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## Series Memorandum

**ELM B.V.**

*(a private company with limited liability under the law of the Netherlands and having its corporate seat (zetel) in Amsterdam, the Netherlands)*

**EUR 600,000,000**  
**Perpetual Fixed to Floating Rate Notes**  
**issued under the Secured Note Programme**

secured by

**EUR 600,000,000**  
**Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes**

of

**SWISS LIFE AG**  
guaranteed on a subordinated basis by

**SWISS LIFE HOLDING AG**

**Issue Price: 99.707 per cent.**

ELM B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated in the Netherlands, with its corporate seat (*zetel*) in Amsterdam, the Netherlands (the "**Issuer**") is offering its EUR 600,000,000 Perpetual Fixed to Floating Rate Notes (the "**Notes**") secured by the EUR 600,000,000 Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes of Swiss Life AG guaranteed on a subordinated basis by Swiss Life Holding AG (the "**Original Charged Assets**", the "**Charged Assets Obligor**" and the "**Charged Assets Guarantor**", respectively). The Notes will bear interest from (and including) 27 September 2016 (the "**Interest Commencement Date**"), payable in arrear on each Interest Payment Date (as defined in the "Conditions of the Notes"). From (and including) the Interest Commencement Date to (but excluding) 19 May 2027, the Notes will bear interest at a rate of 4.50 per cent. per annum, and thereafter, the Notes will bear interest at a rate of interest, reset quarterly, of the euro interbank offered rate administered by the European Money Markets Institute for three-month euro deposits plus 4.10 per cent. plus one per cent. per annum, provided that such interest amounts will only be payable to the extent that corresponding interest amounts are received by the Issuer under the Original Charged Assets (which may be subject to deferral pursuant to the terms and conditions of the Original Charged Assets), all as more particularly described in "Conditions of the Notes – 6. Interest". The Notes are perpetual securities in respect of which there is no fixed maturity date.

The Notes will be redeemable in the circumstances described in this series memorandum (the "**Series Memorandum**").

The Notes are secured, limited recourse obligations of the Issuer.

The Notes are expected to be rated BBB+ by Standard & Poor's Credit Market Services Europe Limited. Standard & Poor's Credit Market Services Europe Limited is established in the European Union and is registered under the EU Regulation on credit rating agencies (Regulation (EC) No.1060/2009), as amended.

The Issuer has established its Secured Note Programme (the "**Programme**") under which the Issuer may from time to time issue notes. Holders of the Notes will not have access to the assets of the Issuer held in connection with any other notes issued pursuant to the Programme and, similarly, holders of any other notes issued pursuant to the Programme will not have access to the assets held in connection with the Notes described in this Series Memorandum.

This document is a Series Memorandum, prepared for the purposes of Article 5(1) of Directive 2003/71/EC (and amendments thereto, including Directive 2010/73/EC, the "**Prospectus Directive**"). This Series Memorandum contains information relating to the Notes issued by the Issuer. The Series Memorandum should be read in conjunction with the programme memorandum dated 12 September 2016 relating to the Programme of the Issuer which has been approved by the Central Bank (as defined below) (the "**Programme Memorandum**"). Unless defined herein, terms defined in the Programme Memorandum have the same meanings in this Series Memorandum.

This Series Memorandum constitutes a "prospectus" for the purposes of the Prospectus Directive.

This Series Memorandum has been approved by the Central Bank of Ireland (the "**Central Bank**"), as competent authority under the Prospectus Directive. The Central Bank only approves this Series Memorandum as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its Main Securities Market. There can be no assurance that any such listing will be obtained, or if obtained, will be maintained.

References in this Series Memorandum to Notes being "listed" (and all related references) shall mean that such Notes have been admitted to trading on the regulated market (the "**Main Securities Market**") of the Irish Stock Exchange and have been admitted to the Official List (the "**Official List**"). The Main Securities Market of the Irish Stock Exchange is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

Sole Structuring Adviser

**UBS Limited**

Joint Lead Managers

**Banca IMI S.p.A.**

**Citigroup**

**J.P. Morgan**

**UBS Limited**

Co-Lead Managers

**ABN AMRO**

**BayernLB**

The date of this Series Memorandum is 23 September 2016

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This Series Memorandum is supplemental to, and should be read in conjunction with, the Programme Memorandum (see the section entitled “Documents Incorporated by Reference” below). This Series Memorandum includes particulars for the purpose of giving information with regard to the issue by the Issuer of the Notes.

The Issuer accepts responsibility for the information contained in this Series Memorandum (which, for the purpose of this section of the Series Memorandum, will include the sections of the Programme Memorandum incorporated by reference herein). To the best of the Issuer’s knowledge (having taken all reasonable care to ensure that such is the case) the information contained in this Series Memorandum is in accordance with the facts and does not omit anything likely to affect the import of such information.

The information contained in the section of the Series Memorandum entitled “Information Concerning the Charged Assets Obligor and the Charged Assets Guarantor” and in the Appendix to this Series Memorandum (the “**Third Party Information**”) has been obtained directly from the Charged Assets Obligor. The Issuer confirms that the Third Party Information has been accurately reproduced as received and that, so far as it is aware and is able to ascertain from the Third Party Information published, no facts have been omitted which would render the reproduced Third Party Information inaccurate or misleading.

The Issuer has not conducted extensive due diligence on the Third Party Information, or made any enquiries as to its own possession of non-publicly available information. The Issuer has only made very limited enquiries in relation to the Third Party Information, and none of the Issuer, UBS Limited (“**UBS**”), Banca IMI S.p.A. (“**Banca IMI**”), Citigroup Global Markets Limited (“**Citigroup**”) and J.P. Morgan Securities plc (“**J.P. Morgan**”) (UBS, Banca IMI, Citigroup and J.P. Morgan together being the “**Joint Lead Managers**”), ABN AMRO Bank N.V. (“**ABN AMRO**”) or Bayerische Landesbank (“**BayernLB**”) (ABN AMRO and BayernLB together being the “**Co-Lead Managers**”, and together with the Joint Lead Managers, the “**Managers**”) or The Law Debenture Trust Corporation p.l.c. (the “**Trustee**” and the “**Managers’ Trustee**”) makes any representation or warranty, express or implied, as to the accuracy or completeness of the Third Party Information and prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquiries in respect of the same.

Subject to the above the Issuer, having made all reasonable enquiries, confirms that this Series Memorandum contains all information with respect to the Issuer and the Notes that is material in the context of the issue and offering of the Notes, the statements contained in it relating to the Issuer are in every material respect true and accurate and not misleading, the opinions and intentions expressed in this Series Memorandum with regard to the Issuer are honestly held, have been reached after considering all relevant circumstances and are based on reasonable assumptions, there are no other facts in relation to the Issuer or the Notes the omission of which would, in the context of the issue and offering of the Notes, make any statement in this Series Memorandum misleading in any material respect and all reasonable enquiries have been made by the Issuer to ascertain such facts and to verify the accuracy of all such information and statements.

No person has been authorised to give any information or to make any representation other than those contained in this Series Memorandum in connection with the issue or sale of the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or any Manager. Neither the Issuer nor any Manager is making an offer to sell the Notes in any jurisdiction where the offer or sale is not permitted. Neither the delivery of this Series Memorandum nor any sale of Notes made in connection therewith shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Charged Assets Obligor or the Charged Assets Guarantor since the date of this Series Memorandum or the date upon which this Series Memorandum has been most recently amended or supplemented or that there has been no adverse change in the financial position of the Issuer, the Charged Assets Obligor or the Charged Assets Guarantor since the date of this Series Memorandum or the date upon which this Series Memorandum has been most recently amended or supplemented or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.

The language of the Series Memorandum is English. Certain legislative references and technical terms have been cited in their original language in order that the correct technical meaning may be ascribed to them under the applicable law.

This document is based on information provided by the Issuer, except for the Third Party Information which has been provided to the Issuer. None of the Managers, the Trustee, the Managers’ Trustee and the Issuer in respect of the Third Party Information, is making any representation or warranty that this information is accurate or complete and none of the Managers, the Trustee or the Managers’ Trustee are responsible for this information. This Series Memorandum summarises certain documents and other information in a manner the Issuer believes to be accurate, but investors should refer to the actual documents for a more complete understanding of the matters discussed in this Series Memorandum. In making an investment decision, investors must rely on their own examination of the terms of this offering and the Notes, including the merits and risks involved. This offering is being made on the basis of this Series Memorandum. Any decision to purchase the Notes in this offering must be based solely on the information contained in this Series Memorandum.

None of the Issuer, the Managers, the Trustee and the Managers’ Trustee are making any representation to any purchaser of the Notes regarding the legality of an investment in the Notes by it under any legal investment or similar laws or regulations. Investors should not consider any information in this document to be legal, business or tax advice. Investors should consult their own lawyers, business adviser and tax adviser for legal, business and tax advice regarding an investment in the Notes.

The Issuer reserves the right to withdraw the offering of the Notes at any time. The Issuer and the Managers also reserve the right to reject any offer to purchase the Notes in whole or in part for any reason and to allot to any prospective investor less than the full amount of Notes sought by it.

In connection with the issue of the Notes, the Managers may, in accordance with all laws and regulations, over-allot Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Managers will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Notes and 60 days after the date of the allotment of the Notes. Any stabilisation action or over-allotment must be conducted by the Managers in accordance with all applicable laws and rules.

The distribution of this Series Memorandum and the offering or sale of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Series Memorandum comes are required by the Issuer and the Managers to inform themselves about and to observe any such restriction. The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”) and are issued in registered form that are subject to U.S. tax law requirements. The Notes may not be offered, sold or delivered within the United States or to U.S. persons at any time. For a description of certain restrictions on offers and sales of Notes and on distribution of this Series Memorandum, see “Subscription and Sale” below.

Any investment in the Notes does not have the status of a bank deposit and is not within the scope of the deposit protection scheme operated by the Central Bank or any other deposit protection scheme. The Issuer is not and will not be regulated by the Central Bank as a result of issuing the Notes or entering into any other transaction.

The Notes may not be publicly offered, sold or advertised, directly or indirectly, in, into or from Switzerland and will not be listed on the SIX Swiss Exchange or any other exchange or regulated trading facility in Switzerland. Neither this Series Memorandum nor any other offering or marketing material relating to the Notes constitutes (i) an Offering Memorandum as such term is understood pursuant to article 652a or article 1156 of the Swiss Code of Obligations, (ii) a listing Offering Memorandum within the meaning of the listing rules of the SIX Swiss Exchange or any other regulated trading facility in Switzerland or (iii) a simplified prospectus or a prospectus as such term is defined in the Swiss Collective Investment Scheme Act, and neither this Series Memorandum nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this Series Memorandum nor any other offering and marketing material relating to the offering, the Issuer or the Notes have been or will be filed with or approved by any Swiss regulatory authority. The Notes are not subject to the supervision by any Swiss regulatory authority, including the Swiss Financial Markets Supervisory Authority FINMA (“**FINMA**”), and investors in the Notes will not benefit from protection or supervision by such authority.

This Series Memorandum does not constitute an offer of, or an invitation by or on behalf of the Issuer or any Manager to subscribe for, or purchase, any Notes or to enter into any other transactions.

None of the Managers, the Trustee or the Managers’ Trustee have separately verified the information contained in this Series Memorandum. None of the Managers makes any representation, express or implied, or, to the fullest extent permitted by law, accepts any responsibility, with respect to the accuracy or completeness of any of the information in this Series Memorandum or for any other statement made or purported to be made by a Manager or on its behalf in connection with the Issuer or the issue and offering of the Notes. Each Manager accordingly disclaims all and any liability whether arising in tort or contract or otherwise (save as referred to above) which it might otherwise have in respect of this Series Memorandum or any such statement.

Prospective purchasers of Notes should have regard to the factors described under the section headed “Risk Factors” in this Series Memorandum. This Series Memorandum does not describe all of the risks of an investment in the Notes. Neither this Series Memorandum nor any financial statements referred to herein are intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation by any of the Issuer, the Managers, the Trustee or the Managers’ Trustee that any recipient of this Series Memorandum or any such other financial statements should purchase the Notes.

Prospective purchasers of the Notes should conduct such independent investigation and analysis regarding the Issuer, the security arrangements, the Original Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor and the Notes as they deem appropriate to evaluate the merits and risks of an investment in the Notes. Prospective purchasers of the Notes should have sufficient knowledge and experience in financial and business matters, and access to, and knowledge of, appropriate analytical resources, to evaluate the information contained in, or incorporated by reference into, this Series Memorandum and the merits and risks of investing in the Notes in the context of their financial position and circumstances. None of the Managers, the Trustee or the Managers’ Trustee undertakes to review the financial condition or affairs of the Issuer, the Original Charged Assets, the Charged Assets Obligor or the Charged Assets Guarantor during the life of the arrangements contemplated by this Series Memorandum or the term of any Notes issued nor to advise any investor or potential investor in the Notes of any information coming to the attention of any of the Managers, the Trustee or the Managers’ Trustee. The risk factors identified in this Series Memorandum are provided as general information only and the Managers disclaim any responsibility to advise purchasers of the Notes of the risks and investment considerations associated therewith as they may exist at the date hereof or as they may from time to time alter.

The Issuer will not be providing any post-issuance information in relation to the Notes.

## **RISK FACTORS**

The risk factors set out below are risk factors that are material to the Notes in order to assess the market risk associated with them or which may affect the Issuer's ability to fulfil its obligations under them. Neither the Issuer, any Manager, the Trustee nor the Managers' Trustee is in a position to express a view on the likelihood of any contingency highlighted by a risk factor occurring.

For the purposes hereof, capitalised terms used but not otherwise defined herein will have the meaning given to them in the Conditions of the Notes.

### **Risks Related to the Notes**

#### **Limitations on claims against the Issuer**

The Notes are solely obligations of the Issuer and neither the Charged Assets Obligor nor the Charged Assets Guarantor (each as defined herein) has any obligation to the Noteholders for payment of any amount due in respect of the Notes. The Issuer is a special purpose vehicle established, *inter alia*, for the purpose of issuing the Notes. The Notes are limited in recourse to the Mortgaged Property which includes, *inter alia*, the Issuer's rights in respect of the Charged Assets. Other than the Mortgaged Property, there are no other assets of the Issuer available to meet any outstanding claims of the Secured Creditors, including the Noteholders.

#### **Priority of claims**

During the term of the Notes, on an enforcement of the Security, the rights of the Noteholders to be paid amounts or delivered assets due under the Notes will be subordinated to (i) the fees, costs, charges, expenses and liabilities due and payable to the Trustee including costs incurred in the enforcement of the Security (which may include, for example, the fees of any receiver appointed by the Trustee in the case of an enforcement of the Security and, in all instances, the Trustee's remuneration) and (ii) the fees, costs, charges, expenses and liabilities due and payable to the Enforcement Agent including costs incurred in the enforcement of the Security (which may include, for example, the Enforcement Agent's remuneration), amounts owing to the Agents in respect of reimbursement for sums paid by them in advance of receipt by them of the funds to make such payment and the fees, costs, charges, expenses and liabilities due and payable to the Agents.

There is no assurance that the proceeds and/or assets available following payment of any such priority claims will be sufficient to pay in full the amounts that the relevant Noteholders would expect to receive or that such Noteholders will receive back the amount, or assets with a value equal to the amount, they originally invested.

#### **Perpetual Notes**

The Notes do not have a fixed maturity date and therefore the Issuer shall not redeem any Notes at any time unless the Notes become due for redemption following the occurrence of a Charged Assets Call, a Charged Assets Event, a Tax Event, an Illegality Event or an Event of Default. Investors in the Notes may only receive back some or all of the principal amount in respect of each Note if the Notes become due for redemption following the occurrence of any such event, and the amounts received by investors in respect of each Note may be less than the principal amount or the market value of such Note at the time of such redemption.

#### **Original Charged Assets subordination and potential deferral of interest payments**

The Charged Assets in respect of the Notes comprise EUR 600,000,000 Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes issued by the Charged Assets Obligor and guaranteed by the Charged Assets Guarantor. The ability of the Issuer to meet its obligations under the Notes will be dependent on the timely payment of interest and principal due on the Charged Assets. The payments on the Charged Assets are the only source of payment on the Notes.

The obligations of the Charged Assets Obligor and the Charged Assets Guarantor under the Original Charged Assets are subordinated and will rank junior in priority of payment to the claims of Issuer Senior Creditors and Guarantor Senior Creditors (each as defined in the Charged Assets Conditions). Furthermore, the Charged Assets Obligor has the option to defer payments of interest on the Original Charged Assets when such interest has accrued in respect of an interest period which ends on an Optional Interest Payment Date (as defined in the Charged Assets Conditions) and may be required to defer payment of interest on the Original Charged Assets if a Solvency Event (as defined in the Charged Assets Conditions) has occurred. Certain Deferred Interest (as defined in the Charged Assets Conditions) may only be payable on the Original Charged Assets following the prior written approval of FINMA or any successor authority.



Any event that causes the Charged Assets Obligor and/or the Charged Assets Guarantor not to make all or part of any payments on the Original Charged Assets will result in corresponding reductions and delays in respect of interest and principal (if any) payable in respect of the Notes. In addition, any event that causes the Charged Assets Obligor and/or the Charged Assets Guarantor not to make all or part of any payments on the Original Charged Assets, or if there is a perception in the market that any such event may occur, the occurrence of such event, or the perception that any such event may occur, may have an adverse effect on the market value of the Notes.

There is a real risk that the Noteholders may lose all or some of their investment should the Charged Assets Obligor and/or the Charged Assets Guarantor become insolvent.

### **Early redemption of the Notes**

The Notes may be redeemed on the occurrence of any of a Charged Assets Call, a Charged Assets Event (a Charged Assets Call and a Charged Assets Event being events relating to the Original Charged Assets and/or the Charged Assets Obligor), a Tax Event, an Illegality Event or an Event of Default (a Tax Event, an Illegality Event and an Event of Default being events relating to the Notes and/or the Issuer and/or amounts receivable by the Issuer in respect of the Original Charged Assets).

Following the occurrence of any such event, the Security may be enforced (refer to Condition 12(b) (*Enforcement of Security*) for a description of when the Security may become enforceable) in order to fund the payment of the Early Redemption Amount on redemption of the Notes.

If the Notes are redeemed upon the occurrence of a Charged Assets Call, a Charged Assets Event, a Tax Event, an Illegality Event or an Event of Default, the amount actually received by an investor in the Notes may be less than the amount invested by such investor. In addition, following the occurrence of any such event (including without limitation a Charged Assets Call), or if there is a perception in the market that such an event may occur, such occurrence, or perception that any such event may occur, may have an adverse effect on the market value of the Notes.

Refer to Condition 7 (*Redemption and Purchase*) and the risk factor contained in the Information Memorandum for the Original Charged Assets entitled “**The Issuer may redeem the Loan Notes under certain circumstances**” for more details.

See “**The Notes are linked to the creditworthiness of the Charged Assets Obligor and the Charged Assets**” and “**Charged Assets**” below for a description of the risks associated with any early redemption of the Notes.

### **The Notes are linked to the creditworthiness of the Charged Assets Obligor, Charged Assets Guarantor and the Charged Assets**

Investors should note that the Notes differ from ordinary debt securities in that the amount of interest and principal (if any) payable by the Issuer in respect of the Notes is dependent on, amongst other things, whether a Charged Assets Event or a Charged Assets Call has occurred in respect of the Charged Assets. Where a Charged Assets Event or a Charged Assets Call has occurred, the Notes may be redeemed, at which point they will cease to bear interest and the value paid to Noteholders on redemption may be less than their original investment or may be zero. The likelihood of a Charged Assets Event or a Charged Assets Call occurring in respect of the Charged Assets will generally fluctuate with, among other things, the financial condition and other characteristics of the Charged Assets Obligor, general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. Investors should have sufficient knowledge and experience in financial and business matters to evaluate the merits and risks of investing in such Notes as well as access to, and knowledge of, appropriate analytical tools to evaluate such merits and risks in the context of their financial situation.

Investors should further note that the Charged Assets Obligor and the Charged Assets Guarantor’s businesses are subject to detailed, comprehensive laws and regulations as well as close supervision in all the countries in which they operate. Changes in existing laws and regulations and their interpretation may affect the way in which the Charged Assets Obligor and the Charged Assets Guarantor conduct their businesses and the products they may offer. Changes in regulations relating to pensions and employment, social security, financial services including reinsurance business, taxation, securities products and transactions may necessitate the restructuring of its activities, impose increased costs and thereby, or otherwise, could have material adverse effects on the Charged Assets Obligor or the Charged Assets Guarantor’s insurance and asset management business.

Refer to the risk factor contained in the Information Memorandum for the Original Charged Assets entitled “**Risks due to regulatory or legal changes**” for more details.

### **The Issuer may be substituted in order to avoid certain adverse tax or legal consequences**

On the occurrence of a Tax Event or an Illegality Event, the Issuer may be substituted in order to avoid the occurrence of certain adverse tax or legal consequences. Such substitution must be approved beforehand in writing by the Trustee and no such substitution may occur where it results in any rating assigned to the Notes being adversely affected. Refer to Condition 7(d) (*Redemption for Taxation Reasons*) and Condition 7(e) (*Redemption Following an Illegality Event*) for further details.

In connection with any such substitution of the Issuer, the Trustee need not have regard to the consequences of such substitution for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory. Any such substitution could result in a Noteholder becoming subject to certain taxes, levies or other charges as may be required by the law of the relevant territory (including, but not limited to, where such substitution is considered to result in a disposal of the previously issued Notes).

#### **Payment of additional amounts for Swiss withholding taxes may be null and void**

The Charged Assets Conditions provide that, subject to certain exemptions, the Charged Assets Obligor and the Charged Assets Guarantor shall make all payments of principal and interest on the Charged Assets, free of any withholding or deduction for or on account of any taxes, levies, imposts, duties or assessments or governmental charges in Switzerland unless such withholding or deduction is required by law. The Issuer and the Managers have received a legal opinion from Swiss counsel of the Charged Assets Obligor and the Charged Assets Guarantor that the Charged Assets Obligor and the Charged Assets Guarantor are not at the date of issue of the Original Charged Assets required by law to make such deduction or withholding. The Charged Assets Obligor and the Charged Assets Guarantor have obtained a tax ruling from the relevant Swiss authorities that no Swiss tax withholding or deduction will be required to be made by the Charged Assets Obligor or the Charged Assets Guarantor in respect of payments due to be made by the Charged Assets Obligor or the Charged Assets Guarantor to the Issuer under the Charged Assets. However, there can be no assurance as to the future impact of any possible administrative or judicial decision or change to any relevant Swiss law and/or administrative practice after the date of issue of the Charged Assets.

Although the terms of the Charged Assets provide that, in the event of any withholding or deduction on account of Swiss tax being required by Swiss law, the Charged Assets Obligor or the Charged Assets Guarantor, as the case may be, shall, subject to certain exceptions, pay additional amounts so that the net amount received by the holders of the Charged Assets shall equal the amount which would have been received by such holder in the absence of such withholding or deduction, such an obligation may contravene Swiss legislation and be null and void. Although the terms of the Charged Assets provide in such circumstance for the rate of interest on the Charged Assets to be adjusted to take into account such withholding or deduction, such adjustment may also contravene Swiss legislation. In that event the amount received by the Issuer, as the holder of the Charged Assets, and the corresponding amounts payable by the Issuer to the holders of the Notes would be reduced by any such withholding or deduction.

If the Charged Assets Obligor or the Charged Assets Guarantor becomes obliged to pay additional amounts in respect of the Charged Assets following the imposition of any withholding or deduction in respect of payments of principal and interest under the Charged Assets as a result of a change in, or amendment to, the laws and regulations of Switzerland, the Charged Assets Obligor may, provided that FINMA or any domestic or foreign successor to FINMA or otherwise that has primary supervisory authority over the Charged Assets Obligor or the Charged Assets Guarantor has given (and has not subsequently withdrawn) its consent to the redemption if such consent is required, redeem all of the Charged Assets, which will result in the redemption of all of the Notes in accordance with Condition 7(b) (*Redemption Following a Charged Assets Call*).

#### **Withholding on, or other taxes or tax reporting requirements with respect to, the Notes and/or the Original Charged Assets**

The Issuer expects that payments of interest and principal (if any) on the Notes will ordinarily not be subject to withholding tax or any other taxes, duties or charges in the Netherlands or any other jurisdiction. In the event that (i) any tax, duty or charge must be withheld, accounted for or deducted from payments of principal or interest in respect of the Notes (other than a withholding or deduction in respect of FATCA), (ii) any tax, duty or charge must be withheld, accounted for or deducted from any income of the Issuer such that it would be unable to make any payment in respect of the Notes in full when due, (iii) the Issuer is or will be unable to receive any payment due in respect of the Charged Assets in full without a deduction for or on account of any withholding tax, back-up withholding or other tax, duty or charge in any jurisdiction, (iv) the Issuer is or will be required to pay any tax, duty or charge in any jurisdiction in respect of any payment received in respect of the Charged Assets, (v) the Issuer is or will be required to comply with any tax reporting requirement (other than in respect of FATCA and the Common Reporting Standard) in the Netherlands or Switzerland in respect of any payment received in respect of the Charged Assets, (vi) a withholding is imposed on payments in respect of the Charged Assets as a result of FATCA or (vii) any other Tax Event has occurred in accordance with Condition 7(d) (*Redemption for Taxation Reasons*), the Issuer shall use all reasonable endeavours to arrange the substitution of a company incorporated in another jurisdiction as the principal debtor or to change its residence for taxation purposes to another jurisdiction and, if it is not able to arrange such substitution or change, it shall redeem the Notes (subject to certain exceptions and all as more fully set out in, and subject to, Condition 7(d) (*Redemption for Taxation Reasons*)).

In the event that any withholding tax or deduction for tax is imposed on payments of interest on the Notes, the Noteholders will not be entitled to receive grossed-up amounts to compensate for such withholding tax nor be reimbursed for the amount of any shortfall and no Event of Default shall occur as a result of any such withholding or deduction; however, as set out above, the Notes shall be redeemed pursuant to Condition 7(d) (*Redemption for Taxation Reasons*).

### **Taxation**

Each Noteholder will assume and be solely responsible for any and all taxes of any jurisdiction or governmental or regulatory authority, including, without limitation, any state or local taxes or other like assessment or charges, that may be applicable to any payment to it in respect of the Notes. Neither the Issuer nor any other person will pay any additional amounts to the Noteholders to reimburse them for any tax, assessment or charge required to be withheld or deducted from payments in respect of the Notes by the Issuer or by the Registrar, although such requirement will give rise to an obligation to redeem the Notes early in the circumstances described in the terms of the Notes.

### **Modification, waivers and substitution**

The Conditions of the Notes contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all the Noteholders, including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

The Conditions of the Notes and the Trust Deed also provide that the Trustee shall, in certain circumstances and without the consent of Noteholders, agree to (i) any modification of any of the Conditions or any of the provisions of the Transaction Documents that in the opinion of the Trustee is of a formal, minor or technical nature or is made to correct a manifest error or (ii) any modification of any of the provisions of the Trust Deed, or any other documentation in connection with the issue of the Notes, if the Charged Assets Obligor has exercised its rights pursuant to Charged Assets Condition 14 (*Substitution and variation; Substitution of the Issuer*) to substitute all (but not some only) of the Original Charged Assets or to vary the terms of the Original Charged Assets. The Trustee may also agree, without the consent of the Noteholders, to (i) any other modification (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach of any of the Conditions or any provisions of the Transaction Documents that in the opinion of the Trustee is not materially prejudicial to the interest of the Noteholders or (ii) the substitution of another company as principal debtor under any Notes in place of the Issuer.

### **Managers' Security**

The proceeds of the Managers' Security will, in the event that the Managers' Security becomes enforceable, be held by the Managers' Trustee on behalf of itself and the Managers and applied in respect of any Manager's Claims. Noteholders have no direct or indirect interest in the Managers' Security and will not be entitled to the proceeds of enforcement of the Managers' Security. To the extent that the Security and the Managers' Security become enforceable at the same time, the Trustee shall, to the extent relevant, take into account the interests of the Managers in priority to the interests of the Noteholders.

### **Credit Ratings**

The Notes and the Original Charged Assets are rated securities. Prospective investors should ensure they understand what any rating associated with the Notes means and what it addresses and what it does not address. The assignment of a rating to the Notes should not be treated by a prospective investor as meaning that such investor does not need to make its own investigations into, and determinations of, the risks and merits of an investment in the Notes.

A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time. Neither the Managers nor the Issuer in any way represent that a rating is an accurate reflection of the risks involved in an investment in the Notes, that the relevant rating agency is an appropriate rating agency or the models used by such rating agency are appropriate for the Notes. The fact that UBS and the other Managers request a rating should not be treated by a prospective investor as meaning that UBS or the other Managers accept any responsibility for the rating or the work of the relevant rating agency or that UBS or the other Managers share the views of such rating agency, and each investor needs to make its own investigations into, and determinations of, the risks and merits of an investment in the Notes. Further, the terms on which a rating is provided by a rating agency may include a disclaimer or an exclusion by such rating agency of any liability to any person in respect of such rating.

During its holding of a Note, a Noteholder should take such steps as it considers necessary to evaluate the ongoing risks and merits of a continued investment in such Note. Such steps should not rely solely on ratings. In particular, prospective investors should not rely solely on downgrades of ratings as indicators of deteriorating credit and conversely, upgrades of ratings as indicators of improving credit. Market indicators (such as rising credit default spreads and yield spreads with respect to the relevant entity) often indicate significant credit issues prior to any downgrade. No assurance can be given that the Notes will have the same credit rating as the Original Charged Assets subsequent to any reduction in the credit rating of an Agent or otherwise.

During the global financial crisis, rating agencies have been the subject of criticism from a number of global governmental bodies that they did not downgrade entities on a sufficiently quick basis.

Prospective investors who place too much reliance on ratings, or who do not understand what the rating addresses, may be subject to unexpected losses as a result.

### **Independent Review and Advice**

Each prospective Noteholder must determine, based on its own independent review and such legal, business and tax advice as it deems appropriate under the circumstances, that its acquisition of the Notes (i) is fully consistent with its financial needs, objectives and condition, (ii) complies and is fully consistent with all investment policies, guidelines, authorisations and restrictions (including as to its capacity) applicable to it, (iii) has been duly approved in accordance with all applicable laws and procedures and (iv) is a fit, proper and suitable investment for it, undertaken for a proper purpose.

### **Legality of Purchase**

None of the Issuer, the Trustee, the Managers' Trustee, the Managers or the Agents or any affiliate of any of them or other person on their behalf has or assumes responsibility for the lawfulness of the acquisition of the Notes by a prospective purchaser of the Notes, whether under the laws of the jurisdiction of its incorporation or the jurisdiction in which it operates (if different), or for compliance by that prospective purchaser with any law, regulation or regulatory policy applicable to it.

### **No Reliance**

The Issuer, the Trustee, the Managers' Trustee and the Managers and all affiliates of any of them disclaim any responsibility to advise purchasers of the Notes of the risks and investment considerations associated with the purchase of the Notes as they may exist at the date hereof or from time to time hereafter. Noteholders may not at any time rely on any of the Issuer, the Trustee or the Managers or any affiliate of any of them or any person on their behalf to monitor whether or not a default or an event or circumstances which, with the giving of notice, the passage of time or making of any determination, could constitute a default has occurred under the Charged Assets.

