped Warrants

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

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<sup>3</sup> The HUF 450.000 health tax limit is a combined limit where health tax and health fund contributions payable on salaries, dividends, capital gains and other income should also be taken into account

### 3. Guarantee certificates (repayment of purchase price not guaranteed)

Current income is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax.

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

### 4. Reverse convertibles

Current income is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax.

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

Settlement by **delivery of an underlying security** is not taxable.

The subsequent **sale of the underlying** is taxable depending on the nature of the underlying.

### 5. Discount certificates

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

Settlement by **delivery of a publicly traded underlying security** is not taxable. Settlement by **delivery of a non-security underlying** is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax with the tax base being the difference between the fair market value of the underlying and the exercise price and the purchase price of the call-option. Related costs are deductible.

The subsequent **sale of the underlying** is taxable depending on the nature of the underlying.

### 6. Centrobank and Express certificates

Current income (not qualifying as "dividends" in Austria) is taxable as "other income" at progressive rates of up to 40 % (including 4 % solidarity tax) plus 11 % health tax.

Capital gains from the **sale of the product** are taxable at a 25 % flat rate plus 14 % health tax up to HUF 450.000<sup>3</sup>. Acquisition expenses are deductible. Capital gains or any other profit achieved from stock exchange transactions (e.g. the sale of a product) which are carried out at an EEA or OECD stock

exchange are taxable at a 20 % flat rate (no health tax). Total losses incurred on stock exchange transactions are deductible. The same applies for the redemption of the product by **cash settlement**.

#### **I. The following applies to holders of securities subject to taxation in Romania:**

The below explanations are restricted to the taxation of individual non-business investors resident in the respective country and provide general information based on the legal position as per June 2008.

##### **1. General**

Alternative instruments represent a new area in Romania, rarely used as compared to the classical financial instruments. Consequently, these types of financial instruments are not extensively traded on the Romanian market. **The Romanian Fiscal Code does not provide a clear definition of financial instruments or investment titles.** You can find reference in Title III Personal Income Tax. Thus, under the general investment title term fall any securities, investment titles at open investment funds or any other financial instrument qualified as such by the National Securities Committee, including the derivatives.

These alternative investment instruments may be assimilated to different investment titles as described in the Romanian Fiscal Code. As such, the tax treatment of these investment titles depends significantly on the category under which they can be classified.

**The issues presented in this document are clear only in relation to the interest/coupon and dividend revenue. For the other income derived from these types of certificates a ruling should be required from the National Securities Committee together with the Ministry of Finance.** This ruling should address the classification of the income generated by this certificate and the tax applicable thereon. Depending on the classification as a security and on the holding period the tax is either 1% or 16%.

##### **2. Warrants and Discount Certificates**

The sale of the product and the redemption by cash settlement is taxable with the tax base being the capital gain less related costs at the tax rate of (i) 1 %, if the security was held for more than 365 days, and (ii) 16 %, if the security was held for less than 365 days. Losses incurred in respect of transactions with such securities (other than participation titles held in an open investment fund and shares in a non-listed entity) can be offset against profits obtained during the same year, however if at year end the taxpayer records a net annual loss, this loss cannot be carried forward.

The redemption by settlement in kind<sup>4</sup> is not taxable. At the subsequent sale of the in kind redemption any capital gain arising will be subject to the above mentioned rules.

##### **3. Turbo, Range Turbo, Investment, Bonus, Reverse Bonus, Speed, Lock-In, Outperformance and Twin Win Certificates as well as Capped Warrants**

The sale of the product and the redemption by cash settlement is taxable with the tax base being the capital gain less related costs at the tax rate of (i) 1 %, if the security was held for more than 365 days, and (ii) 16 %, if the security was held for less than 365 days. Losses incurred in respect of transactions with such securities (other than participation titles held in an open investment fund and shares in a non-listed entity) can be offset against profits obtained during the same year, however if at year end the taxpayer records a net annual loss, this loss cannot be carried forward.

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<sup>4</sup> By settlement in-kind we understand the receipt of the underlying instrument.

#### **4. Centrobank and Express Certificates**

The sale of the product and the redemption by cash settlement is taxable with the tax base being the capital gain less related costs at the tax rate of (i) 1 %, if the security was held for more than 365 days, and (ii) 16 %, if the security was held for less than 365 days. Losses incurred in respect of transactions with such securities (other than participation titles held in an open investment fund and shares in a non-listed entity) can be offset against profits obtained during the same year, however if at year end the taxpayer records a net annual loss, this loss cannot be carried forward.