### **Risks Related to the Market**

#### **Limited liquidity of the Notes**

Although application will be made to admit the Notes to the Official List of the Irish Stock Exchange and admit them to trading on the Main Securities Market of the Irish Stock Exchange, there is currently no secondary market for the Notes. There can be no assurance that a secondary market for any of the Notes will develop, or, if a secondary market does develop, that it will provide the Noteholders with liquidity or that it will continue for the life of the Notes. Consequently, any investor of the Notes must be prepared to hold such Notes for an indefinite period of time or until redemption of the Notes. If the Managers begin making a market for the Notes, they are under no obligation to continue to do so and may stop making a market at any time.

#### **Risks Related to the Charged Assets**

Risk factors relating to the Original Charged Assets are provided in the sub-section titled "**Risk Factors**" of the Information Memorandum for the Original Charged Assets attached at the Appendix hereto.

#### **Limited Access to Information**

None of the Issuer, the Trustee or the Noteholders or any other person will have any right to receive any information regarding the Charged Assets Obligor, the Charged Assets Guarantor or the Original Charged Assets (save to the extent that the Issuer is entitled to receive information relating to the Charged Assets Obligor or the Charged Assets Guarantor by virtue of its holding of Original Charged Assets).

#### **Provision of information**

None of the Issuer, the Trustee, the Managers' Trustee, the Managers or any affiliate of such persons (i) has provided (beyond what is included in this Series Memorandum) or will provide prospective purchasers of Notes with any information or advice with respect to the Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor or the Custodian, or (ii) makes any representation as to the credit quality of the Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor or the Custodian. The Issuer, the Trustee, the Managers' Trustee, the Managers or any affiliate of such persons may have acquired, or during the term of the Notes may acquire, non-public

information with respect to the Charged Assets, the Charged Assets Obligor or the Charged Assets Guarantor which will not be disclosed to Noteholders. The timing and limited scope of the information provided to Noteholders regarding the Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor and the occurrence of a Charged Assets Event or a Charged Assets Call may affect the liquidity of the Notes and the ability of Noteholders to value the Notes accordingly. None of the Issuer, the Trustee, the Managers' Trustee, the Managers or any affiliate of such persons is under any obligation to make such information, whether or not confidential, available to Noteholders.

### **No investigations**

No investigations, searches or other enquiries have been made by or on behalf of the Issuer, the Managers, the Trustee or the Managers' Trustee in respect of the Charged Assets, the Charged Assets Obligor or the Charged Assets Guarantor. None of the Issuer, the Managers, the Trustee or the Managers' Trustee or the Trustee makes any representation or warranty, express or implied, in respect of the Charged Assets, the Charged Assets Obligor or the Charged Assets Guarantor or in respect of any information contained in any documents prepared, provided or filed by or on behalf of the Charged Assets Obligor or in respect of such Charged Assets with any exchange, governmental, supervisory or self-regulatory authority or any other person.

### **Limitations on enforcement against the Charged Assets Obligor and the Charged Assets Guarantor**

In no circumstances shall the Trustee or, as the case may be, the Managers' Trustee be permitted when acting in its capacity as trustee for the Noteholders or the Managers, nor shall the Noteholders or the Managers (when acting in their respective capacities) be permitted, to take any action against the Charged Assets Obligor or the Charged Assets Guarantor or enforce any claim that the Issuer may have against the Charged Assets Obligor or the Charged Assets Guarantor under the Charged Assets or otherwise whether before, upon, or after any security created by or pursuant to the Trust Deed becoming enforceable. Any such action shall be bought by an Enforcement Agent appointed by the Issuer (following consultation with the Trustee) for such purpose, acting as agent for the Issuer and not as trustee for the Noteholders and no Noteholder shall be entitled to give directions to either the Trustee or the Enforcement Agent (as the case may be) in relation to the manner in which any enforcement action is pursued against the Charged Assets Obligor or the Charged Assets Guarantor. In no circumstances will any Charged Assets be delivered to a Noteholder.

If the Trustee or the Enforcement Agent (as the case may be) fails to take enforcement action within a reasonable period of time, investors in the Notes will have no right to take possession of the Charged Assets or to take any action against the Charged Assets Obligor or the Charged Assets Guarantor. However, the Noteholders have the power, exercisable by Extraordinary Resolution, to remove the Trustee provided that a successor is appointed.

No assurance can be given as to the Issuer's ability to appoint a suitable Enforcement Agent on commercially reasonable terms in the event of security being enforceable, in which case the Issuer may not be able to take effective action against the Charged Assets Obligor or the Charged Assets Guarantor.

None of the Issuer, the Trustee or the Managers' Trustee will be liable if the Issuer is unable to find anyone willing to act as the Enforcement Agent and neither the Trustee nor the Managers' Trustee shall be liable if the Issuer is unwilling to appoint an Enforcement Agent. For the avoidance of doubt, neither the Trustee nor the Managers' Trustee is itself required to act as the Enforcement Agent or to find a party willing to act as Enforcement Agent where the Issuer is unable or unwilling to do so. Neither the Trustee nor the Managers' Trustee is responsible for monitoring or supervising the actions of any Enforcement Agent so appointed and they shall not be liable for any loss suffered or incurred by any person as a result of any default, fraud or negligence on the part of any such agent so appointed. Neither the Trustee nor the Managers' Trustee will be required to give any indemnity to the Enforcement Agent. The terms of the appointment of the Enforcement Agent shall provide that the Enforcement Agent will not be permitted to hold itself out to third parties as being entitled to incur liabilities on the part of the Trustee or the Managers' Trustee.

### **Charged Assets**

Noteholders are exposed to the market price of the Charged Assets. The Issuer may have to fund its payments by the sale of some or all of the Charged Assets at a market value. The market price of the Charged Assets will generally fluctuate with, among other things, the liquidity and volatility of the financial markets, general economic conditions, domestic and international political events, developments or trends in a particular industry and the financial condition of the Charged Assets Obligor or the Charged Assets Guarantor.

In addition, any event that causes the Charged Assets Obligor or the Charged Assets Guarantor not to make all or part of any payments on the Charged Assets, will result in corresponding reductions and delays in respect of interest and principal (if any) payable in respect of the Notes.

Noteholders will be subject to whatever redemption triggers are applicable to the Charged Assets as set out in the terms and conditions thereof. A redemption of the Charged Assets will result in the redemption of the Notes. Consequently, if at any time the Charged Assets become redeemable or repayable for whatever reason, the Issuer shall redeem each Note on the Charged Assets Call Redemption Date or Early Redemption Date, as the case may be.

The amount payable to a Noteholder in such circumstances will be such Note's *pro rata* share of the Charged Assets Redemption Amount (in the case of a Charged Assets Call) or each Note's *pro rata* share of the Available Proceeds on enforcement of the Security (in the case of a Charged Assets Event).

Although the terms and conditions of the Charged Assets provide for the possibility of the Charged Assets being redeemed at the option of the Charged Assets Obligor from 19 May 2027 onwards, the Charged Assets Obligor is then still under no obligation to exercise its option to redeem the Charged Assets. Accordingly, Noteholders should be aware that the Notes may not be redeemed despite a right to redeem the Charged Assets having arisen.

#### **Purchase, Exchange or Retirement of Notes: Tender Offers and Exchange Offers**

The terms of the Notes provide that in certain circumstances (as set out in Condition 7(g) (*Purchases*)), the Issuer may participate in a Charged Assets Obligor Tender Offer or a Charged Assets Obligor Exchange Offer (each as defined in Condition 7(g) (*Purchases*)) with respect to the Charged Assets. If, in such circumstances, the Charged Assets Obligor defaults in the performance of its payment obligations under the terms of any such Charged Assets Obligor Tender Offer or Charged Assets Obligor Exchange Offer, then the Issuer will not be able to satisfy its corresponding payment obligations to Noteholders in respect of any corresponding Issuer Tender Offer or Issuer Exchange Offer (each as defined in Condition 7(g) (*Purchases*)). Any failure by the Issuer to make a payment due in connection with any Issuer Tender Offer or Issuer Exchange Offer shall constitute a default in payment in respect of the Notes for purposes of Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*), leading to the Security for the Notes becoming enforceable. Accordingly, Noteholders must recognise that they will be exposed to the risk of default by the Charged Assets Obligor in respect of any Charged Assets Obligor Tender Offer or Charged Assets Obligor Exchange Offer, regardless of whether or not they participate in any corresponding Issuer Tender Offer or Issuer Exchange Offer.

#### **Transfer restrictions in respect of the Charged Assets**

The transfer of the Charged Assets is subject to certain restrictions, including but not limited to the restrictions set out in Charged Assets Condition 9 (*Transfer and sub-participation*) and Charged Assets Condition 10 (*Grants of security*). In particular, the Original Charged Assets can only be transferred to certain Qualifying Banks or a Permitted Non-Qualifying Noteholder (as set out more fully in the Information Memorandum for the Original Charged Assets appended to this Series Memorandum). The Charged Assets are not listed or admitted to trading on any exchange and have not been accepted for clearance through any clearing system. As a result of the foregoing, there will be no established trading market in the Charged Assets and the Charged Assets will be illiquid. The illiquidity of the Charged Assets may have a severely adverse effect on their market value meaning that on a realisation of the Charged Assets by the Trustee, the proceeds of sale received by the Trustee may be substantially lower than the aggregate nominal amount of the Notes. Therefore, following a realisation of the Charged Assets, Noteholders may receive significantly less than their initial investment in the Notes.

#### **Risks Related to the Trustee and/or the Agents**

##### **Trustee and/or Enforcement Agent indemnity and remuneration**

In certain circumstances, the Noteholders may be dependent on the Trustee and/or Enforcement Agent to take certain steps, actions or proceedings in respect of the Notes, in particular if the Security in respect of the Notes becomes enforceable under the Conditions. Prior to taking such steps, actions or proceedings the Trustee and/or Enforcement Agent may require to be indemnified and/or secured and/or prefunded to its satisfaction. If the Trustee and/or Enforcement Agent is not indemnified and/or secured and/or prefunded to its satisfaction, it may decide not to take such steps, actions or proceedings and such inaction will not constitute a breach by it of its obligations under the Trust Deed. Consequently, the Noteholders would have to either arrange for such indemnity and/or security and/or prefunding or accept the consequences of such inaction by the Trustee and/or Enforcement Agent. Noteholders should be prepared to bear the costs associated with any such indemnity and/or security and/or prefunding and/or the consequences of any such inaction by the Trustee and/or Enforcement Agent. Such inaction by the Trustee and/or Enforcement Agent will not entitle Noteholders to take action directly against the Issuer to pursue remedies for any breach by the Issuer of the Trust Deed or the Notes (although the events giving rise to the need for Trustee action might also permit the Noteholders to exercise certain rights directly under the Conditions).

So long as any Note is outstanding, the Issuer shall pay the Trustee and Agents remuneration for their services. Unless alternative arrangements are in place to finance such remuneration, such remuneration may reduce the amount payable to Noteholders.

##### **Replacement of the Trustee or any Agent**

If the Trustee or any Agent needs to be replaced, whether by reason of a Calculation Agent Bankruptcy Event (in the case of the Calculation Agent) or otherwise, such replacement may delay certain determinations and related payments and/or deliveries on the Notes and there is no guarantee that any replacement will be found. Any delay or failure to appoint such a replacement may have adverse consequences for the Noteholders.

## **Business relationships**

There is no limitation or restriction on any Manager or any of its affiliates with regard to acting as adviser (or acting in any other similar role) to other parties or persons or entering into, performing or enforcing its rights in respect of a broad range of transactions in various capacities for its own account and for the account of other persons from time to time in relation to its business. This, and other future activities of it and/or its affiliates, may give rise to conflicts of interest. These interests may conflict with the interests of the Noteholders, and the Noteholders may suffer a loss as a result.

The Issuer and/or the Trustee and/or the Managers' Trustee and/or each Manager and/or any of the Agents may have existing or future business relationships with the Charged Assets Obligor or the Charged Assets Guarantor (including, but not limited to, lending, depositary, risk management, advisory and banking relationships), and will pursue actions and take steps that it deems or they deem necessary or appropriate to protect their and/or its interests (in whatever capacity) arising therefrom (including, without limitation, any action which might constitute or give rise to a Charged Assets Call or Charged Assets Event) without regard to the consequences for a Noteholder.

The Issuer, the Trustee, the Managers' Trustee, each Manager and/or the Agents may deal in any derivatives linked to the obligations or shares of the Original Charged Assets and any other obligations of the Charged Assets Obligor or the Charged Assets Guarantor and may accept deposits from, make loans or otherwise extend credit to, and generally engage in any kind of commercial or investment banking or other business with the Charged Assets Obligor or the Charged Assets Guarantor and may act with respect to them in the same manner as it would have had had the Notes not been in issue, regardless of whether any such action might have an adverse effect on the Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor or the position of a Noteholder or otherwise.

## **General Risks**

### **Third Party Information**

The Issuer has only made very limited enquiries with regards to, and none of the Managers, the Trustee or the Managers' Trustee has verified or accepts any responsibility for, the accuracy and completeness of the information in this Series Memorandum regarding the Third Party Information. Prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquiries in respect of, the accuracy and completeness of the Third Party Information.

### **Exchange rates and exchange controls**

The Issuer will pay principal and interest on the Notes in EUR. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than EUR. These include the risk that exchange rates may significantly change (including changes due to a devaluation of EUR or a revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to EUR would decrease (i) the Investor's Currency equivalent yield on the Notes, (ii) the Investor's Currency equivalent value of the principal and interest payable on the Notes and (iii) the Investor's Currency equivalent market value of the Notes. Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less principal and/or interest than expected, or no principal and/or interest at all.

## DOCUMENTS INCORPORATED BY REFERENCE

This Series Memorandum should be read and construed in accordance with the Programme Memorandum which, except for the following sections, shall be deemed to be incorporated in, and form part of, this Series Memorandum:

- (i) Terms and Conditions of the Notes (pages 30 to 85 inclusive)
- (ii) the Charged Assets Sale Agreement (page 89);
- (iii) Description of the Charged Agreement (pages 91 to 92 inclusive); and
- (iv) Subscription and Sale (pages 96 to 99 inclusive).

The non-incorporated sections of the Programme Memorandum are either not relevant for investors in the Notes or are covered elsewhere in this Series Memorandum.

A copy of the Programme Memorandum is available for inspection by physical means at the registered office of the Issuer.

As at the Issue Date the Programme Memorandum is also available for viewing on the website of the Irish Stock Exchange at [http://www.ise.ie/debt\\_documents/Base%20Prospectus\\_dc8ae7e5-627b-417e-b8c5-581583534461.PDF](http://www.ise.ie/debt_documents/Base%20Prospectus_dc8ae7e5-627b-417e-b8c5-581583534461.PDF).

The audited financial statements of the Issuer for the financial year ending on 31 December 2014 are incorporated into and form part of this Series Memorandum, have been filed with the Irish Stock Exchange and the Central Bank of Ireland and are available for viewing at: [http://www.elm-bv.nl/documenten/33286267/ELM%20B.V.%20-%20Annual%20Accounts%202014%20\(unsigned\).pdf](http://www.elm-bv.nl/documenten/33286267/ELM%20B.V.%20-%20Annual%20Accounts%202014%20(unsigned).pdf)

The audited financial statements of the Issuer for the financial year ending on 31 December 2015 are incorporated into and form part of this Series Memorandum, have been filed with the Irish Stock Exchange and the Central Bank of Ireland and are available for viewing at: [http://www.elm-bv.nl/documenten/33286267/ELM%20B.V.%20-%20annual%20accounts%202015%20\(unsigned\).pdf](http://www.elm-bv.nl/documenten/33286267/ELM%20B.V.%20-%20annual%20accounts%202015%20(unsigned).pdf)

Any references to websites in this Series Memorandum are for information purposes only and such websites shall not form part of this document.



## CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions applicable to the Notes. The full text of these terms and conditions shall be incorporated by reference into each Global Registered Certificate and each Registered Certificate (if issued).*

The Notes are constituted, governed and secured by the constituting instrument relating to the Notes dated the Issue Date entered into between the Issuer, the Custodian, the Issue Agent, the Calculation Agent, the Principal Paying Agent, the Registrar, the Trustee and the Managers' Trustee (the "**Constituting Instrument**").

The Constituting Instrument constitutes and secures the Notes by the creation of a trust deed (the "**Trust Deed**") on the terms (as amended, modified and/or supplemented by the Constituting Instrument) set out in the master trust terms as specified in the Constituting Instrument (the "**Master Trust Terms**").

These Conditions include summaries of, and are subject to, the detailed provisions of the Master Trust Terms, which includes the form of the Global Registered Certificate referred to below.

By executing the Constituting Instrument, the Issuer has entered into an agency agreement (the "**Agency Agreement**") in relation to the Notes with the Principal Paying Agent, the Registrar, the Issue Agent, the Calculation Agent and the Trustee on the terms (save as amended, modified and/or supplemented by the Constituting Instrument) set out in the master agency terms as specified in the Constituting Instrument.

By executing the Constituting Instrument, the Issuer has entered into a custody agreement (the "**Custody Agreement**") in relation to the Notes with the Custodian and the Trustee on the terms (save as amended, modified and/or supplemented by the Constituting Instrument) set out in the master custody terms as specified in the Constituting Instrument.

The Issuer and the Managers have entered into a syndication agreement dated 23 September 2016 with respect to the Notes (the "**Syndication Agreement**").

The Issuer, the Charged Assets Obligor and the Charged Assets Guarantor have entered into a purchase agreement dated 23 September 2016 (the "**Purchase Agreement**") in respect of the purchase by the Issuer of the EUR 600,000,000 Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes of the Charged Assets Obligor (the "**Original Charged Assets**") guaranteed on a subordinated basis by the Charged Assets Guarantor.

Copies of the Constituting Instrument and the relevant Series Documents as defined in and constituted by the Constituting Instrument, the Syndication Agreement, and the Purchase Agreement are available for inspection, so long as any of the Notes remain outstanding, during usual business hours at the registered office of the Issuer and the principal office of the Trustee and at the Specified Offices of the Principal Paying Agent and the Registrar.

The Noteholders are entitled to the benefit of, are bound by and are deemed to have notice of all the provisions of the Master Trust Terms (as amended, modified and/or supplemented by the Constituting Instrument) and are deemed to have notice of those provisions applicable to them in the Custody Agreement, the Agency Agreement and the Purchase Agreement.

As used in the Conditions, "**Tranche**" means Notes of the Series that are issued on the same date and that are identical in all respects.

### 1. **Definitions**

#### (a) **Definitions**

All capitalised terms that are not defined in these Conditions will have the meanings given to them in the Constituting Instrument and the Series Documents constituted thereby in addition, the following expressions have the following meanings:

"**Affiliate**" means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person or any entity, directly or indirectly, under common control with that person. For this purpose "**control**" means ownership of a majority of the voting power of the entity or person.

"**Agents**" means the Principal Paying Agent, the Registrar, the Issue Agent, the Custodian, the Calculation Agent or any of them and shall include such further or other Agent or Agents as may be appointed from time to time under the Agency Agreement or the Custody Agreement, as the case may be.

**“Authorised Denomination”** has the meaning given to it in Condition 2 (*Form, Authorised Denomination and Title*).

**“Available Proceeds”** means, with respect to an Enforcement Event, as of a particular day:

- (i) any amounts realised by the Trustee (or by the Enforcement Agent and paid to the Trustee) or any receiver on enforcement of the Security and all other cash sums available to the Trustee derived from the Mortgaged Property; less
- (ii) any cash sums which have already been applied by the Trustee pursuant to Condition 14(a) (*Application of Available Proceeds of Enforcement of Security*) on any Trustee Application Date.

**“Bank”** has the meaning given to it in Condition 9(a) (*Payments of Principal and Interest*).

**“Bankruptcy Credit Event”** means the occurrence of a Credit Event as a result of Bankruptcy, and with each of “Credit Event” and “Bankruptcy” having the meaning given to them in the ISDA Credit Derivatives Definitions.

**“Business Day”** means a Reference Business Day.

**“Calculation Agent”** means The Bank of New York Mellon acting through its London Branch and any successor calculation agent appointed by the Issuer in accordance with the provisions of the Agency Agreement.

**“Calculation Agent Bankruptcy Event”** means (i) the Calculation Agent (A) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (B) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (C) makes a general assignment, arrangement, scheme or composition with or for the benefit of its creditors generally, or such a general assignment, arrangement, scheme or composition becomes effective; (D) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other similar relief under any bankruptcy or insolvency law or other law affecting creditors’ rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition either results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation, or is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (E) has a resolution passed for its winding up or liquidation (other than pursuant to a consolidation, amalgamation or merger); (F) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (G) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; or (H) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i)(A) to (G) and/or (ii) a Credit Derivatives Determinations Committee has Resolved that a Bankruptcy Credit Event has occurred in respect of the Calculation Agent, or any analogous determination has been made by a committee or person under any definitions that replace the ISDA Credit Derivatives Definitions as the market standard terms for credit derivatives or under any amendment or supplement to the ISDA Credit Derivatives Definitions.

**“Charged Assets”** means the Issuer’s rights, title and/or interests in and to the Original Charged Assets (as defined above but excluding any Original Charged Assets that the Issuer may have sold or otherwise disposed of as permitted by these Conditions) and shall include the rights, title and/or interests in and to (i) any further Charged Assets acquired by the Issuer in connection with any further issue of notes that are to be consolidated and form a single series with the Notes and (ii) any asset or property (which may, for the avoidance of doubt, include the benefit of contractual rights) into which any of the Charged Assets are converted or exchanged, or for which the Charged Assets are substituted, or that is issued to the Issuer (or any relevant person holding such Charged Assets for or on behalf of the Issuer) by virtue of its holding thereof.

**“Charged Assets Call”** means notice is given by the Charged Assets Obligor that the Charged Assets are called for redemption or repayment in whole in accordance with the provisions of Charged

Assets Condition 5.2 (*Optional redemption*) or Charged Assets Condition 5.3 (*Special Early Redemption*).

**“Charged Assets Call Notification Date”** has the meaning given to it in Condition 7(b)(i) (*Redemption Following a Charged Assets Call*).

**“Charged Assets Call Redemption Amount”** has the meaning given to it in Condition 7(b) (*Redemption Following a Charged Assets Call*).

**“Charged Assets Call Redemption Date”** has the meaning given to it in Condition 7(b) (*Redemption Following a Charged Assets Call*).

**“Charged Assets Conditions”** means, with respect to any Charged Assets, the terms and conditions of such Charged Assets as at the Charged Assets Issue Date. *See the Information Memorandum in respect of the Original Charged Assets that is appended to this Series Memorandum and which contains the Charged Assets Conditions for such Original Charged Assets.*

**“Charged Assets Documentation”** means the Information Memorandum dated 23 September 2016 in respect of the Original Charged Assets that was prepared by the Charged Assets Obligor and provided to the Issuer pursuant to the Purchase Agreement for the purpose of the Notes.

**“Charged Assets Event”** means if at any time any Charged Assets become repayable for any reason other than a Charged Assets Call, including (without limitation) in accordance with the provisions of Charged Assets Condition 12 (*Events of default and acceleration*).

**“Charged Assets Event Determination Date”** has the meaning given to it in Condition 7(c)(i) (*Redemption Following a Charged Assets Event*).

**“Charged Assets Guarantor”** means Swiss Life Holding AG, or any successor thereto that has an obligation or duty to the Issuer (or any relevant person holding such Original Charged Assets for or on behalf of the Issuer) in respect of the Original Charged Assets in its capacity as guarantor pursuant to the terms of such Original Charged Assets.

**“Charged Assets Interest Amount”** means any interest amount receivable by, or on behalf of, the Issuer in respect of the Charged Assets in accordance with the Charged Assets Conditions, including but not limited to any interest amounts so receivable under Charged Assets Condition 3.1 (*Fixed Rate of Interest*) and Charged Assets Condition 3.2 (*Floating Rate of Interest*). For the avoidance of doubt, (i) any interest deferred pursuant to Charged Assets Condition 4.1 (*Optional Deferral of Interest Payments*) or Charged Assets Condition 4.2 (*Solvency Deferral of Interest*) shall not constitute a Charged Assets Interest Amount until the scheduled day of payment of the relevant Deferred Interest (as defined in Charged Assets Condition 4.4 (*Satisfaction of Deferred Interest*)) following such deferral; and (ii) the payment of any Deferred Interest in respect of the Charged Assets shall constitute a Charged Assets Interest Amount.

**“Charged Assets Interest Payment Date”** means any date on which a Charged Assets Interest Amount is received by, or on behalf of, the Issuer pursuant to the Charged Assets Conditions. For the avoidance of doubt, if interest is payable by the Charged Assets Obligor on any day under the Charged Assets Conditions but such interest is not received (whether because such interest is deferred pursuant to Charged Assets Condition 4.1 (*Optional Deferral of Interest Payments*), Charged Assets Condition 4.2 (*Solvency Deferral of Interest*), or otherwise) by, or on behalf of, the Issuer, such day shall not constitute a Charged Assets Interest Payment Date.

**“Charged Assets Issue Date”** means, with respect to any Charged Assets, the “Issue Date” as such term is defined in the Charged Assets Conditions for such Charged Assets.

**“Charged Assets Obligor”** means Swiss Life AG, or any successor thereto that has an obligation or duty to the Issuer (or any relevant person holding such Original Charged Assets for or on behalf of the Issuer) in respect of the Original Charged Assets in its capacity as issuer pursuant to the terms of such Original Charged Assets.

**“Charged Assets Obligor Exchange Offer”** has the meaning given to it in Condition 7(g) (*Purchases*).

**“Charged Assets Obligor Tender Offer”** has the meaning given to it in Condition 7(g) (*Purchases*).

**“Charged Assets Rate of Interest”** means:

- (i) in respect of the Initial Interest Period, a fixed rate of 4.50 per cent. per annum being equivalent to the rate of interest as set out under Charged Assets Condition 3.1 (*Fixed Rate of Interest*); and
- (ii) thereafter, a floating rate of interest determined by the Calculation Agent in respect of each relevant Interest Accrual Period as of 11.00 a.m. (Brussels time) on the second TARGET Settlement Day prior to the commencement of the relevant Interest Accrual Period (each an **“Interest Determination Date”**) by reference to the euro interbank offered rate administered by the European Money Markets Institute for three-month euro deposits (**“3 months EURIBOR”**) and displayed on Reuters page EURIBOR01 (or any replacement page on that service that displays that rate) (the **“Screen Rate”**), plus 4.10 per cent. plus one per cent. per annum, being equivalent to the floating rate of interest as determined pursuant to Charged Assets Condition 3.2 (*Floating Rate of Interest*),

provided that:

- (A) for the purpose of a floating rate of interest:
  - (I) if no Screen Rate is available on an Interest Determination Date for 3 months EURIBOR, the applicable 3 months EURIBOR shall be the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between (x) the applicable Screen Rate for the longest period (for which the Screen Rate is available) which is less than 3 months; and (y) the applicable Screen Rate for the shortest period (for which the Screen Rate is available) which exceeds 3 months, each as of the relevant Interest Determination Date;
  - (II) if no Screen Rate is available for 3 months EURIBOR and it is not possible to calculate an interpolated Screen Rate in accordance with (I) above the applicable rate for 3 months EURIBOR shall be determined by the Calculation Agent as the reference bank rate calculated in accordance with the Charged Assets Conditions for 3 months; and
  - (III) if no Screen Rate is available for 3 months EURIBOR and it is not possible to calculate an interpolated Screen Rate in accordance with (I) above and no or only one reference bank is available to provide the reference bank rate in accordance with the Charged Assets Conditions, the applicable rate shall be the most recent applicable Screen Rate; and
- (B) for the purpose of any Interest Amount, if a Tax Deduction is required by law to be made by the Charged Assets Obligor (in respect of any payment to the Issuer of interest in respect of the Charged Assets) or the Charged Assets Guarantor (in respect of any payment to the Issuer under the Guarantee) for Swiss Withholding Tax, and it would be unlawful for the Charged Assets Obligor or the Charged Assets Guarantor, as applicable, to (I) make such payment free and clear of such Swiss Withholding Tax, or (II) pay such additional amount where required to ensure that the Issuer as a holder of the Charged Assets would have received an amount equal to that which it would have received if no Tax Deduction had been required, such rate of interest will be adjusted by the Calculation Agent to reflect any adjustment made in accordance with Charged Assets Condition 3.3 (*Recalculation of Interest*) and the adjusted rate of interest will be the quotient of (x) the interest rate which would have applied to that interest payment affected by such Tax Deduction, and (y) one minus the rate at which such Tax Deduction is required to be made under Swiss domestic tax law and/or applicable double taxation treaties (such rate for these purposes to be expressed as a fraction of one). For the purposes hereof, “Guarantee”, “Swiss Withholding Tax” and “Tax Deduction” shall have the meanings given to them in the Charged Assets Conditions.

**“Charged Assets Redemption Amount”** means any amount receivable upon redemption or repayment of the Charged Assets (but excluding any amount included in any Charged Assets Interest Amount) once the Charged Assets have become redeemable or repayable in accordance with the provisions of Charged Assets Condition 5.2 (*Optional redemption*) or Charged Assets Condition 5.3 (*Special Early Redemption*).

**“Charged Assets Tax Event”** has the meaning given to it in Condition 7(d)(i) (*Redemption for Taxation Reasons*).

**“Clearstream, Luxembourg”** means Clearstream Banking S.A., or any successor entity thereto.

“**Common Reporting Standard**” means any automatic exchange of information regime arising from or in connection with the OECD Common Reporting Standard, and any regulations made thereunder or associated therewith, and any interpretations or guidance thereof.

“**Conditions**” means, in respect of the Notes, these terms and conditions. References to a particularly numbered Condition shall be construed as a reference to the Condition so numbered in these terms and conditions.

“**Credit Derivatives Determinations Committee**” has the meaning given to it in the ISDA Credit Derivatives Definitions.

“**Custodian**” means The Bank of New York Mellon acting through its London Branch and any successor custodian appointed by the Issuer (with the prior approval of the Trustee) in accordance with the provisions of the Custody Agreement.

“**Default Interest**” has the meaning given to it in Condition 6(b) (*Accrual of Interest*).

“**Early Redemption Amount**” means, in respect of each Note outstanding on the relevant Early Redemption Date, an amount in EUR equal to such Note’s *pro rata* share of the Available Proceeds.

“**Early Redemption Commencement Date**” has the meaning given to it in Condition 7 (*Redemption and Purchase*).

“**Early Redemption Date**” means the thirty-fifth Reference Business Day following the relevant Early Redemption Commencement Date.

“**Early Redemption Notice**” means an irrevocable notice from the Issuer to Noteholders in accordance with Condition 21 (*Notices*) (or, in the case of Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*), from the Trustee to the Issuer) that specifies that the Notes are to be redeemed pursuant to one of Conditions 7(c) (*Redemption Following a Charged Assets Event*) to 7(f) (*Redemption Following the Occurrence of an Event of Default*). An Early Redemption Notice given pursuant to Condition 7 (*Redemption and Purchase*) must contain a description in reasonable detail of the facts relevant to the determination that the Notes are to be redeemed and, in the case of an Early Redemption Notice given by the Issuer, must specify which of Conditions 7(c) (*Redemption Following a Charged Assets Event*) to 7(f) (*Redemption Following the Occurrence of an Event of Default*), as the case may be, are applicable. A copy of any Early Redemption Notice shall also be sent by the Issuer, or the Trustee, as the case may be, to all Transaction Parties, save that any failure to deliver a copy shall not invalidate the relevant Early Redemption Notice.

“**Enforcement Agent**” means any entity appointed by the Issuer in accordance with the Trust Deed (following consultation with the Trustee and the Managers’ Trustee) to act as enforcement agent of the Issuer.

“**Enforcement Event**” means the occurrence of any of the events specified in Condition 12(b) (*Enforcement of Security*).

“**Enforcement Notice**” has the meaning given to it in Condition 12(a) (*Enforcement Notice*).

“**Equivalent Obligations**” means any Obligations that are issued in fungible form and that share common terms and conditions.

“**Euroclear**” means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or any successor entity thereto.

“**Event of Default**” has the meaning given to it in Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*).

“**Extraordinary Resolution**” has the meaning ascribed to it in the Master Trust Terms.

“**FATCA**” means (i) sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986; (ii) any similar or successor legislation to sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986; (iii) any agreement described in section 1471(b) of the U.S. Internal Revenue Code of 1986; (iv) any regulations or guidance pursuant to any of the foregoing; (v) any official interpretations of any of the

foregoing; (vi) any intergovernmental agreement to facilitate the implementation of any of the foregoing (an “**IGA**”); or (vii) any law implementing an IGA.

“**FATCA Withholding Tax**” means any withholding imposed on any payments in respect of the Notes pursuant to FATCA.

An “**Illegality Event**” shall occur if, due to the adoption of, or any change in, any applicable law after the Issue Date, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful for the Issuer (i) to perform any absolute or contingent obligation to make a payment or delivery in respect of the Notes or any agreement entered into in connection with the Notes, (ii) to hold any Charged Assets or to receive a payment or delivery in respect of any Charged Assets or (iii) to comply with any other material provision of any agreement entered into in connection with the Notes.

“**Initial Interest Period**” means the period from (and including) the Interest Commencement Date to (but excluding) the Interest Reset Date.

“**interest**”, in the context of amounts payable in respect of the Notes, shall be deemed to include all Interest Amounts and all other amounts payable pursuant to Condition 6 (*Interest*).

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

“**Interest Amount**” means, in respect of a Note and an Interest Payment Date, such Note’s *pro rata* share of an amount equal to any Charged Assets Interest Amount actually received by, or on behalf of, the Issuer corresponding to the relevant Interest Accrual Period relating to such Interest Payment Date as determined by the Calculation Agent.

“**Interest Commencement Date**” means the Charged Assets Issue Date.

“**Interest Payment Date**” means the Business Day immediately following a Charged Assets Interest Payment Date.

“**Interest Period Date**” means:

- (i) in respect of the Initial Interest Period, 19 May in each year from, and including, 19 May 2017 to, and including, the Interest Reset Date, which for the avoidance of doubt shall not be subject to any adjustment in accordance with a business day convention; and
- (ii) following the Interest Reset Date, 19 February, 19 May, 19 August and 19 November in each year from, and including, 19 August 2027, subject to adjustment in accordance with the Modified Following Business Day Convention.

“**Interest Reset Date**” means the Charged Assets Interest Payment Date falling on or around 19 May 2027.

“**ISDA**” means the International Swaps and Derivatives Association, Inc.

“**ISDA Credit Derivatives Definitions**” means the 2014 ISDA Credit Derivatives Definitions, as published by ISDA.

“**Issue Agent**” means The Bank of New York Mellon, acting through its London Branch.

“**Issue Date**” means 27 September 2016.

“**Issuer**” means ELM B.V..

“**Issuer Exchange Offer**” has the meaning given to it in Condition 7(g) (*Purchases*).

“**Issuer Tender Offer**” has the meaning given to it in Condition 7(g) (*Purchases*).

**“Manager”** means each of UBS Limited, Banca IMI S.p.A., Citigroup Global Markets Limited, J.P. Morgan Securities plc, ABN AMRO Bank N.V. and Bayerische Landesbank.

**“Managers’ Available Proceeds”** means all monies received by the Managers’ Trustee (or any receiver appointed by it) in connection with the realisation or enforcement of the Managers’ Security.

**“Manager’s Claim”** has the meaning given to it in Condition 4(b) (*Managers’ Security*).

**“Managers’ Secured Parties”** means the Managers, the Managers’ Trustee and the Enforcement Agent (to the extent that it has taken any action in connection with the Managers’ Security).

**“Managers’ Secured Property”** means the assets and contractual rights in respect of the agreements comprising the property over which the Managers’ Security are secured pursuant to the Trust Deed, as described in Condition 4(b) (*Managers’ Security*).

**“Managers’ Security”** means the security constituted by the Trust Deed in respect of the Notes as described in sub-paragraphs (i), (ii) and (iii) of Condition 4(b) (*Managers’ Security*).

**“Managers’ Security Obligations”** means any obligation of the Issuer to make payment to a Manager in respect of a Manager’s Claim under the Syndication Agreement or to the Managers’ Trustee or the Enforcement Agent pursuant to Condition 14(b) (*Application of Managers’ Available Proceeds of Enforcement of Managers’ Security*).

**“Managers’ Trustee”** means The Law Debenture Corporation p.l.c. as trustee in respect of the Managers’ Security.

**“Managers’ Trustee Application Date”** means each date on which the Managers’ Trustee determines to apply the Managers’ Available Proceeds in accordance with these Conditions and the provisions of the Trust Deed.

**“Mortgaged Property”** means:

- (i) the Charged Assets and all property, assets and sums derived therefrom;
- (ii) all cash (if any) held by the Issuer in respect of the Notes;
- (iii) the rights and interest of the Issuer under the Purchase Agreement and the rights, title and interest of the Issuer in all property, assets and sums derived from the Purchase Agreement, but only to the extent such rights, title and interests relate to the Issuer’s right to acquire the Original Charged Assets;
- (iv) the rights and interest of the Issuer under the Agency Agreement and the rights, title and interest of the Issuer in all property, assets and sums derived from the Agency Agreement;
- (v) the rights and interest of the Issuer under the Custody Agreement and the rights, title and interest of the Issuer in all property, assets and sums derived from the Custody Agreement; and
- (vi) the rights, title and interest of the Issuer in any other assets, property, income, rights and/or agreements of the Issuer (other than the Issuer’s share capital) from time to time charged or assigned or otherwise made subject to the Security created by the Issuer in favour of the Trustee pursuant to the Trust Deed, as the case may be,

in each case securing the Secured Payment Obligations and includes, where the context permits, any part of that Mortgaged Property.

**“Note Tax Event”** has the meaning given to it in Condition 7(d)(i) (*Redemption for Taxation Reasons*).

**“Noteholder”** means the registered holder of a Note.

**“Notes”** means the secured notes issued in accordance with these Conditions.

**“Obligation”** means any derivative transactions (including, without limitation, currency exchange and currency hedging arrangements, swap transactions (including, without limitation, total return, default and funded default swaps) options or futures transactions buy-sell back transactions, sale and repurchase agreements) or any obligation of the Issuer for the payment or repayment of borrowed money, which shall include, without limitation, any Note and any other obligation that is in the form of, or represented by, a bond, note, certificated debt security or other debt security and any obligation that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement.

**“Original Charged Assets”** has the meaning given to it in the recitals to these Conditions.

**“principal”** shall be deemed to include any premium payable in respect of the Notes, any Early Redemption Amount and all other amounts in the nature of principal payable pursuant to Conditions 7(b) (*Redemption Following a Charged Assets Call*) to Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*).

**“Principal Paying Agent”** means The Bank of New York Mellon acting through its London Branch and any successor or other principal paying agent appointed by the Issuer (with the prior written approval of the Trustee) in accordance with the provisions of the Agency Agreement.

**“Programme”** means the Issuer’s programme for the issuance of secured notes or alternative investments.

**“Prospectus Directive”** means Directive 2003/71/EC and amendments thereto, including Directive 2010/73/EU.

**“Purchase Agreement”** has the meaning given to it in the recitals to these Conditions.

**“Reference Business Day”** means a (i) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London and Zurich and (ii) a TARGET Settlement Day.

**“Registrar”** means The Bank of New York Mellon (Luxembourg) S.A. and any successor or other registrar appointed by the Issuer (with the prior approval of the Trustee) in accordance with the provisions of the Agency Agreement.

**“Required Ratings”** has the meaning given to it in Condition 10(c) (*Replacement of Custodian and Principal Paying Agent upon a Ratings Downgrade*).

**“Residual Amount”** means, with respect to an application of Available Proceeds or Managers’ Available Proceeds, as applicable, all remaining proceeds (if any) after the application of the Available Proceeds or Managers’ Available Proceeds, as applicable, to satisfy the payments set out in Condition 14(a)(i) to (iii) (*Application of Available Proceeds of Enforcement of Security*) or in Condition 14(b)(i) to (iii) (*Application of Managers’ Available Proceeds of Enforcement of Managers’ Security*), as applicable.

**“Resolved”** has the meaning given to it in the ISDA Credit Derivatives Definitions.

**“Secured Creditor”** means each person that is entitled to the benefit of Secured Payment Obligations.

**“Secured Payment Obligations”** means the payment obligations of the Issuer under the Trust Deed and each Note, together with any obligation of the Issuer to make payment to any Agent and any Enforcement Agent pursuant to Condition 14(a) (*Application of Available Proceeds of Enforcement of Security*), as the case may be.

**“Security”** means the security constituted by the Trust Deed in respect of the Notes described in Condition 4(a) (*Security*).

**“Series Minimum Profit”** means, in relation to the Notes, an amount which, together with any other amounts (if any) retained by the Issuer in respect of other series, is at least equal to the annual minimum taxable profit to be required to be retained by the Issuer pursuant to the letter dated 4 July 2005 by Simmons & Simmons issued on behalf of the Issuer to the Dutch tax authorities, Tax Office Amsterdam / Amsterdam office, signed by Mr. L.S. Qua for approval on 22 July 2005 (the **“Tax Agreement”**).



**“Specified Currency”** means EUR, being the currency in which the Notes are denominated.

**“Specified Office”** means, in relation to an Agent, the office identified with its name in these Conditions or any other office approved by the Trustee and notified to the Noteholders.

**“Standard & Poor’s”** means Standard & Poor’s Credit Market Services Europe Limited, established in the European Union and registered under Regulation (EC) 1060/2009 on credit rating agencies.

**“Syndication Agreement”** has the meaning given to it in the recitals to these Conditions.

**“TARGET Settlement Day”** means any day on which the TARGET System is open.

**“TARGET System”** means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) system or any successor thereto.

**“Tax Event”** means a Note Tax Event and/or a Charged Assets Tax Event.

**“Transaction Document”** means, in respect of the Notes, each of the Constituting Instrument (including any agreement constituted or created by the Constituting Instrument), the Syndication Agreement and the Purchase Agreement.

**“Transaction Party”** means each party to a Transaction Document other than the Issuer.

**“Trustee”** means The Law Debenture Corporation p.l.c. as initial trustee, but which definition shall include all persons for the time being acting as the trustee or trustees under the Trust Deed.

**“Trustee Application Date”** means each date on which the Trustee determines to apply the Available Proceeds in accordance with these Conditions and the provisions of the Trust Deed.

(b) **Interpretation**

References to any Transaction Document are to those documents as they may be subsequently amended, supplemented or replaced in respect of the Notes as permitted by these Conditions and the Trust Deed with respect to the Notes.

2. **Form, Authorised Denomination and Title**

The Notes issued pursuant to these Conditions constitute a series (**“Series”**) issued pursuant to the Programme.

The Notes are issued in registered form (**“Registered Notes”**) and may have an authorised denomination of not less than EUR 100,000 or integral multiples of EUR 1,000 in excess thereof (the **“Authorised Denomination”**). The Registered Notes will be represented by a global registered certificate (the **“Global Registered Certificate”**) which will be deposited with and registered in the name of a Common Depository (or its nominee) on behalf of Euroclear and Clearstream, Luxembourg. The principal amount of the Notes represented by the Global Registered Certificate will be specified on the face of the Global Registered Certificate. Subject to the procedures discussed below, title to the Registered Notes passes by registration in the register which the Issuer shall procure to be kept by the Registrar (the **“Register”**).

Payments of principal or interest (if any) in respect of the Global Registered Certificate will be made through Euroclear or Clearstream, Luxembourg against in the case of payments of principal only presentation or surrender, as the case may be, of the Global Registered Certificate. The Global Registered Certificate will be exchangeable in whole but not in part, for one or more definitive certificates (each a **“Registered Certificate”**) at the option of the Trustee or of the holder (or all of the holders acting together, if more than one) (a) if the Notes become due and payable as the result of an Event of Default in accordance with Condition 7(f) and payment is not made on due presentation of the Global Registered Certificate for payment or, (b) if either Euroclear or Clearstream, Luxembourg is closed for business for a continuous period of 14 days (otherwise than by reason of holiday, statutory or otherwise) or announces an intention permanently to cease business or to cease to make its book-entry system available for settlement of beneficial interests in such Global Registered Certificate or does in fact do either of such things and no alternative clearing system satisfactory to the Trustee and the Registrar (after consultation with the Issuer) is available.

For so long as the Notes are represented by a Global Registered Certificate and the Global Registered Certificate is held on behalf of Euroclear and Clearstream, Luxembourg, beneficial interests in Notes will only

be transferable in accordance with the rules and procedures for the time being of Euroclear and Clearstream, Luxembourg and each person who is for the time being shown in the records of Euroclear or Clearstream, Luxembourg (other than each such clearing system to the extent that it is an account holder with the other clearing system for the purpose of operating the “bridge” between the clearing systems) as the holder of a particular principal amount of the Notes (in which regard (a) any certificate or other document issued by Euroclear or Clearstream, Luxembourg or (b) a print-out generated by accessing the EUCLID or CreationOnline systems (or any successor systems), as to the principal amount of the Notes standing to the account of any person (an “**Accountholder**”) shall be conclusive and binding for all purposes) shall be treated by the Issuer, the Trustee and the Agents as the holder of such principal amount of the Notes (and the expression “Noteholders” and references to “holding of Notes” and to “holder of the Notes” shall be construed accordingly) for all purposes other than the entitlement to receive payments of principal, interest or any amounts due on redemption in respect of the Global Registered Certificate.

*Each Accountholder must look solely to its Clearing System for such Accountholder’s share of each payment or distribution of any other entitlement made by the Issuer to the registered holder of the Registered Notes represented by the Global Registered Certificate and in relation to all other rights arising under the Global Registered Certificate. The extent to which, and the manner in which, Accountholders may exercise any rights arising under the Global Registered Certificate will be determined by the respective rules and procedures of their Clearing System. Accountholders shall have no claim directly against the Issuer, the Trustee or any other person (other than their Clearing System) in respect of payments or distributions of other entitlements due under the Global Registered Certificate which are made by the Issuer to the registered holder of the Registered Notes represented by the Global Registered Certificate and such obligations of the Issuer shall be discharged thereby.*

Registered Notes represented by a Registered Certificate may be transferred in whole or in part in an Authorised Denomination or an integral multiple thereof upon the surrender of the Registered Certificate representing such Registered Notes, together with the form of transfer endorsed on it duly completed and executed, at the specified office of the Registrar. In the case of such a transfer, or a transfer of part only of a Registered Certificate, new Registered Certificates in the relevant amounts will be issued to the transferor and the transferee.

Each new Registered Certificate to be issued upon the transfer of Registered Notes will, within three business days (in the place of the specified office of the Registrar to whom the form of transfer shall have been delivered) of receipt of such form of transfer, be available for delivery at the specified office of the Registrar stipulated in the form of transfer, or be mailed at the risk of the holder entitled to the Registered Certificate to such address as may be specified in such form of transfer.

Exchange of Registered Certificates on transfer will be effected without charge by or on behalf of the Issuer or the Registrar but upon payment (or the giving of such indemnity as the Registrar may require in respect thereof) of any tax or other governmental charges which may be imposed in relation to it.

No Noteholder may require the transfer of a Registered Note to be registered during the period of 15 days ending on the due date for any payment of principal, interest or any amounts due upon redemption of such Note.

### 3. **Constitution, Status and the Charged Assets**

#### (a) **Constitution and Status of Notes**

The Notes are constituted and secured by the Trust Deed. The Notes are secured, limited recourse obligations of the Issuer, at all times ranking *pari passu* and without any preference among themselves, secured in the manner described in Condition 4 (*Security*) and recourse in respect of which is limited in the manner described in Conditions 14 (*Application of Available Proceeds or Managers’ Available Proceeds*), 15 (*Enforcement of Rights or Security*) and 16(a) (*General Limited Recourse*).

#### (b) **Original Charged Assets**

In connection with the issue of the Notes, and pursuant to the Purchase Agreement, the Issuer will acquire rights, title and/or interest in and to the Original Charged Assets. Security will be granted by the Issuer over the Original Charged Assets in the manner set out in Condition 4 (*Security*). The Original Charged Assets will be held by or on behalf of the Issuer subject to the provisions of Charged Assets Condition 9 (*Transfer and sub-participation*) and Charged Assets Condition 10 (*Grants of security*).

(c) **Payments in respect of the Notes linked to the Original Charged Assets**

Payments of principal and interest in respect of the Notes are linked to payments of principal and interest in respect of the Original Charged Assets. Any event that permits or requires the Charged Assets Obligor not to make all or part of any scheduled payment of interest or principal in respect of the Original Charged Assets, or to delay any such scheduled interest or principal payments, will result in corresponding reductions or delays to the interest and/or principal payable in respect of the Notes.

4. **Security**

(a) **Security**

The Secured Payment Obligations are secured in favour of the Trustee for the benefit of itself and the other Secured Creditors, pursuant to the Trust Deed, by:

- (i) a first fixed charge over the Charged Assets and all property, assets and sums derived therefrom (from time to time);
- (ii) an assignment by way of security of all the Issuer's rights, title and interest attaching or relating to the Charged Assets and all property, sums or assets derived therefrom;
- (iii) an assignment by way of security of the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets;
- (iv) a first fixed charge over all proceeds of, income from, and sums arising from enforcement of any claim under the Purchase Agreement, but only to the extent such claim relates to the Issuer's right to acquire the Original Charged Assets;
- (v) an assignment by way of security of the Issuer's rights, title and interest against the Custodian, to the extent that they relate to the Charged Assets and/or the Notes;
- (vi) an assignment by way of security of the Issuer's rights, title and interest under the Agency Agreement, to the extent they relate to the Charged Assets and/or Notes;
- (vii) an assignment by way of security of the Issuer's rights, title and interest under the Custody Agreement, to the extent that they relate to any assets held by the Custodian in respect of the Notes;
- (viii) an assignment by way of security over the Issuer's rights, title and interest under the Trust Deed, to the extent they relate to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets of the Issuer referred to in paragraphs (i) to (vii) above; and
- (ix) a first fixed charge over all sums held or received by the Principal Paying Agent, the Custodian and/or the Enforcement Agent to meet payments due in respect of any Secured Payment Obligation.

Certain of the assets being the subject of the Security shall be released automatically, without the need for any notice or other formalities, to the extent required for the Issuer to be able to duly make any payment or delivery in respect of the Notes and/or the other Transaction Documents which is due and payable or deliverable, or in connection with the purchase of Notes or as otherwise provided for under these Conditions or the relevant Transaction Documents.

(b) **Managers' Security**

Pursuant to the Trust Deed, the Managers' Security Obligations are secured in favour of the Managers' Trustee for the benefit of itself, the Managers and the Enforcement Agent by:

- (i) an assignment by way of security of the Issuer's rights, title and interest under the Purchase Agreement and all sums and assets derived therefrom, but excluding the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets;

- (ii) a first fixed charge over the proceeds of, income from, and sums arising from, the enforcement of any claim under the Purchase Agreement, except for any claim of the Issuer in relation to its rights, title and interest to acquire the Original Charged Assets; and
- (iii) an assignment by way of security of the Issuer's rights, title and interest under the Trust Deed to the extent they relate to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets referred to in paragraphs (i) and (ii) above.

The Managers' Security is granted as continuing security in respect of (i) any claim a Manager may have (a "**Manager's Claim**") against the Issuer under the Syndication Agreement arising from any representation, warranty, covenant or agreement given therein by the Issuer regarding the Charged Assets, the Charged Assets Obligor, the Charged Assets Guarantor and the Charged Assets Documentation prepared by the Charged Assets Obligor in respect of the Original Charged Assets and (ii) certain fees, costs, remuneration, charges, expenses and liabilities of the Managers' Trustee and the Enforcement Agent relating to their respective functions in connection with the Managers' Security.

No person other than the Managers' Secured Parties shall have any interest in the Managers' Security and the Managers' Security shall not form part of the Mortgaged Property. If the Managers' Security becomes enforceable, the Security for the Notes shall not consequently become enforceable and the Notes shall not be affected thereby and shall accordingly remain outstanding. Notwithstanding the foregoing, if in the sole discretion of the Trustee and the Managers' Trustee it is necessary (i) to enforce the Security so as to enforce the Managers' Security, then the Security shall become enforceable solely to the extent necessary to enforce the Managers' Security; and/or (ii) to enforce the Managers' Security so as to enforce the Security, then the Managers' Security shall become enforceable solely to the extent necessary to enforce the Security.

Each Managers' Secured Party (when acting in such capacity), in respect of the Managers' Security, is subject to limited recourse provisions as described in Condition 16 (*Limited Recourse and Non-Petition*) in respect of the Managers' Secured Property, in accordance with the provisions of the Syndication Agreement and the Trust Deed in relation to the Notes, as applicable.

Neither any Manager nor the Managers' Trustee (when acting in such capacity) is permitted to take any action against the Charged Assets Obligor or the Charged Assets Guarantor or to enforce any claim that the Issuer may have against the Charged Assets Obligor or the Charged Assets Guarantor in respect of the Charged Assets or the Purchase Agreement or otherwise whether before, upon or after the Managers' Security becoming enforceable. The Managers' Secured Parties must rely on similar (but not identical) rights to those of the Noteholders, including a right of consultation and agreement with the Issuer (or, where applicable, the Enforcement Agent acting as agent of the Issuer) in relation to any such action or enforcement of any such claim and/or a right to remove the Managers' Trustee, in each case in accordance with the provisions of the Trust Deed in relation to the Notes.

For the avoidance of doubt, the assignment by way of security in favour of the Trustee of the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets, and the first fixed charge in favour of the Trustee of all proceeds from, income from, and sums arising from enforcement of any such claim under the Purchase Agreement, shall form part of the Mortgaged Property (but, in the case of the latter, only if and to the extent that such claim relates to the Issuer's right to acquire the Charged Assets) and not the Managers' Secured Property.

(c) **Issuer's Rights as Beneficial Owner of Charged Assets**

Prior to the Trustee effectively giving a valid Enforcement Notice to the Issuer (copied to the Custodian and the Enforcement Agent), the Issuer may, with the prior written consent of the Trustee or with the sanction of an Extraordinary Resolution or, where applicable, in accordance with Condition 7(g) (*Purchases*):

- (i) take such action in relation to the Mortgaged Property as it may think expedient (including to direct the Enforcement Agent to enforce the terms of the Charged Assets as contemplated thereby, or its rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets); and
- (ii) exercise any rights incidental to the ownership of the Mortgaged Property and, in particular (but without limitation and without responsibility for their exercise), any voting rights in respect of such property and all rights to enforce any ownership interests in respect of such property.

The Issuer will not exercise any rights with respect to Mortgaged Property unless it has the consent or sanction referred to above, or is acting in accordance with Condition 7(g) (*Purchases*), and, if such consent or sanction is given, the Issuer will act only in accordance with such consent or sanction or, if it is acting in accordance with Condition 7(g) (*Purchases*), the Issuer will only act in accordance with the provisions of such Condition.

(d) **Issuer's Rights as Party to the Purchase Agreement**

The Issuer shall consult in good faith with the Managers to agree the manner in which the Issuer will exercise any of its rights under the Purchase Agreement (other than its rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets) being the subject matter of the Managers' Security and shall (subject to it being indemnified and/or secured and/or prefunded to its satisfaction) act in accordance with any such agreement.

5. **Restrictions**

So long as any Note remains outstanding, the Issuer shall not, without the prior consent in writing of the Trustee:

- (a) engage in any business other than the issuance or entry into of Obligations, the entry into of related agreements and transactions and the performing of acts incidental thereto or necessary in connection therewith (including enforcing its rights in relation thereto and entering into any agreement in order to facilitate compliance with the regulatory obligations of the Issuer and/or any other relevant party), and provided that:
  - (i) such Obligations are secured on specified assets of the Issuer (other than the Issuer's share capital and any account into which any amounts required to be retained by the Issuer as minimum profit by the Issuer under the Tax Agreement have been deposited (the "**Issuer Dutch Account**") and any assets securing any other Obligations (other than Equivalent Obligations)); and
  - (ii) such Obligations and any related agreements contain provisions that limit the recourse of any holder of, or counterparty to, such Obligations and of any party to any related agreement to assets other than those to which any other Obligations (other than Equivalent Obligations) have recourse;
- (b) sell, transfer or otherwise dispose of any of the Mortgaged Property or any right or interest therein or create any mortgage, charge or other security or right of recourse in respect thereof;
- (c) cause or permit the priority of the Security created by the Trust Deed to be amended, terminated or discharged;
- (d) release any party to the Trust Deed or the Constituting Instrument from any existing obligations thereunder;
- (e) have any subsidiaries;
- (f) consent to any variation of, or exercise any powers of consent or waiver pursuant to, the terms of these Conditions, the Trust Deed, the Constituting Instrument or any Transaction Document;
- (g) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entirety to any person;
- (h) have any employees;
- (i) issue any shares (other than such shares as are in issue at the date hereof) or make any distribution to its shareholders (other than in relation to the above mentioned shares already in issue at the date hereof);
- (j) open or have any interest in any account with a bank or financial institution unless (i) such account relates to the issuance or entry into of Obligations and such Obligations have the benefit of security over the Issuer's interest in such account or (ii) such account is opened in connection with the administration and management of the Issuer and only moneys necessary for that purpose are credited to it;

- (k) declare or pay any dividend or other distribution to its members, other than from the Issuer Dutch Account to the shareholder of the Issuer;
- (l) purchase, own, lease or otherwise acquire any real property (including office premises or like facilities);
- (m) guarantee, act as surety for or become obligated for the debts of any other entity or person or enter into any agreement with any other entity or person whereby it agrees to satisfy the obligations of such entity or person or any other entity or person;
- (n) acquire any securities or shareholdings whatsoever from its shareholders or enter into any agreements whereby it would be acquiring the obligations and/or liabilities of its shareholders;
- (o) except as required in connection with the issuance or entry into of Obligations, advance or lend any of its moneys or assets, including but not limited to the Mortgaged Property, to any other entity or person; or
- (p) approve, sanction or propose any amendment to its constitutional documents,

except as provided for or contemplated in these Conditions or any Transaction Document.

## 6. Interest

### (a) Interest on the Notes

Each Note bears interest on its outstanding nominal amount at the relevant Charged Assets Rate of Interest in respect of the relevant Interest Accrual Period from (and including) the Interest Commencement Date. The Charged Assets Rate of Interest in respect of the Initial Interest Period is a fixed rate of interest and, thereafter, is a floating rate of interest.

Interest shall be payable on the Notes in arrear on each Interest Payment Date in respect of the relevant Interest Accrual Period. Subject to Condition 8 (*Calculations, Rounding and Business Day Convention*), for each Interest Payment Date on which a Note is outstanding, the relevant Interest Amount shall be due and payable in respect of the relevant Note on such Interest Payment Date.

For the avoidance of doubt, the Issuer will only be obliged to pay an Interest Amount on the Notes if it actually receives a corresponding Charged Assets Interest Amount under the Charged Assets and in no event shall Noteholders at any time be entitled to any Interest Amounts in excess of their *pro rata* share of the amount of interest that is payable on the Charged Assets pursuant to the Charged Assets Conditions and assuming that no Swiss Withholding Tax (as defined in the Charged Assets Conditions) is deducted.

### (b) Accrual of Interest

Interest shall cease to accrue on each Note from the end of the day preceding the date on which the final Interest Accrual Period is stated to end save that if, upon due presentation, payment of the full amount of principal and/or interest due on such due date for redemption is improperly withheld or refused, interest shall continue to accrue daily on the unpaid amount of principal (after as well as before judgment) from and including the due date for redemption to but excluding the day preceding the day of the actual redemption of the Original Charged Assets at the most recently prevailing Charged Assets Rate of Interest and, thereafter, at the overnight rate for deposits in EUR as determined by the Custodian in a commercially reasonable manner and notified to the Issuer and the Calculation Agent. Such overnight rate of interest (the “**Default Interest**”) shall compound daily with respect to the overdue sum at the above rate, and the parties acknowledge and agree that in the event that the interest rate in respect of certain currencies is a negative value, the application thereof may cause the Default Interest to be negative.

## 7. Redemption and Purchase

### (a) No Fixed Maturity

The Notes are perpetual securities in respect of which there is no fixed maturity date. The Notes are not redeemable at the option of the Noteholders and will only be redeemed by the Issuer in

accordance with the provisions of Conditions 7(b) (*Redemption Following a Charged Assets Call*) to 7(f) (*Redemption Following the Occurrence of an Event of Default*) below.

(b) **Redemption Following a Charged Assets Call**

- (i) Provided that no Early Redemption Commencement Date or Early Redemption Date has occurred pursuant to any other Condition in respect of a Note (which, for the avoidance of doubt, may have occurred separately pursuant to one or more Conditions), if a Charged Assets Call occurs with respect to the Charged Assets (the date on which the Issuer receives notice of such Charged Assets Call pursuant to Charged Assets Condition 5.2 (*Optional redemption*) or Charged Assets Condition 5.3 (*Special Early Redemption*) being the “**Charged Assets Call Notification Date**”), then:
- (A) as soon as reasonably practicable, and in any event within the period of five Reference Business Days commencing on (and including) the Charged Assets Call Notification Date, the Issuer (or the Principal Paying Agent on its behalf, having been supplied by the Issuer with the relevant notice) will give a notice to the Noteholders (copied to the Registrar, the Principal Paying Agent, the Calculation Agent and the Trustee, as applicable) of the occurrence of the Charged Assets Call, including a description in reasonable detail of the facts relevant to such event; and
- (B) each Note shall become due and payable at an amount (the “**Charged Assets Call Redemption Amount**”) equal to such Note’s *pro rata* share of the related Charged Assets Redemption Amount on the second Reference Business Day immediately following the later of (I) the date upon which the Charged Assets have become redeemable or repayable in whole following the occurrence of a Charged Assets Call and (II) the date on which the Issuer (or the Custodian on its behalf) has provided the Calculation Agent with all information required in respect of the Charged Assets Redemption Amount in order to enable the Calculation Agent to determine the related amounts payable in respect of each Note (the “**Charged Assets Call Redemption Date**”), irrespective of whether the relevant Charged Assets Call is continuing.
- (ii) Notwithstanding any provision to the contrary, if at any time following a Charged Assets Call Notification Date, but prior to the consequential redemption of the Notes pursuant to this Condition 7(b), a Charged Assets Event occurs, then the Issuer shall give notice of an Early Redemption Date pursuant to Condition 7(c) (*Redemption Following a Charged Assets Event*), the Notes shall be redeemed pursuant to the provisions of Condition 7(c) (*Redemption Following a Charged Assets Event*) and any notice of redemption given pursuant to this Condition 7(b) shall be deemed to be void.
- (iii) For the avoidance of doubt, none of the Issuer, the Trustee or the Calculation Agent shall be required to monitor, enquire or satisfy itself as to whether any Charged Assets Call has occurred. Neither the Trustee nor the Calculation Agent shall have any obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer or any Secured Creditor. If the Issuer effectively gives a notice to the Trustee of the occurrence of a Charged Assets Call, the Trustee shall be entitled to rely conclusively on such notice without further investigation.