Interest income (coupon) is taxable starting 1<sup>st</sup> January, 2007 at 16 % rate applied to the gross amount (no deduction of related costs).

Dividend income is taxable at 16 % rate applied to the gross amount (no deduction of related costs).

#### **5. Reverse Convertibles**

The sale of the product and the redemption by cash settlement is taxable with the tax base being the capital gain less related costs at the tax rate of (i) 1 %, if the security was held for more than 365 days, and (ii) 16 %, if the security was held for less than 365 days. Losses incurred in respect of transactions with such securities (other than participation titles held in an open investment fund and shares in a non-listed entity) can be offset against profits obtained during the same year, however if at year end the taxpayer records a net annual loss, this loss cannot be carried forward.

Interest income (coupon) is taxable starting 1<sup>st</sup> January, 2007 at 16 % rate applied to the gross amount (no deduction of related costs).

#### **6. Guarantee Certificates**

The sale of the product, the redemption by cash settlement and the payout of a participation amount upon maturity is taxable with the tax base being the capital gain less related costs at the tax rate of (i) 1 %, if the security was held for more than 365 days, and (ii) 16 %, if the security was held for less than 365 days. Losses incurred in respect of transactions with such securities (other than participation titles held in an open investment fund and shares in a non-listed entity) can be offset against profits obtained during the same year, however if at year end the taxpayer records a net annual loss, this loss cannot be carried forward.

Interest income (coupon) is taxable starting 1<sup>st</sup> January, 2007 at 16 % rate applied to the gross amount (no deduction of related costs).

### **§ 18. Increases; Repurchase**

1. The Issuer has the right to issue additional structured securities with the same features (if applicable, up to the start of the exercise period) so that these form a uniform issue together with the respective structured securities and increase the number. In such case, the term "structured securities" comprises any additional structured securities issued.
2. The Issuer has the right to repurchase the structured securities at any time through the exchange or in over the counter. The Issuer is not under the obligation to inform the holder of structured securities of

any such action. The Issuer has the right to render the structured securities bought back worthless, to hold or resell them or use them in any other manner.

### **§ 19. Paying Agent, Application Agent and/or Warrants Agent**

1. The paying agent, application agent and/or warrants agent (for warrants) is Raiffeisen Centrobank AG. The crediting of payments to the holder shall be done by the respective custodian bank of the securities holder.
2. The Issuer shall have the right to name additional paying agents and warrants agents and to revoke their appointment. Appointments and revocations shall be disclosed pursuant to § 22 par. 1.a.
3. The paying agents and warrants agents shall act in this function solely as parties commissioned by the Issuer and their relationship with the holders of warrants shall not be one of contractor or trustee.
4. The paying agents, application agents and warrants agent shall only be liable for any representations made or omitted, declarations accepted or actions taken or not taken to the extent they do not violate the due diligence and prudence principles of a proper merchant.

### **§ 20. Substitution of the Issuer**

1. Any other company may enter into all of the obligations of the Issuer imposed by these securities contingent on par. 2 at any time during the life of the structured securities after this has been announced by the Issuer pursuant to § 22 par. 1.a. In the event of such takeover, the company taking over (hereinafter "new Issuer") will legally succeed the Issuer and replace it, and shall have the right to exercise all rights and obligations of the Issuer arising from the structured securities with the same effect as if the new Issuer had been named the Issuer in these Securities Terms; the Issuer (and in the event of a repeated application of § 20, any further new Issuers) is thus released from the obligations under these Securities Terms and from liability as debtor under the structured securities. In the event of such a takeover, the term "Issuer" shall designate in all provisions of these Securities Terms (except in these § 20) the new Issuer.
2. Such a takeover shall be permissible if
  - a. the new Issuer has undertaken to hold all holders of structured securities harmless with respect to any taxes, charges, prolongations or official duties that may be imposed in connection with such a takeover;
  - b. the Issuer (called guarantor in this function) unconditionally and irrevocably guarantees the fulfilment of all payment obligations to be assumed by the new Issuer vis-à-vis the holders of structured securities and discloses the text of this guarantee pursuant to § 22 par. 1.a;
  - c. the new Issuer has all government authorizations, permits, approvals and concessions required in those countries in which the new Issuer has its registered office or according to whose laws the company has been established.
3. After the Issuer has been replaced by the new Issuer, the provisions of § 20 shall apply again.

## § 21. Exchange Listing

At present, the Issuer does not apply to trading on any regulated market. It is most likely that the Issuer is going to apply to trading for the securities on the Second Regulated Market of Wiener Börse, on the Regulated Unofficial Market (EUWAX) of the Stuttgart Stock Exchange, on SCOACH of the Frankfurter Securities Exchange and on a regulated market in the EU member states of Hungary, Poland, Slovenia, Slovakia, the Czech Republic and Romania (see FT, line 55).

## § 22. Publications

1. All announcements relating to the structured securities shall be made as follows: In those cases in which
  - a. a reference is made to § 22 par. 1.a., announcements concerning structured securities described herein will be made in accordance with the law in the Official Gazette "Amtsblatt der Wiener Zeitung" (or any other newspaper or publication measure required by law or applicable stock exchange rules). Should this newspaper discontinue publication, it shall be replaced by the daily newspaper serving as medium for official announcements. A special notification of each individual holder of a structured security shall not be required.
  - b. a reference is made to § 22 par. 1.b., announcements concerning structured securities described herein will be made by publication on the website of the Issuer (<http://www.rcb.at/>).
2. Such announcements shall only serve for information purposes and do not constitute any pre-condition for effectiveness.

## § 23. Statute of Limitation

The right to claim payment of capital due shall expire after thirty years as of the due date; claims to payments of interest shall expire after three years as of the due date.

## § 24. Obligation to Prepare a Listing Prospectus for Public Offerings

The structured securities are offered to the public in Austria, Germany Hungary, Poland, Slovenia, Slovakia, the Czech Republic and Romania (see FT, line 55). They are issued in the form of a continuous issue. A base prospectus has been prepared in Austria pursuant to Art 7 par 4, fig. 1 of EU Regulation 809/2004. This base prospectus has been notified to

- the Federal Financial Supervisory Authority in Germany, Bundesanstalt für Finanzdienstleistungsaufsicht ("BaFin") for Germany,
- the Polish Securities and Exchange Commission (KPWiG Komisja Papierów Wartościowych i Giełd) for Poland,
- the National Bank of Slovakia "NBS" (and UFT, Financial Market Authority of the Slovak Republic) for Slovakia,
- the Securities Market Agency (SMA) for Slovenia,
- the Czech Securities Commission (CSC) for the Czech Rep. and
- the Hungarian Financial Supervisory Authority (HFSA) for Hungary and

- the Romanian National Securities Commission (CNVM) for Romania.

### **§ 25. Liability**

The Issuer will be fully liable with its entire assets for all obligations from the issuance of structured securities.

### **§ 26. Exclusion of Liability**

The Issuer does not assume any liability for the correctness, completeness, continuity and continuous calculation of the prices of the underlying instruments by the relevant exchanges or price-fixing entities (see FT, line 44).

### **§ 27. Applicable Law, Jurisdiction and Place of Performance**

1. The form and content of structured securities as well as all rights and obligations arising under the matters covered by these terms are governed in all respects by Austrian law.
2. Place of performance and jurisdiction is Vienna; nonetheless, the Issuer retains the right to file a lawsuit with any other competent court.

### **§ 28. Severability Clause**

Should any of the individual provisions of this Agreement become invalid or unenforceable, this shall not affect the validity or executability of the remaining provisions. The invalid or unenforceable provisions shall be replaced by such provisions that come as close as possible to the intent of the provisions of these Terms.

### **§ 29. Final Provisions**

1. The Issuer has the right to change or supplement the following without having to obtain the consent of the holders of the structured securities:
  - a. obvious typing or calculation errors or other obvious errors as well as
  - b. any contradictory provisions or provisions containing omissions.

The cases mentioned under b) only permit such changes or supplements that are acceptable to the holders of the structured securities while taking into account the interests of the Issuer, i.e., do not substantially worsen the financial situation of the holders of structured securities. Changes and supplements to these Securities Terms are announced immediately in accordance with § 22 par. 1.b.

2. Definitions, calculations and other decisions by the Issuer are binding for all parties involved unless there is an obvious mistake.

3. All taxes, fees and other duties falling due in connection with the redemption of the structured securities shall be borne and paid by the holders of the structured securities.

Vienna, 4 June 2009