(c) **Redemption Following a Charged Assets Event**

- (i) If a Charged Assets Event occurs with respect to the Charged Assets, the Issuer shall as soon as is practicable after becoming aware of the occurrence of the Charged Assets Event (or, in any case within two Reference Business Days thereof), give notice of the occurrence of the Charged Assets Event to the Registrar, the Calculation Agent, the Principal Paying Agent and the Trustee (the date of such notice being the “**Charged Assets Event Determination Date**”), then:
- (A) as soon as reasonably practicable, and in any event within the period of five Reference Business Days commencing on (and including) the Charged Assets Event Determination Date, the Issuer (or the Principal Paying Agent on its behalf, having been supplied by the Issuer with the relevant Early Redemption Notice) will give an Early Redemption Notice to the Noteholders of the occurrence of the Charged Assets Event (the date of such notice to the Noteholders being the “**Early Redemption Commencement Date**”); and

- (B) each Note shall become due and payable on the related Early Redemption Date at its Early Redemption Amount (which shall be the only amount payable and there will be no separate payment of any unpaid accrued interest thereon), irrespective of whether the relevant Charged Assets Event is continuing.
- (ii) Notwithstanding any provision to the contrary, if at any time prior to the redemption of the Notes pursuant to any of Condition 7(b) (*Redemption Following a Charged Assets Call*), 7(d) (*Redemption for Taxation Reasons*) or 7(e) (*Redemption Following an Illegality Event*), (A) a Charged Assets Event occurs; and (B) neither the Trustee nor the Enforcement Agent has enforced the Security, then, in each case, the Issuer shall give notice of an Early Redemption Date pursuant to this Condition 7(c), the Notes shall be redeemed pursuant to the provisions of this Condition 7(c) and any notice of redemption given pursuant to Condition 7(b) (*Redemption Following a Charged Assets Call*), 7(d) (*Redemption for Taxation Reasons*) or 7(e) (*Redemption Following an Illegality Event*) shall be deemed to be void.
- (iii) For the avoidance of doubt, none of the Issuer, the Trustee or the Calculation Agent shall be required to monitor, enquire or satisfy itself as to whether any Charged Assets Event has occurred. Neither the Trustee nor the Calculation Agent shall have any obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer or any Secured Creditor. If the Issuer effectively gives a notice to the Trustee of the occurrence of a Charged Assets Event, the Trustee shall be entitled to rely conclusively on such notice without further investigation.

(d) **Redemption for Taxation Reasons**

- (i) Subject to Condition 7(d)(ii) and provided that no Charged Assets Call Redemption Date, Early Redemption Commencement Date or Early Redemption Date has occurred pursuant to any other Condition in respect of all Notes then outstanding (which, for the avoidance of doubt, may have occurred separately pursuant to one or more Conditions), the Issuer shall, as soon as is practicable after becoming aware of the occurrence of a Tax Event (or, in any case, within two Reference Business Days thereof), inform the Trustee, and shall use all reasonable endeavours to arrange the substitution of a company incorporated in another jurisdiction approved beforehand in writing by the Trustee (provided that such substitution will not, at the time of substitution, result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Standard & Poor's) as the principal obligor or to change (to the satisfaction of the Trustee and provided that such change will not, at the time of such change, result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Standard & Poor's) its residence for taxation purposes to another jurisdiction approved beforehand in writing by the Trustee, and if it is unable to arrange such substitution or change in residence before the next payment is due in respect of the Notes, then the Issuer shall give an Early Redemption Notice to the Noteholders and each Note shall become due and payable on the related Early Redemption Date at its Early Redemption Amount (which shall be the only amount payable and there will be no separate payment of any unpaid accrued interest thereon). The date on which such Early Redemption Notice is deemed to have been given shall be an **"Early Redemption Commencement Date"** and the Security will become enforceable in accordance with Condition 12(b) (*Enforcement of Security*) and the Trustee shall so enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or prefunded to its satisfaction and subject to it receiving an Extraordinary Resolution) and in accordance with Condition 12 (*Enforcement of Security*), and, for the avoidance of doubt, in doing so the Trustee shall be entitled to undertake all such actions that the Issuer was entitled to undertake if it were to have arranged such a substitution.

A **"Note Tax Event"** will occur if:

- (I) on the due date for any payment in respect of the Notes, the Issuer will be required by any applicable law to withhold, deduct or account for an amount for any present or future taxes, duties or charges of whatsoever nature other than a withholding or deduction in respect of FATCA or would suffer the same in respect of its income so that it would be unable to make in full the payment in respect of the Notes in respect of such due date; or
- (II) on the due date for any payment in respect of the Notes, such a withholding, deduction or account is actually made in respect of any payment in respect of the Notes,

other than where such event constitutes a Charged Assets Tax Event.



A “**Charged Assets Tax Event**” will occur if the Issuer:

- (I) is or will be unable to receive any payment due in respect of any Charged Assets in full on the due date therefor without a deduction for or on account of any withholding tax, back-up withholding or other tax, duties or charges of whatsoever nature imposed by any authority of any jurisdiction;
- (II) is or will be required to pay any tax, duty or charge of whatsoever nature imposed by any authority of any jurisdiction in respect of any payment received in respect of any Charged Assets; and/or
- (III) is or will be required to comply with any tax reporting requirement (other than in respect of FATCA and the Common Reporting Standard) of any authority of the Netherlands or Switzerland in respect of any payment received in respect of any Charged Assets,

provided that the Issuer, using reasonable efforts prior to the due date for the relevant payment, is (or would be) unable to avoid such deduction(s) and/or payment(s) and/or comply with such reporting requirements described in sub-paragraphs (I) to (III) of this definition by filing a valid declaration that it is not a resident of such jurisdiction and/or by executing any certificate, form or other document in order to make a claim under a double taxation treaty or other exemption available to it or otherwise to comply with such reporting requirements. If the action that the Issuer would be required to undertake so as to avoid any such deduction(s), payment(s) and/or comply with such reporting requirements would involve any material expense or is, in the sole opinion of the Issuer (acting in good faith), unduly onerous the Issuer shall not be required to take any such action. Without prejudice to the generality of the foregoing, a withholding imposed on payments in respect of any Charged Assets as a result of FATCA shall constitute a Charged Assets Tax Event. For the purposes of this definition, if on the date falling 60 days prior to the earliest date on which FATCA Withholding Tax could apply to payments under, or in respect of sales proceeds of, the relevant Charged Assets (such 60th day prior being the “**FATCA Test Date**”), the Issuer is a “nonparticipating foreign financial institution” (as such term is used under section 1471 of the U.S. Internal Revenue Code or in any regulations or guidance thereunder), the Issuer will be deemed on the FATCA Test Date to be unable to receive a payment due in respect of such Charged Assets in full on the due date therefor without deduction for or on account of any withholding tax and, therefore, a Charged Assets Tax Event will have occurred on the FATCA Test Date.

- (ii) Notwithstanding the foregoing, if the requirement to withhold, deduct or account for any present or future taxes, duties or charges of whatsoever nature referred to in paragraph (i) above arises solely as a result of:
  - (A) any Noteholder’s connection with the jurisdiction of incorporation of the Issuer otherwise than by reason only of the holding of any Note or receiving or being entitled to any payment in respect thereof; or
  - (B) any taxes required to be withheld or deducted from a payment pursuant to laws enacted by Switzerland providing for the taxation of payments according to principles similar to those laid down in the draft legislation proposed by the Swiss Federal Council on 17 December 2014 (*Zahlstellensteuer*), in particular the principle to have a person other than the issuer or the guarantor withhold or deduct tax; or
  - (C) where such withholding or deduction is required to be made pursuant to any agreements between Switzerland and other countries on final withholding taxes levied by Swiss paying agents (being any agents receiving payments) in respect of persons resident in the other country on income of such person on any Note booked or deposited with a Swiss paying agent (*Abgeltungssteuer*) and any law or other governmental regulation implementing or complying with, or introduced in order to conform to, such agreements,

then, to the extent possible, the Issuer shall deduct such taxes, duties or charges, as applicable, from the amount(s) payable to such Noteholder and provided that payments to other Noteholders would not be impaired, the Issuer shall not give an Early Redemption Notice pursuant to Condition 7(d)(i) (*Redemption for Taxation Reasons*). Any such deduction shall not constitute an Event of Default under Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*) or an Enforcement Event under Condition 12 (*Enforcement of Security*).

- (iii) In respect of this Condition 7(d), if a tax deduction or withholding (collectively, a “**Charged Assets Tax Deduction**”) is required by law to be made by the Charged Assets Obligor in respect of any payment of principal or interest in respect of the Charged Assets for any taxes, duties, assessments or governmental charges of whatever nature imposed by or on behalf of Switzerland, such Charged Assets Tax Deduction shall not constitute a Charged Assets Tax Event if:
    - (A) there is an actual payment by the Charged Assets Obligor of a corresponding payment of additional amounts pursuant to Charged Assets Condition 7(a) (*Taxation*); or
    - (B) no such additional amounts pursuant to Charged Assets Condition 7(a) (*Taxation*) are paid by the Charged Assets Obligor due to it being unlawful for the Charged Assets Obligor to make such payments but an adjustment is instead made to the Charged Assets Rate of Interest pursuant to Charged Assets Condition 3.3 (*Recalculation of Interest*) and reflected in the Interest Amount payable on the Notes.
  - (iv) Prior to the publication of any Early Redemption Notice pursuant to this Condition, the Issuer shall deliver to the Trustee a certificate signed by one or two (as appropriate) directors of the Issuer stating that the obligations referred to in the definition of “Tax Event” above cannot be avoided by the Issuer taking reasonable measures available to it, and the Trustee shall be entitled to accept such certificate as sufficient evidence of the satisfaction of the conditions precedent set out in this Condition, in which event such acceptance shall be conclusive and binding on the Noteholders.
  - (v) Notwithstanding any provision to the contrary, if at any time following an Early Redemption Notice having been given under, but prior to the consequential redemption of the Notes pursuant to, this Condition 7(d), (A) a Charged Assets Event occurs; and (B) neither the Trustee nor the Enforcement Agent has enforced the Security, then the Issuer shall give notice of an Early Redemption Date pursuant to Condition 7(c) (*Redemption Following a Charged Assets Event*), the Notes shall be redeemed pursuant to the provisions of Condition 7(c) (*Redemption Following a Charged Assets Event*) and any notice of redemption given pursuant to this Condition 7(d) shall be deemed to be void.
  - (vi) For the avoidance of doubt, neither the Issuer nor the Trustee shall be required to monitor, enquire or satisfy itself as to whether any Tax Event has occurred. The Trustee shall not have any obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer or any Secured Creditor. If the Issuer effectively gives a notice to the Trustee of the occurrence of a Tax Event, the Trustee shall be entitled to rely conclusively on such notice without further investigation.
- (e) **Redemption Following an Illegality Event**
- (i) Provided that no Charged Assets Call Redemption Date, Early Redemption Commencement Date or Early Redemption Date has occurred pursuant to any other Condition in respect of all Notes then outstanding (which, for the avoidance of doubt, may have occurred separately pursuant to one or more Conditions), the Issuer shall, as soon as is practicable after becoming aware of the occurrence of an Illegality Event (or, in any case, within two Reference Business Days thereof), inform the Trustee, and shall use all reasonable endeavours to arrange, the substitution of a company, being a company whose legal characteristics are such that if it were to perform the obligations of the Issuer, no Illegality Event would arise, that is approved beforehand in writing by the Trustee (provided that such substitution will not, at the time of substitution, result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Standard & Poor’s) as the principal obligor or to change (to the satisfaction of the Trustee and provided that such change will not, at the time of such change, result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Standard & Poor’s) its legal characteristics such that no Illegality Event arises in respect of it, as approved beforehand in writing by the Trustee, and if it is unable to arrange such substitution or change in legal characteristics before the next payment is due in respect of the Notes, then the Issuer shall give an Early Redemption Notice to the Noteholders and each Note shall become due and payable on the related Early Redemption Date at its Early Redemption Amount (which shall be the only amount payable and there will be no separate payment of any unpaid accrued interest thereon). The date on which such Early Redemption Notice is deemed to have been given shall be an “**Early Redemption Commencement Date**”, the Security will become enforceable in accordance with Condition 12(b) (*Enforcement of Security*) and the Trustee shall so enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or prefunded to its satisfaction and subject to it receiving an Extraordinary Resolution) in accordance with Condition 12 (*Enforcement of*

*Security*), and, for the avoidance of doubt, in doing so the Trustee shall be entitled to undertake all such actions that the Issuer was entitled to undertake if it were to have arranged such a substitution.

- (ii) Notwithstanding any provision to the contrary, if at any time following an Early Redemption Notice having been given under, but prior to the consequential redemption of the Notes pursuant to, this Condition 7(e), (A) a Charged Assets Event occurs; and (B) neither the Trustee nor the Enforcement Agent has enforced the Security, then the Issuer shall give notice of an Early Redemption Date pursuant to Condition 7(c) (*Redemption Following a Charged Assets Event*), the Notes shall be redeemed pursuant to the provisions of Condition 7(c) (*Redemption Following a Charged Assets Event*) and any notice of redemption given pursuant to this Condition 7(e) shall be deemed to be void.
- (iii) For the avoidance of doubt, neither the Issuer, the Trustee nor the Calculation Agent shall be required to monitor, enquire or satisfy itself as to whether any Illegality Event has occurred. Neither the Trustee nor the Calculation Agent shall not have any obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer or any Secured Creditor. If the Issuer effectively gives notice to the Trustee of the occurrence of an Illegality Event, the Trustee shall be entitled to rely on such notice without further investigation.

(f) **Redemption Following the Occurrence of an Event of Default**

- (i) If any of the following events (each an “**Event of Default**”) occurs, provided that no Charged Assets Call Redemption Date, Early Redemption Commencement Date or Early Redemption Date has occurred pursuant to this or any other Condition in respect of all Notes outstanding (which, for the avoidance of doubt, may have occurred separately pursuant to one or more Conditions), the Trustee at its discretion may, and if directed by an Extraordinary Resolution shall (provided that the Trustee shall have been indemnified and/or secured and/or pre-funded to its satisfaction), give an Early Redemption Notice to the Issuer that all but not some only of the Notes shall become due and payable at the Early Redemption Amount (which shall be the only amount payable and there will be no separate payment of any unpaid accrued interest thereon) on the Early Redemption Date:
  - (A) default is made for more than 14 days in the payment of any interest or any other sum in respect of any Notes other than a Charged Assets Call Redemption Amount or Early Redemption Amount or where any such default occurs as a result of a Charged Assets Event, a Tax Event or an Illegality Event;
  - (B) the Issuer does not perform or comply with any one or more of its other obligations under any Notes or the Trust Deed which default is incapable of remedy or, if in the opinion of the Trustee such default is capable of remedy, is not in the opinion of the Trustee remedied within 30 days after notice of such default shall have been effectively given to the Issuer by the Trustee; or
  - (C) the Issuer: (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger on terms previously approved in writing by the Trustee or sanctioned by an Extraordinary Resolution); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (3) save to the extent contemplated in the Trust Deed, makes a general assignment, arrangement, scheme or composition with or for the benefit of the Noteholders, or such a general assignment, arrangement, scheme or composition becomes effective; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other similar relief under any bankruptcy or insolvency law or other law affecting creditors’ rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition either results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation, or is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding up or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for any assets on which the liabilities of the Issuer under the relevant Notes are secured pursuant to the Trust Deed; (7) other than the Trustee (except in circumstances where the Trustee is enforcing the Security pursuant to the Trust Deed) or the Custodian, has a secured party take possession of any assets on which the liabilities of the Issuer under the

relevant Notes are secured pursuant to the Trust Deed or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against any assets on which the liabilities of the Issuer under the relevant Notes are secured pursuant to the Trust Deed and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; or (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7).

- (ii) For the purposes of the Conditions and the Transaction Documents, in relation to any Events of Default, the date on which the related Early Redemption Notice is deemed to be given shall be an **“Early Redemption Commencement Date”**.

(g) **Purchases**

- (i) The Issuer may purchase Notes in the open market or otherwise at any price. Such Notes may be held, re-issued, resold or, at the option of the Issuer, surrendered to the Registrar for cancellation, provided that, the Issuer has made arrangements for the realisation of no more than the equivalent proportion of the Charged Assets in connection with the proposed purchase of the Notes, which transactions will leave the Issuer with no assets or net liabilities in respect thereof.
- (ii) In addition:
  - (A) The Issuer may at any time make an offer to purchase the Notes for cash consideration (an **“Issuer Tender Offer”**) and/or to exchange the Notes for non-cash assets (an **“Issuer Exchange Offer”**) (in each case, whether by private treaty or tender offer). Any Issuer Tender Offer or Issuer Exchange Offer may only be made on a limited recourse basis and upon terms that will ensure that after any such purchase or exchange of Notes, the aggregate principal amount of Notes outstanding will be the same as the aggregate principal amount of Charged Assets outstanding. The Issuer shall not make an Issuer Tender Offer or an Issuer Exchange Offer (I) without first having entered into an agency agreement with an agent to act as tender agent or, as the case may be, exchange agent for the Issuer in connection with the Issuer Tender Offer or the Issuer Exchange Offer and (II) without first being satisfied (whether by it being indemnified and/or secured and/or prefunded to its satisfaction or otherwise) that its costs and expenses in connection with the same will be met.
  - (B) If at any time the Charged Assets Obligor makes an offer to the Issuer, or to the Custodian on behalf of the Issuer, to purchase the Charged Assets for cash consideration (a **“Charged Assets Obligor Tender Offer”**) or for non-cash assets (a **“Charged Assets Obligor Exchange Offer”**), then the Issuer shall not accept such Charged Assets Obligor Tender Offer or Charged Assets Obligor Exchange Offer (notwithstanding anything to the contrary in Condition 18(a) (*Meetings of Noteholders*)), and the Trustee shall not be permitted to release the Security created over the Charged Assets pursuant to the Trust Deed, other than in accordance with paragraphs (C) and (D) below.
  - (C) Subject to the requirements of paragraph (A) above, the Issuer shall make an Issuer Tender Offer or, as the case may be, an Issuer Exchange Offer, upon the occurrence of a Charged Assets Obligor Tender Offer or, as the case may be, a Charged Assets Obligor Exchange Offer unless in the reasonable opinion of the Issuer, the Issuer would be materially disadvantaged by the same.
  - (D) For purposes of any Issuer Tender Offer or Issuer Exchange Offer, whether or not relating to any Charged Assets Obligor Tender Offer or Charged Assets Obligor Exchange Offer, the Trustee shall not release the Security created over the Charged Assets pursuant to the Trust Deed except that it may release the Security to the extent that after such release and taking into account any purchase or exchange of Notes pursuant to any Issuer Tender Offer or Issuer Exchange Offer, the aggregate principal amount of the Charged Assets outstanding will be the same as the aggregate principal amount of Notes outstanding. To the extent that such Issuer Tender Offer or Issuer Exchange Offer relates to any Charged Assets Obligor Tender Offer or, as the case may be, Charged Assets Obligor Exchange Offer, following the release of such Security the Issuer shall accept (or procure the acceptance of) such Charged Assets

Obligor Tender Offer or Charged Assets Obligor Exchange Offer in respect of the Security so released.

- (iii) Any purchase, Issuer Tender Offer or Issuer Exchange Offer shall for as long as the Notes are listed on the Official List of the Irish Stock Exchange and admitted to trading on the Main Securities Market of the Irish Stock Exchange, be in accordance with all applicable rules and regulations of the Irish Stock Exchange.
- (iv) Any failure by the Issuer to make a payment or delivery due in connection with any such purchase (including under an Issuer Tender Offer or Issuer Exchange Offer) shall constitute a default in payment in respect of the Notes for the purposes of Condition 7(f) (*Redemption Following the Occurrence of an Event of Default*).

(h) **Cancellation**

All Notes purchased by or on behalf of the Issuer may be surrendered for cancellation by surrendering the certificate(s) representing each such Note to or to the order of the Registrar and shall, together with all Notes redeemed by the Issuer, be cancelled forthwith. Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

8. **Calculations, Rounding and Business Day Convention**

(a) **Calculation of any Interest Amounts, Charged Assets Call Redemption Amounts or Early Redemption Amounts**

- (i) In respect of each Interest Payment Date, the Calculation Agent shall, subject to Condition 8(a)(ii), calculate the Interest Amount due and payable on such Interest Payment Date in respect of each Note outstanding on such Interest Payment Date.
- (ii) In order to enable the Calculation Agent to perform its functions under these Conditions, the Issuer shall provide to the Calculation Agent (or procure the provision of) any information required in order to enable the Calculation Agent to determine any Interest Amount, Charged Assets Call Redemption Amount or Early Redemption Amount or any other amount payable hereunder. The Calculation Agent shall not be liable for any failure to comply with its obligations under these Conditions as a result of any failure by the Issuer to provide (or procure the provision of) any such information.

(b) **Determination or Calculation by Trustee**

If the Calculation Agent does not at any time for any reason determine or calculate any Interest Amount, Charged Assets Call Redemption Amount, Early Redemption Amount or any other amount payable in respect of the Notes, then the Trustee, subject to it being indemnified and/or secured and/or prefunded to its satisfaction, may make such determinations and calculations in place of the Calculation Agent (or may appoint an agent on its behalf to do so). Any such determination or calculation so made by the Trustee (or its agent) shall, for the purposes of these Conditions and the Transaction Documents, be deemed to have been made by the Calculation Agent. In doing so, the Trustee shall apply the provisions of these Conditions and/or the relevant Transaction Document(s) with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and, in all other respects it shall do so in such manner as it shall deem fair and reasonable in all the circumstances. The Trustee shall have no liability to any person in connection with any determination it is required to make pursuant to this Condition 8(b).

(c) **Rounding**

For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified), (i) all percentages resulting from such calculations shall be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with 0.000005 of a percentage point being rounded up to 0.00001) and (ii) all currency amounts that fall due and payable shall be rounded down, if necessary, to the nearest unit of such currency. For these purposes, "unit" means the lowest amount of such currency that is available as legal tender in the country(ies) of such currency (e.g. one cent or one pence).

(d) **Business Day Convention**

Where any date referred to in these Conditions that is specified to be subject to adjustment in accordance with the Modified Following Business Day Convention would otherwise fall on a day that is not a Reference Business Day, then such date shall be postponed to the next day that is a Reference Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Reference Business Day.

## 9. Payments

### (a) Payments of Principal and Interest

*For so long as the Registered Notes are represented by the Global Registered Certificate*

Payments of principal in respect of Registered Notes when represented by the Global Registered Certificate will be made against presentation and surrender or, as the case may be, presentation of the Global Registered Certificate at the specified office of the Principal Paying Agent, subject in all cases to (i) any fiscal or other laws, regulations and directives applicable to the Issuer, the Principal Paying Agent or the registered owner of the Global Registered Certificate or any person (so long as the Global Registered Certificate is held on behalf of Euroclear and Clearstream, Luxembourg) shown in the records of Euroclear, Clearstream, Luxembourg (other than each Clearing System to the extent that it is an account holder with the other Clearing System for the purpose of operating the “bridge” between the Clearing Systems) as the holder of a particular principal amount of the Notes; and (ii) any FATCA Withholding Tax (in each case without prejudice to the provisions of Condition 11 (*Taxation*)). A record of each payment so made will be endorsed on the relevant schedule to the Global Registered Certificate by or on behalf of the Principal Paying Agent which endorsement shall be prima facie evidence that such payment has been made.

*If the Registered Notes are represented by one or more Registered Certificate(s)*

Payments of principal in respect of the Notes will be made to the person shown on the register against presentation and surrender of the relevant Registered Certificate at the specified office of the Principal Paying Agent outside the United States by transfer to an account denominated in such currency with a Bank nominated by such holder presenting such Note, as the case may be. “**Bank**” means a bank in the principal financial centre for such currency or in the case of euro in a city in which banks have access to the TARGET System. To the extent that a Noteholder does not present (and, if applicable, surrender) the relevant Registered Certificate at least three business days prior to the date for redemption (as the case may be) none of the Issuer, the Trustee, the Registrar, the Principal Paying Agent, the Calculation Agent, the Custodian or any other person shall be liable in respect of any delay in the payment of the relevant redemption monies to such Noteholder as a consequence thereof.

Interest payable on any Interest Payment Date will be paid to the persons shown on the Register at the close of business on the day before the due date for payment thereof (the “**Record Date**”). Payment of interest will be made in Euro by cheque drawn on a bank in such financial centre in a participating Member State as the Issuer may reasonably determine) and mailed to the holder (or to the first named of joint holders) of such Note at its address appearing in the Register. Upon application by the holder to the specified office of the Principal Paying Agent before the relevant Record Date, such payment of interest may be made by transfer to an account in the relevant currency maintained by the payee with a bank in the principal financial centre of the country of that currency.

### (b) Payments Subject to Fiscal Laws; payments on Global Registered Certificates

All payments are subject in all cases to (i) any applicable fiscal or other laws, regulations and directives, and (ii) any FATCA Withholding Tax (in each case without prejudice to the provisions of Condition 11 (*Taxation*)). No commission or expenses shall be charged to the Noteholders in respect of such payments.

The registered owner of a Global Registered Certificate shall be the only person entitled to receive payments of principal and interest on the Global Registered Certificate and the Issuer will be discharged by payment to the registered owner of such Global Registered Certificate in respect of each amount paid. So long as the relevant Global Registered Certificate is held by or on behalf of Euroclear or Clearstream, Luxembourg, each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for its share of each payment so made by the Issuer to the registered owner of the Global Registered Certificate subject to and in accordance with the respective rules and procedures of Euroclear or Clearstream, Luxembourg, as the case may be. So long as the

relevant Global Registered Certificate is registered in the name of a person other than a nominee for Euroclear or Clearstream, Luxembourg, each of the persons shown in the records of such person as the holder of a Note must look solely to such person for its share of each payment so made by the Issuer to such person, subject to the rules and procedures established from time to time by such person. No person other than the registered owner of the Global Registered Certificate shall have any entitlement to payments due by the Issuer on the Notes.

(c) **Non-Business Days**

If any date for payment in respect of any Note is not a business day, the holder shall not be entitled to payment until the next following business day or to any interest or other sum in respect of such postponed payment. In this Condition 9(c), "**business day**" means (i) a Reference Business Day and (ii) if the Notes are represented by one or more Registered Certificates, a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in the relevant place of presentation.

10. **Agents**

(a) **Appointment of Agents**

The Principal Paying Agent, the Custodian, the Calculation Agent, the Registrar and the Issue Agent initially appointed by the Issuer and their respective offices are listed below:

- |                             |   |
|-----------------------------|---|
| (i) Principal Paying Agent: | The Bank of New York Mellon, acting through its<br>London Branch<br>One Canada Square<br>London E14 5AL                       |
| (ii) Custodian:             | The Bank of New York Mellon, acting through its<br>London Branch<br>One Canada Square<br>London E14 5AL                       |
| (iii) Calculation Agent:    | The Bank of New York Mellon, acting through its<br>London Branch<br>One Canada Square<br>London E14 5AL                       |
| (iv) Registrar:             | The Bank of New York Mellon (Luxembourg) S.A.<br>Vertigo Building - Polaris<br>2-4 rue Eugene Ruppert<br>L 2 – 453 Luxembourg |
| (v) Issue Agent:            | The Bank of New York Mellon, acting through its<br>London Branch<br>One Canada Square<br>London E14 5AL                       |

Subject to the provisions of the Trust Deed, the Custody Agreement and the Agency Agreement, the Principal Paying Agent, the Custodian, the Registrar, the Issue Agent, the Enforcement Agent and the Calculation Agent act solely as agents of the Issuer and do not assume any obligation or relationship of agency or trust for or with any Noteholder. The Issuer reserves the right at any time with the approval of the Trustee (except that the approval of the Trustee shall not be required for the appointment of a replacement Calculation Agent where Noteholders direct the Issuer to appoint such replacement pursuant to this Condition) to vary or terminate the appointment of the Principal Paying Agent, any other paying agent, the Custodian, the Registrar, the Issue Agent, the Enforcement Agent or the Calculation Agent and to appoint additional or other paying agents, Custodian(s), Enforcement Agent(s), Calculation Agent(s) or such other agents as may be required provided that the Issuer shall at all times maintain (i) a Principal Paying Agent, (ii) a Calculation Agent, (iii) a Custodian and (iv) a Registrar.

Notice of any such change or any change of any Specified Office shall promptly be given by the Issuer to the Noteholders in accordance with Condition 21 (*Notices*).

(b) **Calculation Agent Appointment, Termination and Replacement**

If the Calculation Agent fails duly to make any calculation or determination required of it under these Conditions or the Agency Agreement or any other Transaction Document, as the case may be, or fails to comply with any other material requirement under these Conditions, the Agency Agreement or any other Transaction Document, and in each case such failure has not been remedied within a reasonable period, or a Calculation Agent Bankruptcy Event occurs, then:

- (i) the Issuer shall use reasonable endeavours (provided it has funds available for such purpose) with the prior approval of the Trustee to appoint a leading bank or financial institution engaged in the interbank market or other appropriate market that is most closely connected with the calculation(s) and/or determination(s) to be made by the Calculation Agent (acting through its principal London office or any other office actively involved in such market) to act as such in its place, provided that the terms of such appointment are substantially the same as the terms on which the outgoing Calculation Agent is appointed; or
- (ii) if the Issuer has been directed by an Extraordinary Resolution that the Issuer appoint a replacement Calculation Agent, provided that such replacement is a financial institution of international repute and the terms of such appointment are substantially the same as the terms on which the outgoing Calculation Agent is appointed and to the extent of any difference to such terms, that such terms do not adversely affect the terms on which the Trustee or any other Agent is appointed, without the prior consent of such adversely affected party and the Issuer has been indemnified and/or secured and/or pre-funded to its satisfaction for any initial or ongoing costs, charges, fees and/or expenses the Issuer may incur in connection with the appointment of a replacement Calculation Agent (whether by one or more Noteholders, a Secured Creditor or any other third party), the Issuer shall use reasonable endeavours (provided it has funds available for such purpose) to appoint the person nominated in such Extraordinary Resolution as calculation agent in respect of the Notes.

(c) **Replacement of Custodian and Principal Paying Agent upon a Ratings Downgrade**

Clause 22.10 of the Master Agency Terms and Clause 8.12(B) of the Master Custody Terms (each as amended pursuant to the Constituting Instrument) shall apply in respect of the Principal Paying Agent and the Custodian respectively.

The Minimum Rating (as defined in the Master Agency Terms) in respect of the Principal Paying Agent and the Custodian Required Rating (as defined in the Master Custody Terms) in respect of the Custodian, is as follows:

- (i) to the extent that the Custodian or the Principal Paying Agent, as the case may be, has a short-term issuer credit rating by Standard & Poor's,
  - (A) a short-term issuer credit rating higher than or equal to "A-1" by Standard & Poor's; and
  - (B) a long term issuer credit rating higher than or equal to "A-" by Standard & Poor's; and
- (ii) if the Custodian or the Principal Paying Agent, as the case may be, has no short-term issuer credit rating by Standard & Poor's, a long-term issuer credit rating higher than or equal to "A" by Standard & Poor's.

11. **Taxation**

(a) **Withholding or Deductions on Payments in respect of the Notes**

Without prejudice to Condition 7(d) (*Redemption for Taxation Reasons*), all payments in respect of the Notes will be made subject to any withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature that the Issuer or any Agent is required by applicable law to make. In that event, the Issuer or such Agent shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount(s) so required to be withheld or deducted. Neither the Issuer nor any Agent will be obliged to make any additional payments to Noteholders in respect of such withholding or deduction. For the purposes of this Condition 11(a), any FATCA Withholding Tax shall be deemed to be required by applicable law.



(b) **FATCA Information**

Each Noteholder and beneficial owner of Notes shall provide the Issuer and/or any agent acting on behalf of the Issuer with such documentation, information or waiver as may be requested by the Issuer and/or any agent acting on behalf of the Issuer in order for the Issuer or any such agent to comply with any obligations any such party may have in connection with the Notes under FATCA and/or the Common Reporting Standard and under any agreement entered into by the Issuer and/or any agent acting on behalf of the Issuer pursuant to, or in respect of, FATCA. Each Noteholder and beneficial owner of the Notes further agrees and consents that in respect of FATCA the Issuer may, but is not obliged and owes no duty to any person to, comply with the terms of any intergovernmental agreement between the U.S. and another jurisdiction with respect to FATCA or any legislation implementing such an intergovernmental agreement or enter into an agreement with the U.S. Internal Revenue Service in such form as may be required to avoid the imposition of withholding under FATCA on payments made to the Issuer. In connection therewith, the Issuer may make such amendments to the Notes as are necessary to enable the Issuer to enter into, or comply with the terms of, any such agreement or legislation. Any such amendment will be binding on the Noteholders.

12. **Enforcement of Security**

(a) **Enforcement Notice**

At any time after the Trustee becomes aware of the occurrence of an Enforcement Event but prior to taking any steps to enforce the Security, the Trustee shall notify the Issuer and the Custodian (such notice being an “**Enforcement Notice**”) that the Trustee has become entitled to enforce the Security constituted by the Trust Deed.

(b) **Enforcement of Security**

The Security over the Mortgaged Property created by or pursuant to the Trust Deed as described in Condition 4(a) (*Security*) shall become enforceable upon the occurrence of one or more of the following, each an “**Enforcement Event**”:

- (i) an Event of Default;
- (ii) a Charged Assets Event;
- (iii) a Tax Event, but only in the event that the Issuer has failed to arrange a substitution or change in residence in accordance with the terms of Condition 7(d) (*Redemption for Taxation Reasons*);
- (iv) an Illegality Event, but only in the event that the Issuer has failed to arrange a substitution or change in legal characteristics in accordance with the terms of Condition 7(e) (*Redemption Following an Illegality Event*); or
- (v) default is made in the payment of any Charged Assets Call Redemption Amount, interest payable on a Charged Assets Call Redemption Date or Early Redemption Amount,

and, for the avoidance of doubt, the Manager’s Security created by or pursuant to the Trust Deed as described in Condition 4(b) (*Managers’ Security*) shall not become enforceable solely as a result of such Enforcement Event. Notwithstanding the foregoing, if in the sole discretion of the Trustee and the Managers’ Trustee it is necessary (i) to enforce the Security so as to enforce the Managers’ Security, then the Security shall become enforceable solely to the extent necessary to enforce the Managers’ Security; and/or (ii) to enforce the Managers’ Security so as to enforce the Security, then the Managers’ Security shall become enforceable solely to the extent necessary to enforce the Security.

For the avoidance of doubt, the Managers’ Trustee shall have no duties whatsoever to the Noteholders.

(c) **Realisation of Security**

At any time after the Trustee becomes aware of the occurrence of an Enforcement Event, it may, and if directed by an Extraordinary Resolution shall, provided in each case that the Trustee shall have been indemnified and/or secured and/or pre-funded to its satisfaction and provided that the Trustee has effectively delivered a valid Enforcement Notice to the Issuer and the Custodian, enforce all the

Security constituted by the Trust Deed. To do this it may, at its discretion, realise the Charged Assets subject to the provisions of Condition 15 (*Enforcement of Rights or Security*), and/or enforce the Agency Agreement and/or the Custody Agreement in accordance with its or their terms without any liability as to the consequence of such action and without having regard to the effect of such action on individual Noteholders.

Any realisation and/or enforcement of the Security over the Charged Assets or exercise of any right in respect of the Charged Assets shall be subject to the transfer restrictions in respect of the Charged Assets set forth in the Charged Assets Conditions, including, but not limited to, Charged Assets Condition 9 (*Transfer and sub-participation*) and Charged Assets Condition 10 (*Grants of security*).

Without prejudice to Condition 15 (*Enforcement of Rights or Security*), in no circumstances shall the Trustee be permitted when acting in its capacity as trustee for the Noteholders and the other Secured Creditors, nor shall the Noteholders or the other Secured Creditors (when acting in their respective capacities) be permitted, to take any action against the Charged Assets Obligor or the Charged Assets Guarantor or enforce any claim that the Issuer may have against the Charged Assets Obligor or the Charged Assets Guarantor in respect of the Charged Assets or the Purchase Agreement or otherwise whether before, upon, or after any Security created by or pursuant to the Trust Deed becoming enforceable.

(d) **Enforcement Agent to realise Security**

Notwithstanding Condition 12(c) (*Realisation of Security*), at any time after the Security has become enforceable in accordance with Condition 12(b) (*Enforcement of Security*) provided that the Enforcement Agent has been appointed pursuant to the Trust Deed, the Enforcement Agent shall, if the Issuer is directed to do so by an Extraordinary Resolution (subject to the Enforcement Agent being indemnified and/or secured and/or prefunded to its satisfaction) exercise on behalf of the Issuer as the Issuer's agent any rights of the Issuer in the Issuer's capacity as holder of the Charged Assets and/or the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets and the Enforcement Agent will act only in accordance with any Extraordinary Resolution.

Any realisation and/or enforcement of the Security over the Charged Assets or exercise of any right in respect of the Charged Assets shall be subject to the restrictions set forth in the Charged Assets Conditions, including, but not limited to, Charged Assets Condition 9 (*Transfer and sub-participation*) and Charged Assets Condition 10 (*Grants of security*).

Notwithstanding Condition 12(c) (*Realisation of Security*), in acting as the Issuer's agent for the purposes of this Condition, the Enforcement Agent shall be permitted to take all such action as would have been permitted to be taken by the Trustee upon the Security becoming enforceable if the last sentence of Condition 12(c) (*Realisation of Security*) did not apply.

The Enforcement Agent is not an agent of the Trustee.

The Enforcement Agent is the agent of the Issuer and the Trustee shall have no responsibility or liability to any person for the actions of the Enforcement Agent or for monitoring or supervising its performance or for directing it in relation to enforcement.

Any proceeds realised by the Enforcement Agent pursuant to this Condition 12(d) shall, upon receipt thereof, be paid to the Trustee who shall hold such moneys on trust with the Custodian and apply such moneys in accordance with Condition 14 (*Application of Available Proceeds or Managers' Available Proceeds*).

13. **Enforcement of Managers' Security**

(a) **Enforcement of Managers' Security**

The Managers' Security over the Managers' Secured Property created by or pursuant to the Trust Deed as described in Condition 4(b) (*Managers' Security*) shall become enforceable upon failure by the Issuer to pay on demand any Manager's Claim and, for the avoidance of doubt, the Security created by or pursuant to the Trust Deed as described in Condition 4(a) (*Security*) shall not become enforceable in such circumstances. Notwithstanding the foregoing, if in the sole discretion of the Trustee and the Managers' Trustee it is necessary (i) to enforce the Security so as to enforce the Managers' Security, then the Security shall become enforceable solely to the extent necessary to enforce the Managers' Security; and/or (ii) to enforce the Managers' Security so as to enforce the

Security, then the Managers' Security shall become enforceable solely to the extent necessary to enforce the Security.

(b) **Enforcement Agent to realise Managers' Security**

At any time after the Managers' Security has become enforceable in accordance with Condition 13(a) (*Enforcement of Managers' Security*), provided that the Enforcement Agent has been appointed pursuant to the Trust Deed, the Enforcement Agent shall in accordance with the Trust Deed (subject to it being indemnified and/or secured and/or prefunded to its satisfaction) exercise on behalf of the Issuer as the Issuer's agent any rights, title and interest of the Issuer under the Purchase Agreement (other than the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Charged Assets). The Trustee shall not be permitted to take any enforcement action against the Charged Assets Obligor or the Charged Assets Guarantor in accordance therewith.

In acting as the Issuer's agent for the purposes of this Condition, the Enforcement Agent shall be permitted to take all such steps, actions or proceedings as would have been permitted to be taken by the Managers' Trustee upon the Managers' Security becoming enforceable provided that the Enforcement Agent shall be permitted to take enforcement action against the Charged Assets Obligor or the Charged Assets Guarantor.

The Enforcement Agent is not the agent of the Managers' Trustee.

The Enforcement Agent is the agent of the Issuer and the Managers' Trustee shall have no responsibility or liability to any person for the actions of the Enforcement Agent or for monitoring or supervising its performance or for directing it in relation to enforcement.

Any proceeds realised by the Enforcement Agent pursuant to this Condition shall, upon receipt thereof, be paid to the Managers' Trustee who shall hold such moneys on trust and apply such moneys in accordance with Condition 14(b) (*Application of Managers' Available Proceeds of Enforcement of Managers' Security*).

14. **Application of Available Proceeds or Managers' Available Proceeds**

(a) **Application of Available Proceeds of Enforcement of Security**

Subject to and in accordance with the terms of the Trust Deed, with effect from the date on which any valid Enforcement Notice is effectively delivered by the Trustee following the occurrence of an Enforcement Event, the Trustee will hold the Available Proceeds received by it under the Trust Deed on trust and, after payment by the Issuer of the Series Minimum Profit (to the extent not already received by the Issuer), apply them as they stand on each Trustee Application Date as follows:

- (i) first, in payment or satisfaction of any fees, costs, charges, expenses and liabilities of the Trustee or any receiver in relation to the Notes in preparing and executing the trusts and carrying out its functions under the Trust Deed and the other Transaction Documents (including any taxes required to be paid, legal fees, the cost of realising any Security and the Trustee's remuneration);
- (ii) secondly, *pari passu* in payment or satisfaction of (I) any fees, costs, charges, expenses and liabilities of the Enforcement Agent in acting as enforcement agent of the Issuer in respect of the Security for the Notes (including any taxes required to be paid, legal fees and the Enforcement Agent's remuneration), (II) any amounts owing to the Custodian for reimbursement in respect of payments made by it in accordance with the terms of the Custody Agreement relating to sums receivable on or in respect of the relevant Charged Assets, (III) any amounts owing to the Principal Paying Agent for reimbursement in respect of payments made by it in accordance with the terms of the Agency Agreement to any person in discharge of a Secured Payment Obligation, (IV) any fees, costs, charges, expenses and liabilities then due and payable to the Agents under the Agency Agreement and (V) any fees, costs, charges, expenses and liabilities then due and payable to the Custodian under the Custody Agreement;
- (iii) thirdly, *pari passu* in payment of any Early Redemption Amount then due and payable and any interest accrued thereon (which, for the avoidance of doubt, shall include Default Interest) to the holders of Notes; and
- (iv) fourthly, in payment of the Residual Amount (if any) to the Issuer.

Any Secured Creditor that has a claim in respect of more than one Secured Payment Obligation may rank differently in respect of each Secured Payment Obligation.

If the amount of moneys available to the Trustee for payment in respect of the Notes under this Condition 14(a) at any time following delivery by the Trustee of an Enforcement Notice in accordance with these Conditions, other than where the Mortgaged Property has been exhausted, amount to less than 10 per cent. of the nominal amount of the Notes then outstanding, the Trustee shall not be obliged to make any payments under this Condition 14(a) and shall, place such amounts on deposit as provided in paragraph (c) below and shall retain such amounts and accumulate the resulting income until the amounts and the accumulations, together with any other funds for the time being under the Trustee's control and available for such payment, amount to at least 10 per cent. of the nominal amount of the Notes then outstanding and then such amounts and accumulations (after deduction of, or provision for, any applicable taxes and negative interest) shall be applied as specified in this Condition 14(a).

(b) **Application of Managers' Available Proceeds of Enforcement of Managers' Security**

Subject to and in accordance with the terms of the Trust Deed, the Managers' Trustee (or any receiver appointed by it) will hold the Managers' Available Proceeds received by it under the Trust Deed on trust to apply them as they stand on each Managers' Trustee Application Date as follows:

- (i) first, in payment or satisfaction of any fees, costs, charges, expenses and liabilities of the Managers' Trustee or any receiver in preparing and executing the trusts and carrying out its functions under the Trust Deed and the other Transaction Documents (including any taxes required to be paid, legal fees, the cost of realising any Managers' Security and the Managers' Trustee's remuneration);
- (ii) secondly, in payment or satisfaction of any fees, costs, charges, expenses and liabilities of the Enforcement Agent in acting as enforcement agent of the Issuer in respect of the Managers' Security (including any taxes required to be paid, legal fees and the Enforcement Agent's remuneration);
- (iii) thirdly, in meeting any Manager's Claim; and
- (iv) fourthly, in payment of the Residual Amount to the Issuer.

(c) **Deposits**

Moneys held by the Trustee shall be deposited in its name in a non-interest bearing account at such bank or other financial institution as the Trustee may, acting in good faith and in a commercially reasonable manner and in its absolute discretion, think fit. The parties acknowledge and agree that notwithstanding that such account is intended to be a non-interest bearing account in the event that the interest rate in respect of certain currencies is a negative value, the application thereof would result in amounts being debited from funds held by such bank or financial institution ("*negative interest*").

(d) **Insufficient Proceeds**

- (i) Insufficient Proceeds from the Mortgaged Property

If the moneys received following the enforcement of Security are not enough to pay in full all amounts to persons whose claims rank rateably, the Trustee (or any receiver appointed by the Trustee) (as applicable) shall apply the moneys *pro rata* on the basis of the amount due to each party entitled to such payment.

- (ii) Insufficient Proceeds from the Managers' Security

If the moneys received following the enforcement of the Managers' Security are not enough to pay in full all amounts to persons whose claims rank rateably, the Managers' Trustee (or any receiver appointed by the Managers' Trustee) shall apply the moneys *pro rata* on the basis of the amount due to each party entitled to such payment.

(e) **Foreign Exchange Conversion**

To the extent that any proceeds payable to any Secured Creditor pursuant to this Condition 14 are not in the Specified Currency, then such proceeds shall be converted at such rate or rates, in accordance with such method and as at such date as may reasonably be specified by the Trustee (following the Trustee enforcing the Security pursuant to the Trust Deed and as described in Condition 12 (*Enforcement of Security*)), but having regard to current rates of exchange, if available. Any rate, method and date so specified shall be binding on the Issuer, the Noteholders and the Custodian.

15. **Enforcement of Rights or Security**

If any Security becomes enforceable, or any other right arises to pursue any remedies against the Issuer for a breach by the Issuer of the terms of the Trust Deed or the Notes, only the Trustee or the Enforcement Agent (acting as agent of the Issuer in accordance with the Constituting Instrument) may at its discretion and shall, on receipt (by the Issuer, in the case of the Enforcement Agent) of any Extraordinary Resolution, enforce the Security constituted by the Trust Deed, provided that it has been indemnified and/or secured and/or prefunded to its satisfaction. The Trustee or the Enforcement Agent shall (subject to the relevant direction being in form and content satisfactory to the Trustee or the Enforcement Agent) be obliged to act on the first Extraordinary Resolution received pursuant to this Condition 15.

To do this, the Trustee or any receiver appointed as provided for in the Trust Deed (subject to the following paragraph) or the Enforcement Agent may at its discretion take possession of and/or realise the Charged Assets and/or take action against any person liable in respect of any Charged Assets to enforce repayment of such Charged Assets, enforce and/or terminate the Agency Agreement and/or the Custody Agreement in accordance with its terms, but without any liability as to the consequence of such action and without having regard to the effect of such action on individual Noteholders. None of the Trustee, any receiver or the Enforcement Agent shall be required to take any action in relation to the enforcement of the Security without first being indemnified and/or secured and/or prefunded to its satisfaction.

Notwithstanding the foregoing, in no circumstances shall the Trustee be permitted when acting in its capacity as trustee for the Noteholders and the other Secured Creditors, nor shall the Noteholders and the other Secured Creditors (when acting in their respective capacities) be permitted, to take any action against the Charged Assets Obligor or the Charged Assets Guarantor or to enforce any claim that the Issuer may have against the Charged Assets Obligor or the Charged Assets Guarantor in respect of the Charged Assets or the Purchase Agreement or otherwise whether before, upon, or after any Security becoming enforceable. If the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed, but only to the extent that the Trustee is permitted to take such action pursuant to Condition 12(c) (*Realisation of Security*), fails or neglects to do so, then the Noteholders may exercise their usual rights under Clause 17.2 of the Master Trust Terms to remove the Trustee, but shall in no circumstances be entitled to proceed directly against the Issuer, the Charged Assets Obligor or the Charged Assets Guarantor.

If the Enforcement Agent, having become bound to proceed in accordance with the terms of the Trust Deed, fails or neglects to do so, in no circumstances shall the Noteholders be entitled to proceed directly against the Issuer, the Charged Assets Obligor or the Charged Assets Guarantor.

16. **Limited Recourse and Non-Petition**

(a) **General Limited Recourse**

(i) **Limited Recourse to the Mortgaged Property**

The obligations of the Issuer to pay any amounts due and payable in respect of the Notes and to the other Secured Creditors at any time in respect of the Notes shall be limited to the proceeds available out of the Mortgaged Property in respect of such Notes at such time to make such payments in accordance with Condition 14 (*Application of Available Proceeds or Managers' Available Proceeds*). Notwithstanding anything to the contrary contained herein, or in any Transaction Document, the Secured Creditors, including the Noteholders shall have recourse only to the Mortgaged Property, subject always to the Security, and not to any other assets of the Issuer. If, after (i) the Mortgaged Property is exhausted (whether following enforcement of the Security or otherwise) and (ii) application of the Available Proceeds relating to the Notes, as provided in Condition 14 (*Application of Available Proceeds or Managers' Available Proceeds*), any outstanding claim, debt or liability against the Issuer in relation to the Notes or the Transaction Documents relating to the Notes remains unpaid, then such outstanding claim, debt or liability, as the case may be, shall be extinguished and no debt shall be owed by the Issuer in respect thereof. Following extinguishment in accordance with this Condition 16(a)(i), none of the Secured Creditors, including the Noteholders or any other person acting on behalf of any of them, shall be entitled to take any further steps against the

Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors to recover any further sum in respect of the extinguished claim and no debt shall be owed to any such persons by the Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors in respect of such further sum in respect of the Notes.

(ii) **Limited Recourse to the proceeds of the Managers' Secured Property**

The obligations of the Issuer to pay any amounts due and payable in respect of any Manager's Claim, or to any other Managers' Secured Party, at any time shall be limited to the proceeds available out of the Managers' Secured Property at such time to make such payments in accordance with Condition 14 (*Application of Available Proceeds or Managers' Available Proceeds*). Notwithstanding anything to the contrary contained herein, or in any Transaction Document, the Managers' Trustee and the other Managers' Secured Parties shall have recourse only to the proceeds of the Managers' Secured Property, subject always to the Managers' Security, and not to any other assets of the Issuer. If, after (i) the Managers' Secured Property is exhausted and (ii) application of the Managers' Available Proceeds relating to the Managers' Security, as provided in Condition 14 (*Application of Available Proceeds or Managers' Available Proceeds*), any outstanding claim, debt or liability against the Issuer in relation to the Managers' Security remains unpaid, then such outstanding claim, debt or liability, as the case may be, shall be extinguished and no debt shall be owed by the Issuer in respect thereof. Following extinguishment in accordance with this Condition 16(a)(ii), none of the Managers' Trustee, the other Managers' Secured Parties or any other person acting on behalf of any of them shall be entitled to take any further steps against the Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors to recover any further sum in respect of the extinguished claim and no debt shall be owed to any such persons by the Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors in respect of such further sum.

(b) **Non-Petition**

None of the Transaction Parties (save for the Trustee or the Managers' Trustee who may lodge a claim in liquidation of the Issuer which is initiated by another party or take proceedings to obtain a declaration or judgment as to the obligations of the Issuer), the Noteholders or any person acting on behalf of any of them may, at any time, institute, or join with any other person in bringing, instituting or joining, insolvency, administration, bankruptcy, winding-up, examinership or any other similar proceedings (whether court-based or otherwise) in relation to the Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors or any of its assets, and none of them shall have any claim arising with respect to the assets and/or property attributable to any other notes issued by the Issuer (save for any further notes which form a single series with the Notes) or Mortgaged Property in respect of a different series or Obligations issued or entered into by the Issuer or any other assets of the Issuer (other than the Mortgaged Property in respect of the Notes or, in the case of the Managers' Secured Parties, the Managers' Secured Property).

(c) **Corporate Obligation**

In addition, none of the Transaction Parties, the Noteholders or any person acting on behalf of any of them shall have any recourse against any director, shareholder, or officer of the Issuer in respect of any obligations, covenant or agreement entered into or made by the Issuer pursuant to the terms of these Conditions, the Trust Deed or any other Transaction Documents.

(d) **Survival**

The provisions of this Condition 16 shall survive notwithstanding any redemption of the Notes or the termination or expiration of any Transaction Document.

17. **Prescription**

Claims against the Issuer for payment in respect of the Notes shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the relevant due date for payment.

18. **Meetings of Noteholders, Modification, Waiver and Substitution**

(a) **Meetings of Noteholders**

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the modification by Extraordinary Resolution (as defined in the Trust Deed) of these Conditions or any provisions of the Trust Deed or any agreement or deed constituted or created by the Constituting Instrument. The quorum for any meeting convened to consider an Extraordinary Resolution shall be two or more persons holding or representing a clear majority in principal amount of the Notes for the time being outstanding, or, at any adjourned such meeting two or more persons being or representing Noteholders whatever the principal amount of the Notes so held or represented except that, *inter alia*, the terms of the security and certain terms concerning the amount and currency and the postponement of the due dates of payment of the Notes may be modified only by resolutions passed at a meeting, the quorum at which shall be two or more persons holding or representing two-thirds, or, at any adjourned such meeting, not less than one-third, in principal amount of the Notes for the time being outstanding. The holder of a Global Registered Certificate representing the whole of the Series will be treated as being two persons for the purposes of any quorum requirements of a meeting of Noteholders.

A resolution in writing signed by or on behalf of the holders of not less than 75 per cent. in principal amount of the Notes who for the time being are entitled to receive notice of the meeting shall for all purposes be as valid and effectual as an Extraordinary Resolution passed at a meeting of the Noteholders of the Series.

**(b) Modification of these Conditions and/or any Transaction Document**

- (i) Subject to sub-paragraph (ii) below, the Trustee shall agree, without the consent of the Noteholders, to (a) any modification of any of these Conditions or any of the provisions of the Transaction Documents that is in its opinion of a formal, minor or technical nature or is made to correct a manifest error or (b) any modification of any of the provisions of the Trust Deed, or any other documentation in connection with the issue of the Notes, if the Charged Assets Obligor has exercised its rights pursuant to Charged Assets Condition 14 (*Substitution and variation; Substitution of the Issuer*) to substitute all (but not some only) of the Charged Assets or to vary the terms of the Charged Assets, and may agree, without the consent of the Noteholders, to any other modification (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of these Conditions or any of the provisions of the Transaction Documents that is in the opinion of the Trustee not materially prejudicial to the interests of the Noteholders. To the extent that any Agent is appointed or replaced pursuant to Condition 10(b)(ii) (*Calculation Agent Appointment, Termination and Replacement*), the Issuer may make such amendments to these Conditions and/or the Transaction Documents as it determines necessary to reflect such appointment or replacement to which the Trustee shall agree, and the Trustee shall sign such documents as may be required to give effect to such amendments. Any such modification, authorisation or waiver as is made or given under this Condition 18(b) shall be binding on the Noteholders and, if the Trustee so requires, such modification shall be notified to the Noteholders as soon as is practicable. The Issuer shall notify Standard & Poor's of any modification made by it in accordance with this Condition and the Trust Deed.
- (ii) Notwithstanding sub-paragraph (i) above, (a) any amendment to the Managers' Secured Property requires the consent of all the Managers' Secured Parties, (b) the Managers' Trustee agrees, upon a direction from the Managers, to consent to any amendment to the Managers' Secured Property, unless such amendment, in the opinion of the Managers' Trustee (in its absolute discretion), would impose any onerous obligations on the Managers' Trustee or expose the Managers' Trustee to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Managers' Trustee in these Conditions or the Constituting Instrument in any way and (c) the Trustee shall not be obliged to consent to any amendment in accordance with sub-paragraph (i) above, if such amendment, in the opinion of the Trustee (in its absolute discretion), would impose any onerous obligations on the Trustee or expose the Trustee to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Trustee in these Conditions or the Constituting Instrument in any way.

**(c) Substitution**

The Master Trust Terms contain provisions permitting the Trustee to agree, subject to such amendment of the Trust Deed and the other agreements and deeds constituted or created by the relevant Constituting Instrument and to the confirmation of any applicable rating agent that the ratings of any existing Series will not be affected thereby, and such other conditions as the Trustee may require, without the consent of the Noteholders, to the substitution of any other company in place of the Issuer, or of any previous substituted company, as principal debtor under the Constituting Instrument and the Notes. In the case of such a substitution, the Trustee may agree, without the

consent of the Noteholders to a change of the law governing the Notes and/or the Master Trust Terms and/or the Constituting Instrument any other Transaction Document provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders.

(d) **Entitlement of the Trustee**

In connection with the exercise of its powers, trusts, authorities or discretions (including but not limited to those in relation to any proposed modification, waiver, authorisation or substitution as aforesaid) the Trustee shall not have regard to the consequences of such exercise for individual Noteholders, or of holders of any other notes or bonds, resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

19. **Replacement of Notes**

If a Note (in global or definitive form) is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Registrar, upon payment by the claimant of out-of-pocket expenses in connection therewith and on such terms as to evidence, security and indemnity and otherwise as the Issuer may require. Mutilated or defaced Notes must be surrendered before replacements will be issued.

20. **Further Issues**

The Issuer may from time to time without the consent of the Noteholders but subject to Condition 5 (*Restrictions*) create and issue further notes or other Obligations either having the same terms and conditions as the Notes in all respects (or in all respects except for the first payment of interest on them) and so that such further issue shall be consolidated and form a single series with the Notes or upon such terms as the Issuer may determine at the time of their issue. Any such further notes shall only form a single series with the Notes (unless otherwise sanctioned by an Extraordinary Resolution) if the Issuer provides additional assets (as security for such further notes) which are fungible with, and have the same proportionate composition as, those forming part of the Mortgaged Property for the Notes and in the same proportion as the proportion that the nominal amount of such new notes bears to the Notes. Any new notes forming a single series with the Notes shall be constituted and secured by a constituting instrument supplemental to the Constituting Instrument in respect of the existing Notes, such further security shall be added to the Mortgaged Property so that the new notes and the existing Notes shall be secured by the same Mortgaged Property (and, for the avoidance of doubt, all the holders of the first and all later Tranches of Notes shall benefit from the Mortgaged Property on a *pari passu* basis) and references in these Conditions to “**Notes**”, “**Charged Assets**”, “**Mortgaged Property**”, “**Secured Payment Obligations**”, “**Secured Creditor**” and “**Constituting Instrument**”) shall be construed accordingly. The Trust Deed contains provisions for convening a single meeting of the holders of the Notes and the holders of notes of other specified series in certain circumstances where the Trustee so decides.

21. **Notices**

*If the Registered Notes are represented by one or more Registered Certificate(s)*

Notices to the holders of Notes will be posted to them at their respective addresses in the Register and deemed to have been given on the seventh day after the day of posting.

In addition, if and for so long as the Notes are listed on a stock exchange, all notices to holders of the Notes will be published in accordance with the rules of such stock exchange.

*For so long as the Registered Notes are represented by a Global Registered Certificate*

So long as the Notes are represented by a Global Registered Certificate notices in respect of the Notes may be given by delivery of the relevant notice to Euroclear or Clearstream, Luxembourg for communication by them to entitled account holders or (in the case of a Global Registered Certificate registered in the name of a person other than a nominee for Euroclear, Clearstream, Luxembourg) to such person for communication by it to those persons entered in the records of such person as being entitled to such notice.

In addition, if and for so long as the Notes are listed on a stock exchange, all notices to holders of the Notes will be published in accordance with the rules of such stock exchange.



For the avoidance of doubt, holders of interests in a Global Registered Certificate will receive notices through Euroclear or Clearstream, Luxembourg as aforesaid rather than by post.

## 22. **Indemnification and Obligations of the Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee, for its relief from responsibility including for the exercise of any voting rights in respect of the Charged Assets and for the validity, sufficiency and enforceability (which the Trustee has not investigated) of the Security created over the Mortgaged Property and the Managers' Security created over the Managers' Secured Property. The Trustee is not obliged or required to take any step, action or proceeding under the Trust Deed unless indemnified and/or secured and/or pre-funded to its satisfaction. The Trustee and any Affiliate of the Trustee are entitled to enter into business transactions with the Issuer, the Charged Assets Obligor, the Charged Assets Guarantor, the Managers or any of their subsidiaries, holding or associated companies without accounting to the Noteholders for profit resulting therefrom.

The Trustee is exempted from liability with respect to any loss, diminution in value or theft of all or any part of the Charged Assets, from any obligation to insure all or part of the Charged Assets or to procure the insuring of the Charged Assets and from any claim arising from the fact that the Charged Assets will be held in safe custody by the Custodian or any custodian selected by the Trustee (in each case, if applicable). The Trustee is not responsible for monitoring or supervising the performance by any other person of its obligations to the Issuer and may assume these are being performed unless and until it has actual knowledge to the contrary.

The Trust Deed provides that in acting as Trustee under the Trust Deed the Trustee does not assume any duty or responsibility to the Enforcement Agent, the Custodian, the Calculation Agent, the Principal Paying Agent or the Registrar or any other Transaction Party (other than to pay to any of such parties any moneys received and repayable to it and to act in accordance with the provisions of Conditions 4 (*Security*) and 14 (*Application of Available Proceeds or Managers' Available Proceeds*) and shall have regard solely to the interests of the Noteholders.

None of the Trustee, the Principal Paying Agent nor the Registrar shall be required or obliged to monitor or enquire as to whether any event, condition or circumstance which could lead to an early redemption of the Notes exists or has occurred. None of the Trustee, the Principal Paying Agent nor the Registrar shall have any obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer, the Calculation Agent or any Secured Creditor.

The Trust Deed provides that the Trustee shall not be bound or concerned to make any investigation into the creditworthiness of the Charged Assets Obligor or the Charged Assets Guarantor (including, without limitation, whether the cashflows from the Charged Assets and the Notes are matched) nor shall the Trustee be obliged to take any action which would, in its opinion, render it personally liable in respect of any costs, claims, expenses or liabilities unless it is indemnified and/or secured and/or pre-funded to its satisfaction in respect of the same.

## 23. **Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999, except and to the extent (if any) that the Notes expressly provide for such Act to apply to any of their terms.

## 24. **Governing Law and Jurisdiction**

### (a) **Governing Law**

The Trust Deed and the Notes and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.

### (b) **Jurisdiction**

The courts of England are to have exclusive jurisdiction to settle any disputes that may arise out of or in connection with any Notes and accordingly any legal action or proceedings arising out of or in connection with any Notes ("**Proceedings**") may be brought in such courts. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts.

### (c) **Service of Process**

The Issuer has irrevocably appointed an agent in England to receive, for it and on its behalf, service of process in any Proceedings in England.

## **INFORMATION CONCERNING THE PURCHASE OF THE ORIGINAL CHARGED ASSETS**

On the Issue Date, pursuant to the Purchase Agreement, the Issuer will acquire the Original Charged Assets from the Charged Assets Obligor, which will be registered in the name of the Custodian acting as custodian on behalf of the Issuer, and any certificate(s) issued in respect thereof will be held by the Custodian acting through its London office pursuant to the Custody Agreement subject to the Security in favour of the Trustee created by the Trust Deed.

Under the Purchase Agreement, each of the Charged Assets Obligor and the Charged Assets Guarantor has (i) given certain representations and warranties to the Issuer, including in respect of the Charged Assets Obligor's authority and capacity to issue, and the Charged Assets Guarantor's authority and capacity to guarantee, the Charged Assets and that such Charged Assets constitute legal, valid and binding obligations of the Charged Assets Obligor and the Charged Assets Guarantor in accordance with their terms, and (ii) agreed to indemnify the Issuer against certain liabilities.

Each of the Charged Assets Obligor and the Charged Assets Guarantor has acknowledged the assignments by way of security of the Issuer's rights under the Purchase Agreement to the Trustee and the Managers' Trustee. For a description of these assignments see "Conditions of the Notes – 4. Security" in the Conditions.

Information about the Original Charged Assets is set out in the Information Memorandum for the Original Charged Assets set out in the Appendix to this Series Memorandum.

## **INFORMATION CONCERNING THE CHARGED ASSETS OBLIGOR AND THE CHARGED ASSETS GUARANTOR**

Basic information about the Charged Assets Obligor and the Charged Assets Guarantor is set out below. For further information, please refer to the Information Memorandum for the Original Charged Assets set out in the Appendix to this Series Memorandum.

### **Charged Assets Obligor**

Name:	Swiss Life AG
Address:	General Guisan-Quai 40, Postfach 2831, Zürich, 8002, Switzerland
Country of Incorporation:	Switzerland
Nature of Business:	Swiss Life AG forms part of the Swiss Life group providing insurance products and services
Name of market where securities (other than the Original Charged Assets) have been admitted:	SIX Swiss Exchange

### **Charged Assets Guarantor**

Name:	Swiss Life Holding AG
Address:	General Guisan-Quai 40, Postfach 2831, Zürich, 8002, Switzerland
Country of Incorporation:	Switzerland
Nature of Business:	Swiss Life Holding AG is a Switzerland-based holding company and forms part of the Swiss Life group, providing insurance products and services
Name of market where securities (other than the Original Charged Assets) have been admitted:	SIX Swiss Exchange

## SUBSCRIPTION AND SALE

Subject to the terms and conditions contained in the Syndication Agreement with respect to the Notes, the Issuer has agreed to sell to the Managers, and the Managers have jointly and severally agreed to purchase from the Issuer, the Notes.

The Managers will purchase the Notes at a customary discount from the price indicated on the cover of this Series Memorandum and propose initially to offer and sell the Notes at the issue price set forth on the front of this Series Memorandum. After the initial offering of the Notes, the price at which the Notes are being offered may be changed at any time without notice. The offering of the Notes by the Managers is subject to receipt and acceptance and subject to the Managers' rights to reject any order in whole or in part.

### Indemnification

The Issuer has agreed to indemnify the Managers against certain liabilities or to contribute to payments that the Managers may be required to make in respect of those liabilities.

### Selling Restrictions

#### United States

The Notes have not been and will not be registered under the Securities Act and the Notes are subject to U.S. tax law requirements. Subject to certain exceptions, the Notes may not be offered, sold or delivered within the United States. Each Manager has agreed that it will not offer, sell or deliver any Notes within the United States.

In addition, until 40 days after the commencement of the offering of the Notes, an offer or sale of the Notes within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act.

#### United Kingdom

Each Manager has represented and agreed that:

- (i) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 ("FSMA") received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of FSMA does not apply to the Issuer; and
- (ii) it has complied and will comply with all applicable provisions of FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

#### The Netherlands

The Notes may not, directly or indirectly, be, (or announced to be) offered, sold, resold, delivered or transferred as part of their initial distribution or at any time thereafter to, or to the order of, or for the account of, any person anywhere in the world other than to:

- (i) persons who do not form part of the "public", as that term is interpreted by the applicable regulator pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; and
- (ii) Qualified Investors within the meaning of Section 1:1 of the Financial Supervision Act (*Wet op het financieel toezicht*).

#### Switzerland

The Notes may not be publicly offered, sold or advertised, directly or indirectly, in, into or from Switzerland and will not be listed on the SIX Swiss Exchange or any other exchange or regulated trading facility in Switzerland. Neither this Series Memorandum nor any other offering or marketing material relating to the Notes constitutes (i) an Offering Memorandum as such term is understood pursuant to article 652a or article 1156 of the Swiss Code of Obligations, (ii) a listing Offering Memorandum within the meaning of the listing rules of the SIX Swiss Exchange or any other regulated trading facility in Switzerland or (iii) a simplified prospectus or a prospectus as such term is defined in the Swiss Collective Investment Schemes Act, and neither this Series Memorandum nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this Series Memorandum nor any other offering and marketing material relating to the offering, the Issuer or the Notes have been or will be filed with or approved by any Swiss regulatory authority. The Notes are not subject to the supervision by any Swiss regulatory authority, including FINMA, and investors in the Notes will not benefit from protection or supervision by such authority.

## Hong Kong

Each Manager has represented and agreed that it has not issued, or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance.

## Singapore

Each Manager has acknowledged that this Series Memorandum has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Manager has represented and agreed that it has not offered or sold any Notes or caused such Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell such Notes or cause such Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Series Memorandum or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of such Notes, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

This Series Memorandum has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this Series Memorandum and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of any Notes may not be circulated or distributed, nor may any Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

- (i) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (ii) where no consideration is or will be given for the transfer;
- (iii) where the transfer is by operation of law;
- (iv) as specified in Section 276(7) of the SFA; or
- (v) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

## Italy

The offering of the Notes will not be registered pursuant to Italian securities legislation and accordingly, no Notes may be offered, sold or delivered, nor may copies of the Programme Memorandum or this Series Memorandum or any other document relating to the Notes be distributed in the Republic of Italy, except:

- (a) to qualified investors (*investitori qualificati*) (“**Qualified Investors**”), as defined under Article 34-ter, paragraph 1, letter b) of Regulation No. 11971 issued by CONSOB (the Italian Securities Exchange Commission) on 14 May 1999, as amended (the “**Regulation 11971/1999**”); or
- (b) in circumstances which are exempted from the rules on offers of securities to be made to the public pursuant to Article 100 of Legislative Decree No. 58 of 24 February 1998, as amended (the “**Financial Services Act**”) and Article 34-ter, first paragraph, of Regulation 11971/1999.

Any offer, sale or delivery of the Notes or distribution of copies of the Programme Memorandum, or this Series Memorandum or any other document relating to the Notes in the Republic of Italy under (a) or (b) above must be:

- (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Financial Services Act, CONSOB Regulation No. 16190 of 29 October 2007 and Legislative Decree No. 385 of 1 September 1993, as amended; and
- (ii) in compliance with any other applicable laws and regulations.

In accordance with Article 100-bis of the Financial Services Act, where no exemption under (b) above applies, the subsequent distribution of the Notes on the secondary market in Italy must be made in compliance with the rules on offers of securities to be made to the public provided under the Financial Services Act and the Regulation 11971/1999. Failure to comply with such rules may result, *inter alia*, in the sale of such Notes being declared null and void and in the liability of the intermediary transferring the Notes for any damages suffered by the investors.

## General

No representation is made that any action has been taken in any jurisdiction that would permit a public offering of any of the Notes, or possession or distribution of this Series Memorandum or any other offering material, in any country or jurisdiction where action for that purpose is required.

Each Manager has agreed that it will, to the best of its knowledge, comply in all material respects with all relevant laws, regulations and directives in each jurisdiction in which it purchases, offers, sells or delivers Notes or has in its possession or distributes this Series Memorandum or any other offering material and neither the Issuer nor any other Manager shall have responsibility therefor.

## **USE OF PROCEEDS**

The net proceeds from the issue of the Notes (amounting to approximately EUR 594,568,084) will be applied by the Issuer to finance the purchase price for the Original Charged Assets.



## GENERAL INFORMATION

### 1. Authorisation

The Issuer has obtained all necessary consents, approvals and authorisations in connection with the issue and performance of the Notes. The issue of the Notes was duly authorised by a resolution of the board of directors of the Issuer dated 22 September 2016.

### 2. Interests of Natural and Legal Persons in the Issue

So far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer.

### 3. Subscription and delivery of the Notes

The Notes will be subscribed for on a syndicated basis and (i) the Joint Lead Managers are Banca IMI S.p.A., Citigroup Global Markets Limited, J.P. Morgan Securities plc and UBS Limited; and (ii) the Co-Lead Managers are ABN AMRO N.V. and Bayerische Landesbank. The Notes will be delivered against payment.

### 4. No post-issuance information

The Issuer does not intend to provide post-issuance information regarding, where applicable, performance of the Original Charged Assets.

### 5. Significant or Material Change

There has been no significant change in the financial or trading position of the Issuer and there has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2015, being the date of the Issuer's last published audited financial statements.

### 6. Litigation

There are no legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) which may have or have had since the date of its incorporation a significant effect on the financial position of the Issuer.

### 7. Clearing Systems and Settlement

The Notes have been accepted for clearance through Euroclear, Clearstream, Luxembourg or such other clearing system approved by the Issuer and the Trustee. The common code and ISIN for the Notes will be 149258051 and XS1492580516 respectively.

### 8. Documents Available

For as long as the Notes are outstanding and listed on the Irish Stock Exchange, copies of the following documents will be available for inspection by physical means during usual business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Issuer:

- (i) this Series Memorandum and the Programme Memorandum;
- (ii) the Constituting Instrument;
- (iii) the Memorandum and Articles of Association of the Issuer; and
- (iv) the audited financial statements of the Issuer for the financial year ending on 31 December 2014 and the financial year ending on 31 December 2015.

### 9. Estimated Total Expenses

The expenses related to the admission of the Notes to trading on the Main Securities Market of the Irish Stock Exchange for the purposes of the Prospectus Directive are estimated to be EUR 5,290.

10. **Information relating to the Listing Agent**

Arthur Cox Listing Services Limited is acting solely in its capacity as Irish listing agent for the Issuer in connection with the Notes and is not seeking admission of the Notes to the Official List or to trading on the Main Securities Market of the Irish Stock Exchange for the purposes of the Prospectus Directive.

**APPENDIX**

**INFORMATION MEMORANDUM FOR THE ORIGINAL CHARGED ASSETS**



**Swiss Life AG**

**EUR 600,000,000**

**Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes**

**guaranteed on a subordinated basis by**

**Swiss Life Holding AG**

The EUR 600,000,000 Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes (the "**Loan Notes**") will be issued by Swiss Life AG ("**SL**" or the "**Issuer** ") on 27 September 2016 (the "**Issue Date**") and guaranteed on a subordinated basis by Swiss Life Holding AG ("**SL Holding**" or the "**Guarantor**"). Initially, only one Loan Note will be issued by the Issuer.

The Loan Notes have no fixed final maturity date. The Issuer may redeem the Loan Notes in whole but not in part at their principal amount, together with any accrued interest and any outstanding Deferred Interest (as defined in the terms and conditions of the Loan Notes (the "**Conditions**")), on 19 May 2027 (the "**First Call Date**") or on any Interest Payment Date (as defined in the Conditions) thereafter. The Issuer may also redeem the Loan Notes in whole but not in part upon the occurrence of a Recalculation of Interest Event, a Tax Event, an Accounting Event, a Rating Agency Event or a Regulatory Event (each as defined in the Conditions, and referred to collectively as the "**Special Early Redemption Events**"). A redemption upon the occurrence of a Special Early Redemption Event will be at the principal amount of the Loan Notes, together with any accrued interest and any outstanding Deferred Interest to the date of redemption. The Issuer may redeem the Loan Notes only if no Solvency Event (as defined in the Conditions) has occurred and is continuing and if the Swiss Financial Market Supervisory Authority FINMA, or any successor authority (collectively, "**FINMA**"), has given such consent, approval or non-objection (if any) as is required under the relevant rules and regulations of FINMA, all as more fully described in the Conditions.

The Loan Notes will bear interest at (i) a fixed rate of 4.50 per cent. per annum from and including 27 September 2016 to but excluding the First Call Date payable annually in arrear on 19 May in each year commencing on 19 May 2017, and (ii) a floating rate equal to the sum of the three month EU-RIBOR plus the Initial Margin (as defined in the Conditions) of 4.10 per cent. plus one per cent. per annum from and including the First Call Date payable quarterly in arrear on each 19 February, 19 May, 19 August and 19 November, in each year thereafter. The first payment, to be made on 19 May 2017, will be in respect of the period from, and including, the Issue Date to, but excluding, 19 May 2017 and will amount to EUR 28.85 per EUR 1,000 in principal amount of the Loan Notes. Under certain circumstances described in Condition 4 of the Conditions, the Issuer may elect, or be required, to defer interest payments on the Loan Notes.

The Loan Notes constitute direct, unsecured, subordinated and perpetual obligations of the Issuer and rank *pari passu*, without any preference, among themselves and any other future unsecured, subordinated perpetual obligations of the Issuer (whether actual or contingent) outstanding from time to time ranking, or expressed to rank, *pari passu* with the obligations of the Issuer under the Loan Notes, except that the Loan Notes will rank senior to any debt or other obligation of the Issuer that is expressly or by applicable law subordinated to the Loan Notes. In the event of the insolvency, winding-up, liquidation, composition, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes) or other similar proceedings of or against the Issuer, the claims of the Loan Noteholders against the Issuer in respect of payments of principal of, and interest on, the Loan Notes will be subordinated in right of payment to the claims of all Issuer Senior Credi-

tors (as defined in the Conditions), but will be paid in priority to any debt or other obligation of the Issuer that is expressly or by applicable law subordinated to the Loan Notes and to distributions to all classes of equity of the Issuer. The Guarantor has given an unconditional and irrevocable guarantee on a subordinated basis for the due payment of principal of, and interest on and any premium, and any other amounts expressed to be payable by the Issuer under the Conditions (the "**Guarantee**") in accordance with Article 111 of the Swiss Federal Code of Obligations, irrespective of the validity of the Loan Notes and has waived all rights of objection and defence arising from the Loan Notes. In the event of the insolvency, winding-up, liquidation, composition, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Guarantor) or other similar proceedings of or against the Guarantor, the claims of the Loan Noteholders under the Guarantee will be subordinated in right of payment to the claims of all Guarantor Senior Creditors (as defined in the Guarantee), but will be paid in priority to any debt or other obligation of the Guarantor that is expressly or by applicable law subordinated to the Guarantee and to distributions to all classes of equity of the Guarantor.

Subject to the Conditions, the Issuer may, following the occurrence of any Special Early Redemption Event which is continuing, without any requirement for the consent or approval of the holders of the Loan Notes (the "**Loan Noteholders**"), substitute (i) all (but not less than all) of the Loan Notes or (ii) the Issuer by a successor issuer being a member of the Swiss Life group (and with a guarantee on a subordinated basis by the Guarantor) or otherwise modify the terms of the Loan Notes.

The Loan Notes initially will be represented by a single definitive certificate in registered form (*Namenspapier*) representing EUR 600,000,000 in principal amount of the Loan Notes. The Loan Notes will not be listed on any securities exchange.

The Loan Notes are expected to be assigned on issue a rating of BBB+ by Standard & Poor's Credit Market Services Europe Limited.

The Loan Notes have not been, or will not be, registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"), or the securities laws of any state or other jurisdiction of the United States. The Loan Notes may not be offered, sold or resold within the United States (as defined in Regulation S under the Securities Act), except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state or local securities laws. The Loan Notes are not being offered in the United States or to U.S. persons. In addition, each Loan Noteholder must be a Qualifying Bank (as defined in the Conditions) or, subject to the Issuer having consented thereto in writing, a Permitted Non-Qualifying Lender (as defined in the Conditions); provided that there shall at any time be no more than five Qualifying Banks that are Loan Noteholders. The Loan Notes are subject to significant restrictions on transfer, see "TRANSFER RESTRICTIONS".

Each investor contemplating purchasing the Loan Notes should make its own independent investigation of the financial condition and affairs of the Issuer and the Guarantor, and its own appraisal of the creditworthiness of the Issuer and the Guarantor. See "**RISK FACTORS**" beginning on page 19 for a discussion of certain factors that should be considered by prospective investors.

No person has been authorised to give any information or to make any representation other than those contained in this Information Memorandum in connection with the issue or sale of the Loan Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer and the Guarantor. This Information Memorandum does not constitute an offer, and may not be used for the purpose of an offer to, or a solicitation by, anyone in any jurisdiction or in any circumstances in which such an offer or solicitation is not authorised or is unlawful. See "TRANSFER RESTRICTIONS".

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## CAUTIONARY NOTE ON FORWARD-LOOKING STATEMENTS

Certain statements contained in this Information Memorandum are forward-looking. These statements provide current expectations of future events based on certain assumptions and include any statement that does not directly relate to a historical fact or current fact. Forward-looking statements typically are identified by words or phrases such as "anticipate", "assume", "believe", "continue", "estimate", "target", "expect", "foresee", "intend", "may increase" and "may fluctuate" and similar expressions or by future or conditional verbs such as "will", "should", "would" and "could". These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause Swiss Life's actual results of operations, financial condition, solvency, ratios, liquidity position or prospects to be materially different from any future results of operations, financial, condition, solvency ratios, liquidity position or prospects expressed or implied by such statements. Any forward-looking statements are qualified in their entirety by reference to the factors discussed throughout this Information Memorandum.

Among the key factors that have a direct bearing on Swiss Life's results of operations, financial condition, solvency ratios, liquidity position or prospects are:

- instability affecting the global financial system and developments related thereto including as a result of concerns over, or adverse developments relating to, sovereign debt of eurozone countries and political risk of the eurozone;
- deterioration in global economic conditions;
- the effect of capital market conditions, including the global credit and equity markets, and the level and volatility of interest rates, credit spreads, equity prices, currency values and other market indices as well as the development of real estate prices on investment assets;
- changes in investment result as a result of changes in investment policy or the changed composition of investment assets, and the impact of the timing of any such changes relative to changes in market conditions;
- uncertainties in valuing assets and liabilities;
- possible inability to realise amounts on sales of assets held on the balance sheet equivalent to their mark-to-market values recorded for accounting purposes;
- the possibility that hedging arrangements may not be effective;
- the lowering, loss of or change in the outlook for one of the financial strength or other ratings of one or more Swiss Life companies, and developments adversely affecting Swiss Life's ability to achieve improved ratings;
- the ability to maintain sufficient liquidity and access to capital markets, including sufficient liquidity to cover potential recaptures of reinsurance

agreements, early calls of debt or debt-like arrangements and collateral calls due to actual or perceived deterioration of the financial strength or otherwise;

- uncertainties in estimating reserves;
- current, pending and future legislation and regulation including tax laws affecting Swiss Life;
- changes in laws and regulations (including tax law and industry requirements or business conduct rules of general applicability) and their interpretation by courts, regulators and other authorities;
- legal actions or regulatory investigations or actions, including those in respect of industry requirements or business conduct rules of general applicability;
- uncertainties in estimating future claims for purposes of financial reporting; in particular the frequency, severity and development of insured claim events;
- mortality, morbidity and longevity assumptions;
- policy renewal and lapse rates;
- extraordinary events affecting clients and other counterparties, such as bankruptcies, liquidations and other credit-related events;
- acts of terrorism and acts of war;
- changes in accounting standards;
- significant investments, acquisitions or dispositions, and any delays, unexpected costs or other issues experienced in connection with any such transactions;
- changing levels of competition; and
- operational factors, including the efficacy of risk management and other internal procedures in managing the foregoing risks.

See "*RISK FACTORS*" for additional details.

These factors are not exhaustive. Because these factors could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by or on behalf of Swiss Life, investors should not place undue reliance on any of these forward-looking statements. Further, any forward-looking statement speaks only as of the date of this Information Memorandum. Except as may be required by applicable law, stock exchange rules or regulations, Swiss Life expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any change in Swiss Life's expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based. New factors emerge from time to time, and it is not possible to predict which will arise. In addition, Swiss Life cannot assess the effect of each factor on the business or the extent to which any factor, or combination of factors, may



cause actual results to differ materially from those described in any forward-looking statement.

## DOCUMENTS INCORPORATED BY REFERENCE

Each document incorporated herein by reference is current only as at the date of such document, and the incorporation by reference of such documents shall not create any implication that there has been no change in the affairs of the Issuer, the Guarantor or the Guarantor's other direct and indirect subsidiaries (the Issuer, the Guarantor and the Guarantor's other direct and indirect subsidiaries taken as a whole ("**Swiss Life**"), as the case may be, since the date thereof or that the information contained therein is current as at any time subsequent to its date. Any statement contained therein shall be deemed to be modified or superseded for the purposes of this Information Memorandum to the extent that a subsequent statement contained herein modifies or supersedes that statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Memorandum.

The documents referenced below are incorporated by reference into this Information Memorandum and are available on the website of Swiss Life (<http://www.swisslife.com/en/home/investors/results/infokits.html>):

- The audited consolidated financial statements of Swiss Life (including the notes thereto) as at, and for the years ended 31 December 2015 and 2014 and related reports of the statutory auditors; and
- The unaudited consolidated financial statements of Swiss Life (including the notes thereto and prior period comparative information) as at, and for the half-year ended 30 June 2016 and the related review report of the independent auditors.

**Prospective investors are advised to obtain and read the documents incorporated by reference herein before making their investment decision in relation to the Loan Notes**

No other information contained on Swiss Life's web site, or on any other web site, is incorporated herein by reference.

### Definitions

Capitalised terms used but not defined elsewhere in this Information Memorandum shall have the meanings given in the Conditions as set forth in "*Terms and Conditions of the Loan Notes*".

### Sources of Information

Except where market or market share data are otherwise attributed to another source, all market and market share data included in this Information Memorandum are Swiss Life's own estimates. These estimates are based upon Swiss Life's experience in the insurance industry.

## OVERVIEW OF THE TERMS AND CONDITIONS OF THE LOAN NOTES

This summary should be read together with the full Conditions set forth in "*Terms and Conditions of the Loan Notes*".

<b>Issuer</b>	Swiss Life AG
<b>Guarantor</b>	Swiss Life Holding AG
<b>Securities</b>	Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes (the " <b>Loan Notes</b> ")

**Status of the Loan Notes**

The Loan Notes constitute direct, unsecured, subordinated and perpetual obligations of the Issuer and rank pari passu, without any preference among themselves and any other future unsecured, subordinated perpetual obligations of the Issuer (whether actual or contingent) outstanding from time to time ranking, or expressed to rank, pari passu with the obligations of the Issuer under the Loan Notes, except that the Loan Notes will rank senior to any debt or other obligation of the Issuer that is expressly or by applicable law subordinated to the Loan Notes.

In the event of the insolvency, winding-up, liquidation, composition, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes) or other similar proceedings of or against the Issuer, the claims of the holders of record of Loan Notes (the "**Loan Noteholders**") against the Issuer, in respect of payments of principal of, and interest on, the Loan Notes will be subordinated in right of payment to the claims of all Issuer Senior Creditors, but will be paid in priority to any debt or other obligation of the Issuer that is expressly or by applicable law subordinated to the Loan Notes and to distributions to all classes of equity of the Issuer.

Where:

"**Issuer Senior Creditors**" means creditors of the Issuer, (i) who are policyholders or other unsubordinated creditors of the Issuer, or (ii) whose claims are, or are expressed to be, subordinated (whether only in the event of the liquidation, dissolution or

winding-up of the Issuer or otherwise) to the claims of policyholders and other unsubordinated creditors of the Issuer (including all existing and future unsecured, subordinated obligations of the Issuer (whether actual or contingent), except those whose claims rank, or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under the Loan Notes.

No security (except for the Guarantee with respect to the Loan Notes) of whatever kind is, or will at any time be, provided by the Issuer or any other person securing rights of the Loan Noteholders under the Loan Notes. No subsequent agreement may limit the subordination pursuant to the provisions set out in Condition 2(a) or shorten any applicable notice period in respect of the Loan Notes.

No Loan Noteholder may set off any claims arising under the Loan Notes against any claims that the Issuer may have against the Loan Noteholder. The Issuer may not set off any claims it may have against any Loan Noteholder against any of its obligations under the Loan Notes.

## **Guarantee**

The Guarantor has given an unconditional and irrevocable guarantee on a subordinated basis for the due payment of the amounts (including, but not limited to, principal and interest) expressed to be due and payable by the Issuer under and pursuant to the terms and conditions of the Loan Notes (the "**Guarantee**") in accordance with Article 111 of the Swiss Federal Code of Obligations, irrespective of the validity of the Loan Notes, the purchase agreement relating to the Loan Notes between the Issuer, the Guarantor and Elm B.V. dated 23 September 2016 (the "**Purchase Agreement**") and the agency agreement relating to the Loan Notes between the Issuer, the Guarantor, and The Bank of New York Mellon dated 27 September 2016 (the "**Agency Agreement**") and has waived all rights of objection and defense arising from the Loan Notes, the Purchase Agreement and the Agency Agreement. Accordingly, the Guarantor has agreed to pay or deliver to The Bank of New York Mellon, London branch, in its capacity as fiscal, paying and calculation agent in respect of the Loan Notes (the "**Agent**"), on behalf of the Loan Noteholders, within 7 (seven) calendar days after the receipt by the Guarantor of the first

written demand of the Agent for payment and its confirmation in writing that an amount has become due and payable under the Loan Notes which is equivalent to the amount claimed under the Guarantee and has remained unpaid on the due date.

The Guarantee will constitute a direct, subordinated and unsecured obligation of the Guarantor and rank *pari passu*, without any preference, among such obligations. In the event of an insolvency, winding-up, liquidation, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Guarantor in respect of the Guarantee) or other similar proceedings of or against the Guarantor, the claims of the Loan Noteholders under the Guarantee will be subordinated in right of payment to the claims of all Guarantor Senior Creditors, but will be paid in priority to any debt or other obligation of the Guarantor that is expressly or by applicable law subordinated to the Guarantee and to distributions to all classes of equity of the Guarantor.

Where:

**"Guarantor Senior Creditors"** means creditors of the Guarantor (i) who are unsubordinated creditors of the Guarantor, or (ii) whose claims are, or are expressed to be, subordinated (whether only in the event of the liquidation, dissolution or winding-up of the Guarantor or otherwise) to the claims of other unsubordinated creditors of the Guarantor (including all existing and future unsecured, subordinated obligations of the Guarantor (whether actual or contingent)), except those whose claims rank, or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under the Guarantee.

No security of whatever kind is, or will at any time be, provided by the Guarantor or any other person securing rights of the Loan Noteholders under the Guarantee. No subsequent agreement may limit the subordination pursuant to the provisions set out in the Guarantee or shorten any applicable notice period in respect of the Guarantee.

**Securities Rating**

BBB+

<b>Aggregate Principal Amount of the Loan Notes</b>	EUR 600,000,000
<b>Form of Loan Notes</b>	<p>The Loan Notes initially will be represented by a single definitive certificate in registered form (<i>Namenpapier</i>). The Loan Notes shall each bear the manual or facsimile signatures of two duly authorised officers of the Issuer as well as the manual signature of an authentication officer of The Bank of New York Mellon (Luxembourg) S.A. (the "<b>Registrar</b>"). The Registrar will maintain a register of the holders of record of the Loan Notes reflecting the ownership of the Loan Notes (the "<b>Register</b>").</p> <p>Initially only one Loan Note will be issued.</p>
<b>Issue Price</b>	99.707 per cent.
<b>Maturity, Redemption</b>	Perpetual and not redeemable, except at the option of the Issuer as set out below.
<b>Optional Redemption</b>	Subject to the conditions for redemption and repurchases stated in Condition 5.5, the Loan Notes are redeemable in whole but not in part at the option of the Issuer at their principal amount together with any accrued interest and any outstanding Deferred Interest to the date of redemption on 19 May 2027 (the " <b>First Call Date</b> ") and on any subsequent Interest Payment Date thereafter.
<b>Special Early Redemption</b>	<p>Subject to the conditions for redemption and repurchases stated in Condition 5.5, the Issuer may also call and redeem the Loan Notes in whole but not in part at their principal amount together with any accrued interest to the date of redemption upon the occurrence of:</p> <ul style="list-style-type: none"> <li>(i) a Recalculation of Interest Event;</li> <li>(ii) a Tax Event;</li> <li>(iii) an Accounting Event;</li> <li>(iv) a Rating Agency Event; or</li> <li>(v) a Regulatory Event;</li> </ul>

each a "**Special Early Redemption Event**" and together the "**Special Early Redemption Events**".

**Recalculation of Interest Event**

"**Recalculation of Interest Event**" means (i) the occurrence of a recalculation of interest in accordance with Condition 3.3 or (ii) any other event which requires the Issuer, pursuant to the Conditions, to pay Additional Amounts in respect of the Loan Notes and this cannot be avoided by the Issuer taking such reasonable measures as the Issuer (acting in good faith) deems appropriate.

**Tax Event**

"**Tax Event**" means that an opinion of a recognised tax counsel has been delivered to the Agent and the Issuer or the Guarantor, stating that the Issuer is, or there is more than an insubstantial risk that the Issuer will be, no longer able to obtain a tax deduction for the purposes of Swiss corporation tax for any payment of interest by the Issuer on the Loan Notes, and this cannot be avoided by the Issuer taking such reasonable measures as it (acting in good faith) deems appropriate.

**Accounting Event**

"**Accounting Event**" means that an opinion of a recognised accounting firm has been delivered to the Issuer or the Guarantor, stating that obligations of the Issuer in respect of the Loan Notes must not or must no longer be recorded as liabilities on the balance sheet of the Guarantor published in the Guarantor's annual consolidated financial statements pursuant to the International Financial Reporting Standards, as issued by the International Accounting Standards Board ("**IFRS**") and this cannot be avoided by the Issuer or the Guarantor, as the case may be, taking such reasonable measures as the Issuer or the Guarantor, as the case may be (acting in good faith) deems appropriate. With respect to an Accounting Event, the Issuer or the Guarantor, as the case may be, will deliver a copy of the applicable opinion to the Agent.

**Rating Agency Event**

"**Rating Agency Event**" means when, at any time, as a consequence of a change on or after the Issue Date in the rating methodology of a Rating Agency, or interpretation of such methodology in relation to the equity content of securities (such as the Loan Notes), the equity content, in the reasonable opinion of the Issuer, assigned to the Loan Notes as of the

date of such change is lower than the equity content previously assigned by such Rating Agency at or around the Issue Date or when such equity content was assigned for the first time (as applicable).

Where:

**"Rating Agency"** means Standard & Poor's Credit Market Services Europe Limited ("**S&P**") or such other nationally recognised credit rating agency that, from time to time, assumes or performs the function that is performed by S&P as at the Issue Date.

### **Regulatory Event**

**"Regulatory Event"** means the occurrence of any of the following events the occurrence of which cannot be avoided by the Issuer or the Guarantor, as the case may be, taking such reasonable measures as the Issuer (acting in good faith) deems appropriate:

- (i) the Regulator states that the Loan Notes are no longer eligible, in whole or in part, to qualify as upper additional capital (*oberes ergänzendes Kapital*) pursuant to Arts. 22a, 22b and 47 of the SPICO, and no longer, in whole or in part, fulfil the requirements for such category, or equivalent thereof, for group or solo solvency purposes; or
- (ii) the Regulator issues further guidance (by way of law, ordinance, regulation or a published interpretation thereof) in relation to instruments qualifying under Arts. 22a, 22b and 47 of the SPICO or in any Future Regulations for group or solo solvency purposes, and following which the Regulator states that such guidance has an adverse regulatory capital implication for the Issuer or the Guarantor in relation to the Loan Notes.

Where:

**"Future Regulations"** means any solvency margin, regulatory capital or capital adequacy regulations (if any) which may be introduced in Switzerland and which are applicable to the Issuer and/or the Guarantor, which would set out the requirements to be satisfied by financial instruments in order that they be eligible to be included in Tier 2 (or equivalent) own funds regulatory capital.



"**Regulator**" means FINMA or such other agency that, from time to time, assumes or performs the function that is performed by FINMA as at the Issue Date.

"**SPICO**" means the Ordinance on the Supervision of Private Insurance Companies (*Verordnung über die Beaufsichtigung von privaten Versicherungsunternehmen – AVO*) of 9 November 2005, as amended.

## **Interest**

The Loan Notes bear interest on their aggregate principal amount at the Fixed Rate of Interest (as stated below) from and including 27 September 2016 (the "**Issue Date**") to but excluding the First Call Date and at the Floating Rate of Interest (as stated below) from and including the First Call Date to but excluding the first Floating Interest Payment Date (as stated below) and thereafter from and including each Floating Interest Payment Date to but excluding the next following Floating Interest Payment Date. The first payment, to be made on 19 May 2017, will be in respect of the period from, and including, the Issue Date to, but excluding, 19 May 2017 and will amount to EUR 28.85 per EUR 1,000 in principal amount of the Loan Notes.

<b>Fixed Rate of Interest</b>	4.50 per cent. per annum.
<b>Floating Rate of Interest</b>	Three month EURIBOR plus the Initial Margin of 4.10 per cent. plus 1 per cent., all as determined by the Agent.
<b>Fixed Interest Payment Dates</b>	19 May in each year until, subject to an early redemption, the First Call Date. The first Fixed Interest Payment Date will be 19 May 2017
<b>Floating Interest Payment Dates</b>	19 February, 19 May, 19 August and 19 November in each year. The first Floating Interest Payment Date will be 19 August 2027.
<b>Tax Deductions and Recalculation of Interest</b>	If a Tax Deduction is required by law to be made by the Issuer in respect of any payment of interest in respect of the Loan Notes or, as the case may be any payment by the Guarantor under the Guarantee, for Swiss Withholding Tax and should it be unlawful for the Issuer or the Guarantor to comply with section (a) of Condition 7 for any reason, where this

would otherwise be required by the terms of Condition 7 (in particular taking into account the exclusions in section (b) of Condition 7), then (A) the applicable interest rate with respect to that interest payment shall be the interest rate which would have applied to that interest payment as provided for by Condition 3 divided by 1 minus the rate at which the relevant Tax Deduction is required to be made under Swiss domestic tax law and/or applicable double taxation treaties (where the rate at which the relevant Tax Deduction is required to be made is for this purpose expressed as a fraction of 1) and (B) the Issuer shall (x) pay the relevant interest at the adjusted rate in accordance with Condition 3.3(c), (y) make the Tax Deduction on the interest so recalculated and (C) all references to a rate of interest under the Conditions shall be construed accordingly.

To the extent that interest payable by the Issuer in relation to the Loan Notes or, as the case may be any payment by the Guarantor under the Guarantee, becomes subject to Swiss Withholding Tax, each relevant Loan Noteholder and the Issuer or the Guarantor shall promptly cooperate in completing any procedural formalities (including submitting forms and documents required by the appropriate Tax authority) to the extent possible and necessary (A) for the Issuer or the Guarantor to obtain authorisation to make interest payments without them being subject to Swiss Withholding Tax and (B) to ensure that any person which is entitled to a full or partial refund under any applicable double taxation treaty is so refunded. In case of a refund the amount of such refund that, together with the respective interest payments and/or payments under the Guarantee received by the Loan Noteholders, exceeds the amount of interest and/or payments under the Guarantee that the Loan Noteholders were entitled to if no Swiss Withholding Tax had been deducted (i.e. the interest calculated at the interest rates provided for in the Conditions other than in Condition 3.3) shall be paid back by the person entitled to the refund to the Issuer or the Guarantor which had to remit the Swiss Withholding Tax to the Tax authority.

**Optional Deferral of Interest Payments**

The Issuer will have the right to defer interest payments on the Loan Notes, in whole but not in part, on any Optional Interest Payment Date by giving

notice to the Loan Noteholders not less than 3 (three) Business Days prior to the relevant Optional Interest Payment Date. An "**Optional Interest Payment Date**" will be deemed to occur on any Interest Payment Date which does not constitute a Solvency Interest Deferral Date (as defined in below) or a Compulsory Interest Payment Date. A deferral notice for optional deferral given by the Issuer shall no longer have any effect, if the relevant Interest Payment Date after such notice is a Compulsory Interest Payment Date.

**Compulsory Interest Payment Date**

"**Compulsory Interest Payment Date**" means each Interest Payment Date prior to which either:

- (i) at any time during a period of six months a Compulsory Interest Payment Event has occurred; provided however that no Solvency Event has occurred and is continuing in relation to such Interest Payment Date, except that if a Solvency Event would only occur or be continuing as a result of any payment of the relevant interest amount (including, for the avoidance of doubt, any De-ferred Interest) on such Interest Payment Date, such Interest Payment Date shall be a Compulsory Interest Payment Date, but the Issuer shall only be required to pay the relevant interest amount other than the Solvency Shortfall; or
- (ii) a Regulatory Event has occurred and is continuing.

**Solvency Deferral of Interest**

A "**Solvency Interest Deferral Date**" will occur if in relation to an Interest Payment Date a Solvency Event has occurred and is continuing on the relevant Reference Date. In such case the Issuer will be required to suspend payment of any Interest Amount; provided that in the case where the payment of such Interest Amount would itself cause a Solvency Event to occur, the Issuer will only be required to defer the Solvency Shortfall, except that the Issuer will not be required to suspend the payment of such Interest Amount or Solvency Shortfall, as the case may be, if the Regulator has given its consent to such payment.

If the Issuer is required to defer interest, it will give notice to the Loan Noteholders, not less than 3 (three) Business Days prior to such Solvency Inter-

est Deferral Date of the amount of the relevant interest payment that shall be deferred.

**Satisfaction of Deferred Interest**

Subject to certain conditions described in Condition 4.4, Deferred Interest may at the option of the Issuer be paid in whole or in part at any time.

Furthermore, subject to the Regulator's approval as more fully described in Condition 4.4, Deferred Interest shall become due and payable in full upon the occurrence of any of the following events:

- (i) the occurrence of a Compulsory Interest Payment Date following the deferral of interest;
- (ii) any redemption of the Loan Notes (both Optional Redemption or a Special Early Redemption);
- (iii) a decree or order being made by a court or agency or supervisory authority in Switzerland having jurisdiction in respect of the same, or a resolution being passed, for the opening of bankruptcy proceedings, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes), liquidation or winding-up of the Issuer; and
- (iv) the occurrence of the next Optional Interest Payment Date upon which the Issuer elects to make an interest payment.

**Transfer of Loan Notes**

The Loan Notes may only be assigned and transferred by way of written assignment (*schriftliche Zession*), including upon an enforcement of a security over the Loan Notes, (a "**Transfer**") (and any Transfer is conditional (*aufschiebend bedingt*) upon and shall only become effective upon due registration of such Transfer by the Registrar in the Register),

- (i) in whole or in part, if the Transfer is to a Qualifying Bank, provided that in the case of a Transfer of the Loan Notes in part, the Loan Notes may not be transferred to more than 5 (five) Qualifying Banks; or

- (ii) in whole but not in part, if the Transfer is to a Permitted Non-Qualifying Lender.

<b>Substitution and Variation; Substitution of the Issuer</b>	Subject to the conditions to substitution and variation pursuant to Condition 14, in particular that the substituting securities have terms that are, in the opinion of two executive officers of the Issuer, not less favourable to the Loan Noteholders than the Conditions in any material respect, the Issuer may, following the occurrence of any Special Early Redemption Event which is continuing, without any requirement for the consent or approval of the Loan Noteholders, substitute (i) all (but not less than all) of the Loan Notes or (ii) the Issuer by a successor issuer being a member of the Swiss Life group (and with a guarantee by the Guarantor) or otherwise modify the terms of the Loan Notes.
<b>Fiscal Agent, Paying Agent and Calculation Agent</b>	The Bank of New York Mellon, acting through its London branch
<b>Governing Law</b>	The Loan Notes and the Guarantee will be governed by the laws of Switzerland.

## **RISK FACTORS**

*An investment in the Loan Notes involves risks. Prospective investors of Loan Notes should carefully consider the following risk factors and the other information in this Information Memorandum before making an investment decision. Any of the risk factors could impact the business, financial conditions or operating results of the Issuer, the Guarantor and all the Guarantor's other direct and indirect subsidiaries taken as a whole. Investors may lose all or part of their investments.*

*The Issuer and the Guarantor believe that the following factors may affect their respective ability to fulfil their respective obligations under the Loan Notes. All of the factors are contingencies which may or may not occur and neither the Issuer nor the Guarantor is in a position to express a view on the likelihood or severity of any such contingency occurring. Factors which the Issuer and the Guarantor believe may be material for the purpose of assessing the market risks associated with the Loan Notes issued are also described below.*

*The Issuer and the Guarantor believe that the factors described below represent the principal risks inherent in investing in the Loan Notes, but the Issuer and, under the Guarantee, the Guarantor may be unable to pay interest in connection with the Loan Notes for other reasons and neither the Issuer nor the Guarantor represents that the statements below regarding the risks of holding the Loan Notes are exhaustive. Prospective investors should also read the detailed information set out elsewhere in this Information Memorandum and reach their own views prior to making any investment decision.*

### **Risks related to Swiss Life**

#### **Market and business related risks**

##### ***Risks from insurance business***

Swiss Life maintains reserves for its life insurance business to cover its liabilities. Such insurance reserves depend on various factors, assumptions and uncertainties (see "*Risks associated with Swiss Life's calculations and assumptions*"). While Swiss Life believes its economic risk is reduced by the matching of durations of assets and liabilities under its asset and liability management ("**ALM**"), mandatory, guaranteed or other applicable interest rates may not change in line with market yields and may result in sudden changes in the reported amounts even if there was no corresponding change in investment yields and the value of assets. Moreover, changes in mortality, morbidity, longevity and other biometric assumptions may have a significant impact on annuity and other reserves. Loss reserves also do not represent an exact calculation of ultimate liabilities, but rather are estimates of the expected liabilities. Furthermore, disability and other reserves depend on regulatory requirements as well as other factors, which may

cause actual liabilities to differ from estimates. Likewise, annuity reserves may change significantly due to regulatory and legal changes and other factors.

Any insufficiencies in loss reserves for future claims and any change in reserves required as a result of changes in interest rates, biometric assumptions or other factors including regulatory changes could adversely affect the extent to which new business may be originated and could have material adverse effects on Swiss Life's business, financial condition and results of operations.

#### ***Risks from underwritten reinsurance business***

Swiss Life underwrites a reinsurance portfolio. This business is written mainly as retrocessionaire, i.e. customers are usually life reinsurers. Customers as well as underwritten risks are mainly located in North America, the United Kingdom and Continental Europe. Risks underwritten are limited to biometric risks, mainly mortality and longevity. Although a prudent underwriting approach with clear profitability targets and hurdle rates, geographical diversification, diversification across lines of business and an appropriate protection program mitigates these risks and provides for a balanced portfolio, losses could be experienced from a pandemic event, mortality improvements over those assumed in pricing or otherwise and could have material adverse effects on Swiss Life's earnings, capital or solvency position.

#### ***Risks from ceded reinsurance***

Swiss Life systematically transfers its exposure to certain risks in its life, health and property and casualty insurance business to third parties through reinsurance arrangements. Under these arrangements, other (re)insurers assume a portion of Swiss Life's losses and expenses associated with reported and unreported losses in exchange for a portion of policy premiums.

The availability, amount and cost of reinsurance depend on general market conditions and may vary significantly from time to time. Any decrease in the amount of Swiss Life's ceded reinsurance will increase its risk of losses. When it obtains reinsurance, Swiss Life could still be liable for those transferred risks, in particular if the reinsurer cannot meet its obligations. Accordingly, Swiss Life bears credit risk with respect to its reinsurers and could be faced with their inability or unwillingness to meet their financial obligations when falling due. Although Swiss Life conducts periodic reviews of the financial statements and reputation of its reinsurers, and, when appropriate, requires letters of credit, deposits or other financial collateral to further minimise its exposure to credit risk, reinsurers may become financially unsound by the time they are called upon to pay amounts due.

If the terms and conditions of such reinsurance contracts deteriorate in the future, if certain protection layers are no longer available on the market, or if individual reinsurers should become unable or unwilling to meet their payment obligations when falling due, this could have material adverse effects on Swiss Life's business, financial condition and results of operations.

***Risks associated with Swiss Life's calculations and assumptions***

Swiss Life's business operations and risk management require complex models under which it needs to properly reflect the value of its business and an adequate allowance for risks associated with it. This includes a continuous assessment of numerous factors, such as the long-term development of interest rates, investment returns, the allocation of investments between equity, fixed income and other asset classes, policyholder interest and crediting rates (some of which are guaranteed) and the overall approach to policyholder participation, mortality, morbidity and longevity rates, policyholder lapses and future expense levels. Swiss Life monitors its actual experience regarding these assumptions and to the extent that it considers that this experience will continue in the longer term it refines its long-term assumptions.

The actuarial practices and assumptions listed above are, among other factors, the basis for (i) Swiss Life's embedded value reporting in accordance with the Market Consistent Embedded Value ("**MCEV**") Principles published by the European Insurance CFO Forum, (ii) its "best estimate" actuarial assumptions under the IFRS liability adequacy testing, (iii) capital and other requirements under the Swiss Solvency Test ("**SST**") or Solvency II, (iv) the calculation of insurance premiums and reserves, and (v) Swiss Life's own pension obligations.

In any of the aforementioned cases Swiss Life needs to rely on its own assumptions and estimates when operating its risk analysis and risk management systems. The assumptions used may differ from actual future developments. Adjustments of such assumptions may have to be made in reaction to revised legal and regulatory requirements, changing financial markets or expected and/or actual future actuarial experience, which may lead to changes in the MCEV and the solvency position as well as the accounting of, and reserves required for, Swiss Life's insurance operations.

Certain risks are non-hedgeable and even with hedgeable risks there is a residual risk that hedging arrangements concluded by Swiss Life do not or only partially cover such risks. Also, Swiss Life could experience that its initial risk assessment, risk allowance or reserves prove to be inadequate at a later stage.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

***Risks associated with the implementation of Swiss Life's strategy***

The achievement of Swiss Life's strategic, operational and financial targets remains subject to uncertainty. Whilst the objectives for sustainable growth are subject to market demand fluctuations and competition, the ability to achieve a satisfactory performance in respect of the basic insurance result depends on pricing, the ability to control costs, claims figures, changes in reserves and the ability to generate insurance-related fee income. In addition to the basic insurance result, the investment result is an important factor in the profitability of Swiss Life's insurance operations. This result is driven by the returns achieved on the



investment portfolio, which partially depends on capital markets conditions, and on the guaranteed and non-guaranteed payments made to policyholders.

Besides the insurance business, Swiss Life aims to generate fee income through its advisory and distribution activities. The ability to generate such income depends on factors including quality of the respective activities, the ability to recruit skilled personnel, reputation and the general economic conditions.

In addition, Swiss Life aims to generate fee income through its third-party asset management business. The ability to generate such income depends on its ability to manage those third-party assets, the quality of the products and services it offers, the performance of the selected investments and of the funds offered, the development of the fixed-income, equity, real estate and infrastructure markets, and the general economic conditions.

Furthermore, mergers, acquisitions, disposals and management re-organisations may result in Swiss Life incurring costs and using considerable management resources. It is also possible that, as a result of any past or future mergers, acquisitions and disposals, Swiss Life may be subject to warranty, indemnity or other claims or to adverse tax or accounting charges.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Reputational risk***

Reputational risk is the risk of failure to meet stakeholder expectations as a result of any event, behaviour, action or inaction, either by Swiss Life, its employees or those with whom it is associated, that might cause stakeholders to form a negative view of Swiss Life. Similarly, public opinion of Swiss Life may be adversely affected by the actual, or perceived, manner in which Swiss Life conducts its business activities, or financial performance, as well as actual or perceived practices in the insurance and financial services industry generally. Modern technologies, in particular, online social media channels and other broadcast tools which facilitate communication with large audiences in short time frames and with minimal costs, may significantly enhance and accelerate the impact of damaging information and allegations. Negative views of stakeholders or negative public opinion may have both financial and non-financial impacts, such as a decrease in the value of the "Swiss Life" brand (see "Risks associated with the failure to maintain the value of the "Swiss Life" brand") and adverse effects on Swiss Life's ability to keep and attract customers and retain motivated staff, and could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks associated with the failure to maintain the value of the "Swiss Life" brand***

One of the most valuable assets of Swiss Life is the "Swiss Life" brand. The continued strength and recognition of the Swiss Life brand is a key factor in main-

taining Swiss Life's competitive position. The Swiss Life brand could be harmed if its public image or reputation were to be tarnished by negative publicity or negative sentiments expressed on social media channels, elsewhere on the Internet or other media, whether or not true, about Swiss Life or the insurance or financial services industry in general, or by a negative perception of Swiss Life's short-term or long-term financial prospects. Failure to maintain the value of the Swiss Life brand could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks relating to Swiss Life's distribution partners***

Swiss Life's main business areas include life insurance, risk protection, pensions and financial solutions for corporate and private clients. In its core markets of Switzerland, France and Germany, Swiss Life offers comprehensive and individual advice plus a broad range of own and partner products through, among other channels, distribution partners (such as brokers and banks).

If a significant number of these distribution partners were to terminate their distribution agreements with Swiss Life, or if the terms of such distribution agreements were to change to Swiss Life's detriment, it may lose a material portion of the business provided by such distribution partners. This could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks of competition and risks of general distress in the insurance market***

Swiss Life operates in selected European and non-European markets and is faced with a competitive environment in these markets. Swiss Life's profitability is generally dependent on the level of demand for its products and services as a whole, and on its ability to control its risk profile and operating costs. While an important factor lies in Swiss Life's ability to offer competitive and attractive products and services, demand and competition in these markets are subject to changes in response to political or regulatory developments, general economic conditions, and other market conditions beyond the control of Swiss Life. As a consequence, Swiss Life may face margin or volume declines in the future.

In addition, individual regional and local competitive factors could in the future change to Swiss Life's disadvantage, significantly intensifying competition in certain regions or countries.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

In addition, the implementation of Swiss Life's strategy as well as its operational and financial performance depend on the general conditions of the insurance industry. As a consequence, the deterioration of the insurance industry conditions, and in particular of the life insurance industry, for instance, due to sustained low or even negative interest rate levels, a change of the regulatory environment or

a general distrust against the industry may have material adverse effects on Swiss Life's business, financial condition and results of operations.

***Risks associated with failure to recruit, retain and develop appropriate senior management and skilled personnel***

Swiss Life's continued success depends on the retention of key members of its management team and wider employee base. The ability to continue to attract, train, motivate and retain highly qualified and capable professionals is an important element to successfully implement Swiss Life's strategy. If Swiss Life fails to staff its operations appropriately or loses one or more of its key senior executives, and fails to replace them in a satisfactory and timely manner, this could place Swiss Life at a significant competitive disadvantage which could have material adverse effects on Swiss Life's business, financial condition and results of operations.

***Political, macro-economic and demographic risks***

Swiss Life's future financial condition and results of operations, developments in its business, growth and profitability, and general industry and business conditions applicable to it may be adversely affected by unpredictable political, macro-economic and demographic influences.

For instance, on 23 June 2016 the United Kingdom ("**UK**") held a referendum to decide on the UK's membership of the European Union ("**EU**"). The UK vote was to leave the EU ("**Brexit**"), and negotiations will commence to determine the future terms of the UK's relationship with the EU. The effects of Brexit will, inter alia, depend on any agreement the EU makes with the UK to retain access to the EU markets either during a transitional regime or more permanently.

Further, in light of current political and economic conditions in Europe, reflecting, among others, concerns over sovereign debt credit deterioration of certain member states of the EU and the ability of central banks to stimulate economic growth, there is a possibility of other member states exiting the EU which (by itself or in combination with other events) may have systemic effects such as the exit of other member states, a collapse of the Euro or even a total break-up of the EU. Similarly, the default of certain member states on their sovereign debt obligations or the collapse of the banking system in individual member states may have systemic effects including the exit of such member states or the collapse of the Euro and the European banking system with a return to operating in a European business environment of multiple currencies.

Any of these events could lead to a depression with highly negative GDP growth, mass unemployment and high volatility of currencies. In addition, other macro-economic disruptions can lead to a sudden increase in inflation, which may be followed by surrender rates higher than currently expected or result in a deflationary phase induced by a strong recession, which could harm Swiss Life's ability to achieve the needed investment return and to generate profitable new business.

Any of the foregoing risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

***Risks of fluctuations in the financial markets and changes in general economic conditions***

Investment returns are an important part of Swiss Life's overall profitability. Fluctuations in the financial markets, changes in interest rates and credit spreads (see "*Risk of interest rate and credit spread rate changes*"), a lack of pricing transparency, reduced market liquidity, changes in equity, fixed income and commodity prices as well as foreign exchange rates, alone or in combination, could have material adverse effects on Swiss Life's financial condition, results of operations and cash flows. Volatility and fluctuations in the financial markets also impact the costs of hedging, which can result in lower investment returns. Interventions by central banks or the discontinuance thereof may trigger fluctuations in the financial markets or increase volatility. In addition, a default by a major market participant or a significant act of terrorism or other large-scale events could disrupt the securities markets or clearance and settlement systems in major markets which could in turn cause market declines or increased volatility. The failure of a major market participant could also lead to a chain of defaults that could adversely affect Swiss Life.

Changes in the economic conditions and markets, in particular rising interest rates, could adversely affect the real estate markets, which could have a negative impact on Swiss Life's real estate portfolio. In worsening economic circumstances, which may be driven by global macro-economic developments, domestic economic or political events (e.g. public votes), or other effects, the vacancy rates may increase which reduces the expected future cash inflows from rents accordingly, and hence may lower the valuation of individual properties substantially. Similarly, higher interest rates and an increase in unemployment rates lead to potential defaults of clients and third parties on mortgages.

Fluctuations in stock markets could have an adverse impact on the valuation of Swiss Life's holdings in equities, which could result in a deterioration of Swiss Life's financial position and net income. Declining equity markets may also affect Swiss Life's results of operations, as fees from insurance business on third-party accounts are generally based on the value of the underlying funds, which fluctuate to a large extent with changes in equity markets. Hedges in place with respect to Swiss Life's investments are designed to reduce Swiss Life's economic exposure to declines in asset values but would not prevent an impairment charge in the Issuer's accounts in the event the impairment criteria under IFRS were met.

Swiss Life's equity investments are subject, to the extent that they are sold, to the risk that they will be sold for less than their value in Swiss Life's accounts, and that Swiss Life will recognise a loss. To the extent that such equity investments are not sold, and their value decreases, Swiss Life may be required to write-off a portion of the book value of such equity investments through its profit and loss accounting.

Swiss Life's strategic shareholdings, participations, and other intangible assets are subject to regular impairment tests, taking into account their operating performance, as well as general economic conditions and forecasts. Potential valuation readjustments could lead to impairment losses adversely affecting Swiss Life's financial results.

For diversification purposes Swiss Life also holds a certain amount of alternative investments in its portfolio, in particular participations in private equity (including infrastructure investments) and hedge funds. Market volatility has impacted and may continue to impact both the level of net investment income from these types of investments and the ability to dispose of such investments on favourable terms or at all.

Any of the risks mentioned above could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks of interest rate and credit spread changes***

Changes in prevailing capital market interest rates (including changes in the difference between the levels of prevailing short- and long-term rates) may adversely affect Swiss Life's insurance, asset management and corporate results despite the structured approach towards ALM that Swiss Life is pursuing. Over the past several years, movements in both short- and long-term interest rates have affected the level and timing of recognition of gains and losses on securities held in Swiss Life's investment portfolios. An increase in interest rates could substantially decrease the value of Swiss Life's fixed-income portfolio, and any unexpected change in interest rates could materially adversely affect Swiss Life's bond and interest rate derivative positions as well as the investment result. Results of Swiss Life's asset management business may also be affected by movements in interest rates, as management fees are generally based on the value of assets under management, which fluctuates with changes in the level of interest rates.

In addition, Swiss Life has a significant portfolio of contracts with guaranteed investment returns, including endowment and annuity products. If interest rates remain on historically low levels for a long period, Swiss Life could be required to provide additional funds to its insurance subsidiaries to support their obligations in respect of products with higher guaranteed returns, or increase reserves in respect of such products. Swiss Life also has a portfolio of contracts with guaranteed investment returns tied to equity markets.

Swiss Life invests part of its assets in corporate bonds and is therefore exposed to credit spread risk to the extent that a credit spread widening decreases the market value of the corporate bond portfolio. Spread movements may adversely impact the valuation reserves of bonds classified as available for sale, and therefore Swiss Life's solvency position. From an economic perspective, in particular for economic solvency purposes, all corporate bonds are considered at their market value and thus market value changes due to a change in spreads have an impact on Swiss Life's available economic capital. Moreover, the market value of

corporate bonds may become difficult to ascertain if markets are less liquid or lack liquidity which may also affect Swiss Life's ability to dispose of such investments on favourable terms or at all.

In addition, Swiss Life invests a part of its assets in government and sovereign bonds and similar instruments. Therefore, Swiss Life is exposed to the risk that credit spread widens, for instance, due to downgrades or possible downgrades of the respective government or sovereign ratings. Government and sovereign credit spread widening leads to a decrease of the market value of the government and sovereign bond portfolio.

Reductions in the investment income below the rates prevailing at the issue date of the policy, or below the regulatory minimum required rates in countries such as Switzerland, Germany and France, would reduce or eliminate the investment margins on the life insurance business written by the Guarantor's life subsidiaries to the extent the duration composition of the assets does not match the duration composition of the insurance obligations they are backing.

Rising interest rates could lead to increased surrenders of policyholders with subsequent impacts on Swiss Life's current year and future profitability.

Any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Currency risks***

As a group with international operations, Swiss Life generates a certain portion of its total income and incurs a portion of its expenses in currencies other than CHF, which primarily include EUR, USD, GBP and SGD. Swiss Life prepares its consolidated financial statements in CHF. Swiss Life's expenses and income in a certain currency do not necessarily match for any given period. As a result, unfavourable movements in exchange rates between such currencies and CHF may lead to differences between the costs of Swiss Life's operations and the income generated from them at a different stage. Furthermore, there may be currency mismatches between the policyholder liabilities and the assets backing them.

Fluctuations in the exchange rates of the currencies of the countries in which Swiss Life operates may generally lead to transaction risks and translation risks.

Transaction risk refers to the exchange rate risk associated with the time delay between the entrance and settlement of a contract, while translation risk refers to the risk of a change in value in the currency in which the financial statements are maintained, resulting from the translation of positions in the balance sheet and income statement originally expressed in a foreign currency during the course of consolidation.

Swiss Life may enter into transactions aiming to hedge currency risks. Such transactions may reduce currency risks but may in turn increase other risks such as liquidity risks, counterparty risks and operational risks.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks of additional capital needs***

Swiss Life's capital requirements depend on many factors, including its operational results, capital market conditions, developments of biometric bases, the volume of newly generated business, regulatory changes to capital or other requirements such as reserving requirements and other regulatory developments. Swiss Life may be unable to obtain capital in the future or may only obtain it at considerable costs, in particular in case of negative rating actions (see "*Risks of rating downgrades and other negative rating actions*"). This could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Liquidity and financing risks***

Liquidity risk may refer to the risk that the available liquidity is insufficient to meet payment obligations in relation to insurance contracts, in particular resulting from unexpected events or series of events, such as mass surrenders that trigger Swiss Life's coverage obligations. Swiss Life's liquidity may also be insufficient to meet payment obligations resulting from investment activities, in particular related to derivative contracts made on collateralised basis, such as those used for hedging activities (in particular, Swiss Life uses such instruments to hedge interest rate risk and foreign exchange risk) and forward contracts.

Unexpected liquidity needs could require Swiss Life to increase its level of indebtedness or to liquidate investments or other assets. If Swiss Life requires liquidity at a time when access to bank funding or capital markets is limited, it may not be able to secure new sources of funding. In particular, Swiss Life's ability to meet liquidity needs through the incurrence of debt may be limited by constraints on the general availability of credit and the willingness of lenders to lend in case of bank funding, and adverse market conditions in case of capital market debt.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's liquidity situation, financial condition and results of operations.

### ***Impairment risks***

If certain operational and strategic targets cannot be achieved in time, Swiss Life could be faced with impairment losses on its subsidiaries, associates and its other intangible assets. Swiss Life tests goodwill for impairment annually in autumn and whenever there is an indication that the asset might be impaired. The tests may lead to an impairment write-down of said assets.

The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks of rating downgrades and other negative rating actions***

Many of Swiss Life's businesses are dependent on the financial strength and credit ratings assigned to it and its businesses (including outlooks). Therefore, a downgrade in its ratings (or any other negative rating actions such as a change in the outlook) may materially adversely affect relationships with customers and intermediaries, negatively impact sales of its products and increase its cost of borrowing and of reinsurance.

Claims paying ability and financial strength ratings are each a factor in establishing the competitive position of insurers. The financial strength rating of the Issuer has a significant impact on the individual ratings of key subsidiaries. If a rating of certain Swiss Life entities falls below a certain threshold, the respective operating business of these entities or other Swiss Life entities may be significantly affected. A negative rating action with respect to the Guarantor or any of its insurance subsidiaries, including in particular the Issuer as the main operating subsidiary, could, among other things, adversely affect relationships with customers, agents, brokers and other distributors of its products and services, thereby negatively affecting new sales and existing business, and adversely affect its ability to compete in the relevant markets and increase the cost of borrowing. In particular, in those countries where primary distribution of its products is done through independent partners, such as Germany, negative rating actions could adversely impact sales of life insurance and annuity products.

Any negative rating action could also materially adversely affect Swiss Life's cost of raising capital, and could, in addition, give rise to additional financial obligations or accelerate existing financial obligations which are dependent on maintaining specified rating levels. Rating agencies can be expected to continue to monitor Swiss Life's financial strength and claims paying ability, and no assurances can be given that future negative rating actions will not occur, whether due to economic and financial market downturns, changes in Swiss Life's performance, changes in rating agencies' industry views, rating methodologies or criteria, or a combination of such factors.

### ***Counterparty risks***

Swiss Life has monetary and securities claims under numerous transactions against reinsurers, brokers and other debtors. Such third-party debtors may not pay or perform under their obligations. These parties include the issuers whose securities are held by Swiss Life, borrowers under loans made, customers, trading counterparties, counterparties under swaps, credit default and other derivative contracts, clearing agents, exchanges, clearing houses and other financial intermediaries. As a result, defaults by one or more of these parties on their obligations due to bankruptcy, lack of liquidity, downturns in the economy or real estate values, operational failure or other reasons, or even rumours about potential defaults by one or more of these parties or regarding the financial services industry generally, could lead to losses or defaults by Swiss Life. In addition, with respect to secured transactions, Swiss Life's credit risk may be exacerbated when the collateral held by it cannot be realised or is liquidated at prices not suf-



ficient to recover the full amount of the loan or derivative exposure. This could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Operational risks***

Operational risk is the risk of loss resulting from inadequate or failed internal processes and systems, people or from external events which adversely impact the operations of Swiss Life (excluding financial risks such as, *inter alia*, financial market risks and counterparty risks). In particular in view of the broad spectrum of operational risks, the realisation of one or more of these risks could damage Swiss Life's reputation and have material adverse effects on its business, financial condition and results of operations.

### ***Risks associated with cyber attacks and other forms of criminal manipulation***

Cyber attacks directed at Swiss Life's computer systems or networks and other forms of criminal manipulation could disrupt its businesses, result in the disclosure of confidential information, damage its reputation and have material adverse effects on Swiss Life's business, financial condition and results of operations.

### **Regulatory, legal and tax-related risks**

#### ***Risks due to regulatory or legal changes***

Swiss Life's businesses are subject to detailed, comprehensive laws and regulations as well as close supervision in all the countries in which it operates. Changes in existing laws and regulations and their interpretation may affect the way in which Swiss Life conducts its business and the products it may offer. Changes in regulations relating to pensions and employment, social security, health insurance, financial services including reinsurance business, taxation, securities products and transactions may necessitate the restructuring of its activities, impose increased costs and thereby, or otherwise, could have material adverse effects on Swiss Life's insurance and asset management businesses.

In addition, Swiss Life, like many other financial institutions, has come under greater regulatory scrutiny in recent years and expects similar conditions to continue for the foreseeable future. Regulatory agencies have broad administrative power over many aspects of the financial services business, which may include liquidity, capital adequacy, permitted investments, ethical issues, "know your customer" and anti-money laundering rules, privacy, record keeping, solicitation, marketing and selling practices as well as employee compensation, conduct of business and product governance requirements. Banking, insurance and other financial services laws, regulations and policies currently governing Swiss Life may change at any time in ways which have an adverse effect on its business, and Swiss Life cannot predict the timing or form of any future regulatory or enforcement initiatives in respect thereof. Also, regulators and other supervisory

authorities in Switzerland, the EU (including the United Kingdom), Liechtenstein, Singapore, the United States and elsewhere continue to scrutinise payment processing and other transactions under regulations governing such matters as money-laundering, prohibited transactions with countries subject to sanctions, tax evasion and bribery or other anti-corruption measures. Despite Swiss Life's best efforts to comply with applicable regulations, there are a number of risks in areas where applicable regulations may be unclear or where regulators revise their previous guidance or courts overturn previous rulings. Regulators and other authorities have the power to bring administrative or judicial proceedings against Swiss Life, which could result, among other things, in significant adverse publicity and reputational harm, suspension or revocation of licenses, cease-and-desist orders, fines, civil penalties, criminal penalties or other disciplinary action.

In Switzerland, the Issuer and its Swiss subsidiaries are supervised by FINMA. Foreign insurance subsidiaries of the Guarantor are supervised by their relevant local regulators. In addition, Swiss Life is subject to group supervision of FINMA.

In the EU and Switzerland, reforms have been undertaken to modernise and strengthen the capital requirements of insurance companies and insurance groups. These reforms generally led to an increase in regulatory capital requirements compared to previous solvency regimes (such as Solvency I). In Switzerland, insurers are required to hold sufficient risk bearing capital in order to cover their target capital under the SST which may be more stringent than the requirements in the EU and other jurisdictions. This may put Swiss Life at a competitive disadvantage compared with companies based outside of Switzerland.

The risk models used by Swiss Life for the SST have been approved with conditions ("*Auflagen*") by FINMA as of 1 January 2016. Despite such approval, Swiss Life's risk models remain subject to changes FINMA may require which could have material adverse effects on Swiss Life's financial or solvency position.

In Europe, Solvency II has become effective on 1 January 2016 and contains the additional Omnibus II Directive of 16 April 2014. The detailed rules of the Solvency II regime are contained in the finalised Delegated Acts (dated 10 October 2014) adopted by the European Commission and approved by the European Parliament and Council. The European Insurance and Occupational Pensions Authority ("**EIOPA**") has issued technical standards and guidelines, whose overall goal is to ensure the application of a consistent supervisory framework under Solvency II across the EU.

Technical standards, issued by EIOPA and adopted by the European Commission, consist of regulatory and implementing technical standards that concern purely technical matters (no strategic decisions or policy choices) and require the expertise of supervisory experts. Areas covered include, among others, uniform reporting and the exchange of information between supervisory authorities.

Guidelines issued by EIOPA cover, among others, the implementation of certain requirements in the areas of governance, Own Risk and Solvency Assessment (ORSA), regulatory reporting and the potential use of internal models.

On 5 June 2015, the European Commission has granted Switzerland full equivalence in all three areas of Solvency II: solvency calculation, group supervision and reinsurance. This decision, which is based on a report by EIOPA, finds the Swiss insurance regulatory regime to be fully equivalent to Solvency II. Equivalence is granted for an indefinite period.

As of 1 January 2016, annual and quarterly quantitative reporting templates as well as narrative reportings, must be submitted to the respective regulators. The first regulatory required public disclosure under Solvency II will take place in 2017 with the Solvency and Financial Condition Report.

Swiss Life runs a group-wide programme for the implementation of Solvency II and submission of required reportings. Its primary aim is to ensure Solvency II compliance for all subsidiaries and associates which are subject to the Solvency II regime.

The implementation of the SST and Solvency II are subject to ongoing discussions with regulators which could lead to additional capital being required of the Issuer and its subsidiaries or changes to the way in which Swiss Life carries out its business being required, could result in additional expense or a competitive disadvantage vis-à-vis European competitors or could otherwise adversely affect Swiss Life's financial or solvency position.

Moreover, the regulatory framework of the Swiss financial sector (including insurance undertakings) is currently being revised. By means of three new codified acts, the Swiss Financial Market Infrastructure Act ("**FMIA**"), the Swiss Financial Services Act ("**FSA**") and the Swiss Financial Institutions Act ("**FINIA**"), the Swiss lawmaker is responding to international developments and changes with a view to accommodate a compatible level playing field. The FMIA came into effect on 1 January 2016 and is expected to have no material impact on Swiss Life. The FSA and FINIA are not expected to come into effect before 2018 and the final text of the FSA and FINIA are still uncertain. However, if they are implemented with the drafting as proposed in 2015 (for instance, the FSA requires additional duties with respect to the distribution of certain financial products to customers, including information, documentation and transparency requirements), this could have material adverse effects on Swiss Life's business and results of operations.

### ***Risks due to legal quote restrictions in Switzerland and similar regulations in other jurisdictions***

Some of Swiss Life's life insurance business is affected by so-called "legal quote" restrictions. Such "legal quote" restricts Swiss Life's ability to allocate surplus to its shareholders and may affect its debt servicing capacity, including the Issuer's ability to meet interest payment obligations under the Bonds, if any. Under certain circumstances, the "legal quote" may affect the profitability of other Swiss Life affiliates that provide services to the insurance life business. The "legal quote" limits Swiss Life's flexibility in a way which, in certain market conditions, could have a negative impact on its future profitability and the value of new and existing business.

The Swiss BVG (as defined below) legal quote mechanism introduced in 2004 is regularly subject to political and public discussions. There can be no assurance that the current BVG legal quote regime will remain unchanged in the future. Unfavourable changes to it or to comparable regulations in other countries in which Swiss Life operates could adversely affect the profitability of Swiss Life.

While Swiss Life believes that the legal quote restrictions reduce the sensitivity of its results (after policyholder participation) to changes in the BVG guaranteed minimum interest rate or the mandatory conversion rate, the profitability of Swiss Life's BVG business and Swiss Life's ability to maintain and increase its premium volume and market share could both be adversely affected if the levels of, or changes in, either of these rates do not reflect the prevailing economic, market or other conditions relevant for such products.

### ***Risks relating to the sustainability of Swiss Life's BVG business***

Swiss Life's life insurance business in Switzerland based on the Swiss Federal Law on Occupational Retirement, Survivors' and Disability Pension Plans (*Bundesgesetz über die berufliche Alters-, Hinterlassenen- und Invalidenvorsorge*, or "BVG") is subject to guaranteed minimum interest and annuity conversion rates. Swiss law provides for an annuity conversion rate which determines the amount of the annual retirement pension payable to an annuitant based on the contributions accumulated to the retirement date. For the mandatory part of Swiss Life's life insurance business in Switzerland, the legally stipulated conversion rate is applied whereas in the non-mandatory part of the BVG business a conversion rate calculated using actuarial assumptions is applied. Guaranteed minimum interest and annuity conversion rates could be imposed by the respective authorities in a manner which may diverge from the rates of return that Swiss Life is able to achieve on its assets. The minimum interest rate is subject to annual changes by the Swiss Federal Council and the annuity conversion rate does not as yet follow a predictable formula consistent with the economic notion of a guarantee. The process for setting these rates is not predictable and the rates may from time to time diverge from the rates of return that Swiss Life is able to achieve on the assets backing such business.

In addition, while Swiss Life has some flexibility to reprice or restructure its products in response to such conditions or changes, the ability to implement a revised product offering is subject to a number of uncertainties and may not have immediate effect. For example, the current Swiss regulatory regime requires that approval must be sought from the regulator prior to the introduction of new tariffs. Also, the ability to implement a revised product offering is subject to customers' acceptance of the new terms.

Failure by Swiss Life to achieve a rate of return on its investments in excess of the statutory guaranteed minimum interest rate could have material adverse effects on Swiss Life's financial condition and results of operations. The same adverse effects could result from changes in mortality, morbidity, longevity and other biometric assumptions, changes in technical interest rates not provided for in the statutory guaranteed annuity conversion rate, and from any adverse

change in the statutory guaranteed interest or annuity conversion rates. At the extreme, in the event of market deterioration or of the setting of the statutory guaranteed interest rate or the statutory guaranteed annuity conversion rate at certain levels, Swiss Life may be unable to write profitable group life insurance business in Switzerland.

***Potential changes to International Financial Reporting Standards as issued by the International Accounting Standards Board may adversely affect the consolidated results of the Guarantor and its financial condition***

The consolidated financial statements of Swiss Life are prepared in accordance with IFRS. In March 2004, the International Accounting Standards Board ("**IASB**") introduced a framework for reporting insurance contracts ("**IFRS 4**"), described as Phase I, which, except for selected exceptions, essentially allowed the continuation of existing practices for reporting insurance contracts and associated policyholder liabilities that existed before January 2005. In June 2013, the IASB published a revised exposure draft of proposals for the accounting of insurance contracts building on the proposals formulated in the exposure draft published in July 2010, for its IFRS 4 Phase II on insurance contracts. Phase II is expected to introduce significant changes to the way entities that prepare accounts in accordance with IFRS would report insurance contracts. The publication of the IFRS 4 Phase II reporting rules on insurance contracts is expected to be published around the end of 2016. These changes are expected to affect significantly the way the consolidated financial position and results of Swiss Life's operations are reported upon and measured, the impact of which currently cannot be assessed. Furthermore, in 2014, the IASB published the final version of the IFRS 9 Standard which will replace the current IAS 39 Standard regarding classification and measurement of financial instruments. In addition, in December 2015, the exposure draft "Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts" proposing amendments to IFRS 4 was published. Both the IFRS 9 Standard and (if implemented) the changes to IFRS 4 proposed in the exposure draft, are expected to affect the way the consolidated financial position and results of Swiss Life's operations are reported upon and measured.

***Risks of failure to comply with laws and regulations***

Swiss Life's business may be negatively affected by adverse publicity, regulatory actions or litigation with respect to Swiss Life, other well-known companies and the financial services industry in general. In particular Swiss Life's different distribution channels in the countries where it operates business (sales personnel, tied agents, brokers, banking channels, owned and independent financial advisors) bear the risk of inefficiencies or litigation that arises from the failure or perceived failure by Swiss Life's sales representatives to comply with legal, regulatory or compliance requirements or their duty of care when advising clients. Legal sanctions, negative publicity and damage to its reputation arising from such failure or perceived failure, financial reporting irregularities involving other large and well-known companies, increasing regulatory and law enforcement scrutiny of "know your customer", anti-money laundering and anti-terrorist-financing pro-

cedures and their effectiveness, regulatory investigations of the mutual fund, banking and insurance industries, and litigation that arises from the failure or perceived failure by subsidiaries of the Guarantor to comply with legal, regulatory and compliance requirements, could result in adverse publicity and reputational harm, lead to increased regulatory supervision, affect Swiss Life's ability to attract and retain customers as well as maintain access to the capital markets, result in lawsuits, enforcement actions, fines and penalties or have other adverse effects on Swiss Life in ways that are not predictable.

### ***Litigation risks***

Subsidiaries of Swiss Life are involved in legal, arbitration and other formal and informal dispute resolution proceedings both as complainant and respondent.

The outcome of any of such proceedings cannot be determined in advance. Swiss Life is of the opinion that the currently pending proceedings should not have any material detrimental effect on its assets and net income. Nevertheless, this assessment may prove to be inaccurate and therefore could have material adverse effects on Swiss Life's business, financial condition and results of operations.

### ***Risks in connection with changes in tax laws***

Swiss Life's net income and cash flows are determined to a certain extent by current taxation, regulation and application thereof by tax authorities. In addition, changes to tax laws may affect the attractiveness of certain of Swiss Life's products that currently receive favourable tax treatment. Governments in jurisdictions in which Swiss Life does business may consider changes to tax laws that could adversely affect such existing tax advantages, and if enacted, could result in a significant reduction in the sale of such products. The realisation of any of the aforementioned risks could have material adverse effects on Swiss Life's business, financial condition and results of operations.

Previously common practices and regulations regarding the taxation of companies and individuals are currently under scrutiny and change. The financial crisis has incentivised states to seek new sources of revenue. FATCA, as an example, has imposed significant new burdens on financial institutions regarding the documentation, reporting and potentially withholding of payments to US persons (for further information on FACTA please refer to the section "TAXATION" below). On OECD level, important changes like the automatic exchange of financial account information and the project base erosion and profit shifting have been implemented and/or are currently under consideration. The impact of such changes in practice, which have led to increased costs and the threat of potential fines for non-compliance, are inherently difficult to predict and may lead to significant costs and additional tax burdens for financial institutions such as Swiss Life.

## **Risks related to the Loan Notes**

### ***Complexity of the Loan Notes as financial instrument***

The Loan Notes are complex financial instruments and may not be suitable for all investors. Each prospective investor should (i) have sufficient knowledge and experience to make a meaningful evaluation of the Loan Notes, the merits and risks of investing in the Loan Notes and the information contained or incorporated by reference in this Information Memorandum; (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of the investor's particular financial situation, an investment in the Loan Notes and the impact the Loan Notes will have on the investor's overall investment portfolio; (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Loan Notes and (iv) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect the investor's investment and the investor's ability to bear the applicable risks.

Before investing in the Loan Notes, each prospective investor should have understood the Conditions thoroughly and be familiar with them and the content of this Information Memorandum.

### ***The Loan Notes are subordinated obligations and will be subordinated to all the Issuer's present and future unsubordinated indebtedness***

The Loan Notes are by their terms subordinated in right of payment to (i) all current and future unsubordinated indebtedness of the Issuer, in particular claims of creditors who are policyholders and (ii) all current and future claims which are or are expressed to be, subordinated to the claims of policyholders and other unsubordinated creditors of the Issuer except for claims that rank or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under the Loan Notes.

If any judgment is rendered by any competent court declaring the judicial liquidation of the Issuer or if the Issuer is liquidated for any other reason, the rights of payment of the Loan Noteholders shall rank in priority only to any payments to holders of shares of the Issuer or any other securities issued by the Issuer which rank or are expressed to rank junior to the claims of the Loan Noteholders. In the event of incomplete payment of unsubordinated creditors, the obligations of the Issuer in connection with the Loan Notes will be terminated. The Loan Notes may pay a higher rate of interest than comparable Loan Notes which are not subordinated, but there is a significant risk that an investor in the Loan Notes will lose all or some of its investment should the Issuer become insolvent.

### ***No events of default and limited acceleration rights***

There are no events of default in respect of the Loan Notes and Loan Noteholders are only entitled to claim redemption of the principal amount of the Loan Notes in case of the Issuer's bankruptcy, dissolution (other than pursuant to a merger,

consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes) and/or liquidation. Loan Noteholders have limited acceleration rights (as described in Condition 12). In particular, Loan Noteholders are not entitled to file for the opening of bankruptcy proceedings (*Konkursverfahren*) or to make other filings or motions which, if approved, will lead to a redemption of the Loan Notes. Rights of the Loan Noteholders in bankruptcy proceedings (*Konkursverfahren*) or any form of composition with creditors (*Nachlassverfahren*) in relation to the Issuer are limited.

***The Loan Notes have no scheduled maturity***

The Loan Notes are perpetual obligations and have no fixed redemption or maturity date. The Issuer is under no obligation to redeem the Loan Notes at any time. Subject to the conditions set out in Condition 5.5, in particular, the prior written approval from the Regulator, the Loan Notes may be redeemed in whole (but not in part) at the option of the Issuer on the First Call Date or on any subsequent Interest Payment Date thereafter or, upon occurrence of a Special Early Redemption Event (as specified in the Conditions), at any time subject to having given not less than 30 and not more than 60 calendar days' prior notice. There can be no assurance, however, that the Issuer will opt to redeem the Loan Notes. Prospective investors should be aware that they may be required to bear the financial risks of an investment in the Loan Notes for an indefinite period of time.

***The Issuer may redeem the Loan Notes under certain circumstances***

Subject to Condition 5.5, in particular, the prior written approval from the Regulator, the Loan Notes may be redeemed at the option of the Issuer (i) in whole (but not in part) on the First Call Date and on any subsequent Interest Payment Date thereafter; or (ii) in whole (but not in part) at any time after the Issue Date following the occurrence of a Recalculation of Interest Event, a Tax Event, an Accounting Event, a Rating Agency Event or a Regulatory Event (each as defined in Condition 5). A change in law or regulation is not required in order for either a Tax Event or a Regulatory Event to occur; such Special Early Redemption Events may result from other events, including (without limitation) a change in the legal or regulatory status of the Issuer or the structure of Swiss Life.

Such redemption options will be exercised at the principal amount of the Loan Notes together with interest accrued to the date of redemption plus Deferred Interest, if any. During any period when the Issuer may elect to redeem the Loan Notes, the market value of the relevant Loan Notes generally is not expected to rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

The Issuer may also be expected to exercise its call option to redeem the Loan Notes when its cost of borrowing is lower than the interest rate on the Loan Notes. There can be no assurance that, at the relevant time, Loan Noteholders will be able to reinvest the amounts received upon redemption at a rate that will



provide the same return as their investment in the Loan Notes. Prospective investors should consider reinvestment risk in light of other investments available at that time.

***The Issuer may, except in certain limited circumstances, elect to and, in certain circumstances, must defer payment of interest on the Loan Notes***

The Issuer may elect not to pay any interest otherwise scheduled for payment on any Interest Payment Date which does not constitute a Solvency Interest Deferral Date or a Compulsory Interest Payment Date (such date to constitute an "**Optional Interest Payment Date**"), as more fully described in Condition 4.1. In addition, on any Interest Payment Date in relation to which a Solvency Event has occurred and is continuing at the relevant Reference Date (such date a "**Solvency Interest Deferral Date**"), the Issuer will be required to defer payment of interest, or as the case may be, the relevant Solvency Shortfall, as more fully described in Condition 4.2.

Any such non-payment will not constitute a default by the Issuer under the Loan Notes or for any other purpose and shall not give Loan Noteholders any right to accelerate the Loan Notes or make demand under the Guarantee. Any interest not paid on an Optional Interest Payment Date and/or any Solvency Interest Deferral Date will constitute Deferred Interest as established in Condition 4.4. Deferred Interest does not bear interest and may be paid at the option of the Issuer in whole or in part, subject to the Regulator's approval and no Solvency Event having occurred and being continuing, but will become due in full upon occurrence of certain events, all as more fully described in Condition 4.4.

Any actual, or anticipated, deferral of any interest payment in accordance with the Conditions will likely have an adverse effect on the market price of the Loan Notes.

While the deferral of interest payment continues, the Issuer is not prohibited from making payments on any instrument ranking senior to the Loan Notes. In such event, the Loan Noteholders are not entitled to claim immediate payment of the Deferred Interest.

***No restriction from issuing further debt or guarantees which rank senior to or pari passu with the Loan Notes***

There is no restriction on the amount of securities that the Issuer or the Guarantor may issue or guarantee that rank senior to or pari passu with the Loan Notes or the Guarantee. The issue or guarantee of any securities may reduce the amount recoverable by the Loan Noteholders on a liquidation, dissolution, insolvency, composition or other proceeding for the avoidance of insolvency of, or against, the Issuer or the Guarantor, or may increase the likelihood that the Issuer may elect to defer payments of interest under the Loan Notes. Consequently, the Loan Noteholders could suffer direct and materially adverse consequences, including the loss of all or part of interest and principal.

***Loan Noteholders have no remedies against asset disposals and dividend payments and other distributions by the Issuer or Guarantor***

The Conditions do not prohibit the Issuer or the Guarantor from disposing of any of its assets nor do the Conditions provide for any restrictions on the payment by the Issuer or the Guarantor of dividends in cash or any other manner. The sole consequence of a payment of dividends by the Issuer or the Guarantor is that any interest payment in respect of the Loan Notes scheduled during the six month period following the declaration of such dividend payment, together with Deferred Interest Payments, if any, may become compulsory under the Conditions.

***No covenants concerning operations of the Issuer and the Guarantor and no transaction limitations***

The Loan Notes do not contain covenants governing the operations of the Issuer or the Guarantor and do not limit the ability of the Issuer or the Guarantor to enter into a merger, asset sale or other significant transaction that could materially alter their existence, jurisdiction of organisation or regulatory regime and/or the composition and business of Swiss Life. If the Issuer or the Guarantor enter into such a transaction, Loan Noteholders could be materially and adversely affected.

***Value of the Loan Notes***

The market value of the Loan Notes will be affected by many factors, most of which are beyond the Issuer's control, such as the creditworthiness (as may be expressed by a rating assigned by a rating agency) of the Issuer, and/or that of the Guarantor, the rating of the Loan Notes, the Issuer's required solvency margin from time to time, and a number of additional factors including market interest and yield rates. The price at which a Loan Noteholder will be able to sell the Loan Notes may be at a discount, which could be substantial, to the issue price or the purchase price paid by such Loan Noteholder. Furthermore, due to future money depreciation (inflation), the real yield of an investment may be reduced.

***Investors are exposed to risks associated with fixed interest rate securities.***

A holder of securities with a fixed interest rate is exposed to the risk that the price of such securities falls as a result of increasing market interest rates. While the interest rate of the Loan Notes is fixed until (and including) the First Call Date, the interest rates in the capital markets (market interest rates) typically change on a daily basis. As the market interest rate changes, the price of the Loan Notes changes typically in the opposite direction. If the market interest rate increases, the price of the Loan Notes would typically fall and if the market interest rate falls, the price of the Loan Notes would typically increase. Therefore, Loan Noteholders should be aware that movements of the market interest rate can adversely affect the price of the Loan Notes and can lead to losses if Loan

Noteholders sell their Loan Notes during the period in which the compensation rate of the Loan Notes is fixed, i.e., prior to the First Call Date.

***Investors may be exposed to risks associated with floating interest rate securities.***

If the Loan Notes are not called by the Issuer on the First Call Date, interest on the Loan Notes will accrue thereafter at a floating rate. A holder of a security with a floating interest rate (as will be the case for the Loan Notes after the First Call Date if not previously redeemed) is exposed to the risk of fluctuating interest rate levels and uncertain interest income. Fluctuating interest rate levels of a security make it impossible to determine the yield of such security in advance.

***Loan Noteholders may be subject to exchange rate risks and exchange controls.***

The Issuer will pay principal and interest on the Loan Notes in Euro. This presents certain risks relating to currency conversions if a Loan Noteholder's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than the Euro. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Euro or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Euro would decrease the Investor's Currency-equivalent yield on the Loan Notes, the Investor's Currency equivalent value of the principal payable on the Loan Notes and the Investor's Currency equivalent market value of the Loan Notes.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.

***Risks relating to the ratings on the Loan Notes***

The ratings of the Loan Notes may not reflect the potential impact of all risks that may affect the value of the Loan Notes. A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time. Rating agencies may also change their methodologies for rating securities with features similar to the Loan Notes in the future. If the rating agencies were to change their practices for rating such securities in the future and the ratings of the Loan Notes were to be subsequently lowered or another negative rating action taken, this may have a negative impact on the market price of the Loan Notes.

***Risks relating to Swiss Withholding Tax***

Although, subject to certain exceptions, Conditions 3.3 and 7(a) provide for the recalculation of interest and the payment of Additional Amounts, respectively, in

the event that Swiss Withholding Tax is imposed on any payment made by the Issuer pursuant to the terms of the Loan Notes, the Issuer's obligation to pay such Additional Amounts or recalculate interest may be unenforceable under Swiss law.

***No gross-up for taxes potentially withheld under the EU-Swiss Savings Tax Agreement***

In accordance with the EU-Swiss Savings Tax Agreement of 26 October 2004 and the Swiss law implementing it, Swiss paying agents, if any, have to withhold tax at a rate of 35% on interest payments made under the Loan Notes to a beneficial owner who is an individual and resident of an EU member state, with the option of the individual to have the paying agent and Switzerland provide to the tax authorities of the EU member state the details of the interest payments in lieu of the withholding. If such a withholding tax were to be deducted or withheld from a payment of interest or capital gain relating to the Loan Notes, none of the Issuer, any paying agent or any other person would, pursuant to the Conditions, be required to pay additional amounts with respect to any Loan Note as a result of the deduction or imposition of such a withholding tax.

***Payments on or with respect to the Loan Notes may be subject to U.S. withholding under FATCA***

The Issuer and other non-U.S. financial institutions through which payments on the Loan Notes are made may be required to withhold U.S. tax at a rate of 30 per cent on all, or a portion of, payments made after 31 December 2016 in respect of the Bonds pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 ("**FATCA**"), subject to certain conditions.

Whether such withholding tax applies may depend on whether the financial institution through which payments on the Loan Notes are made has agreed to provide certain information on its account holders pursuant to a FATCA agreement with the U.S. Internal Revenue Service ("**IRS**") and an investor's consent, where necessary, to have its information provided to the IRS. Consequently, subject to certain conditions, a Loan Noteholder may be subject to generally applicable information reporting, and may also be subject to backup withholding requirements with respect to payments made in respect of the Loan Notes unless the Loan Noteholder complies with certain certification and identification requirements or an exception to the information reporting and backup withholding rules otherwise applies.

If an amount in respect of U.S. withholding tax were to be deducted or withheld from interest, principal or other payments on the Loan Notes as a result of FATCA, neither the Issuer nor any paying agent nor any other person would, pursuant to the Conditions, be required to pay additional amounts as a result of such deduction or withholding.

***No legal and tax advice***

Each prospective investor should consult its own advisers as to legal, tax and related aspects of an investment in the Loan Notes. A Loan Noteholder's effective yield on the Loan Notes may be diminished by the tax impact on that Loan Noteholder of its investment in the Loan Notes.

A Loan Noteholder's actual yield on the Loan Notes may be reduced from the stated yield by transaction costs.

***The Guarantor is a holding company***

Because the Guarantor is a holding company whose primary assets consist of common stock or other equity interests in or amounts due from subsidiaries, its income is primarily derived from those subsidiaries. The subsidiaries of the Guarantor will have no obligation to pay any amount or perform in any respect under the Guarantee. The payment of dividends by many of the Guarantor's subsidiaries is subject to various solvency requirements and other regulatory restrictions. Restrictions on the ability of the Guarantor's subsidiaries to pay dividends or to make other cash payments may materially affect its ability to meet its obligations with respect to the Guarantee.

As an equity holder, the Guarantor's ability to participate in any distribution of assets of any subsidiary is subordinated to the claims of creditors of the subsidiary, except to the extent that any claims the Guarantor may have as a creditor of the subsidiary are judicially recognised. If these sources are not adequate, the Guarantor may be unable to meet its obligations with respect to the Guarantee.

***Substitution and variation of the terms of the Notes, or substitution of the Issuer, upon the occurrence of a Special Early Redemption Event***

If a Special Early Redemption Event has occurred and is continuing, then the Issuer may, subject to Condition 14 (without any requirement for the consent or approval of the Loan Noteholders) at any time vary the terms of the Loan Notes, substitute the Loan Notes for other securities (which may or may not be regulatory capital securities) or substitute the Issuer so that the relevant special Early Redemption Event no longer exists after such modification or substitution. Whilst the modified Loan Notes must have terms not materially less favourable to Loan Noteholders than the terms of the Loan Notes as determined by the Issuer in its sole discretion, there can be no assurance that, due to the particular circumstances of each Loan Noteholder, such modified Loan Notes will be as favourable to each Loan Noteholder in all respects. Moreover, the Issuer may substitute itself in respect of all rights and obligations arising out or in connection with the Loan Notes with a successor issuer being a member of Swiss Life (and with a guarantee by the Guarantor). Whilst, among other conditions, the rights of the Loan Noteholders, as provided in the Loan Notes and the Guarantee, must not be materially prejudiced, the substitution of the Issuer under the Loan Notes could have material adverse effects on the Loan Noteholders. The original issuer would

not be required to provide a guarantee of the Loan Notes in such circumstances. See also "*Guarantor is a holding company*" above.

***Modification, waivers and substitution***

The Swiss Code of Obligations contains provisions for calling meetings of Loan Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Loan Noteholders including Loan Noteholders who did not attend and vote at the relevant meeting and Loan Noteholders who voted in a manner contrary to the majority.

***Legal investment considerations may restrict certain investments***

The investment activities of certain investors are subject to investment laws and regulations, or review or regulation by certain authorities. Each prospective investor should consult its legal advisers to determine whether and to what extent (i) the Loan Notes are lawful investments for it, (ii) the Loan Notes can be used as collateral for various types of borrowing and (iii) other restrictions apply to its purchase or pledge of any Loan Notes.

Financial institutions should consult their legal advisors or the appropriate regulators to determine the appropriate treatment of Loan Notes under any applicable risk-based capital or similar rules.

## TERMS AND CONDITIONS OF THE LOAN NOTES

The terms and conditions of the Loan Notes (each a **Condition**, and together the **Terms of the Loan Notes**), issued by Swiss Life AG (the **Issuer**), and unconditionally and irrevocably guaranteed on a subordinated basis by Swiss Life Holding AG (the **Guarantor**), will be issued subject to and with the benefit of an agency agreement dated 27 September 2016 between the Issuer, the Guarantor and the agents named therein (the **Agency Agreement**). The Terms of the Loan Notes govern the rights and obligations of the Issuer, the Guarantor and the Loan Noteholders in relation to the Loan Notes and are as follows:

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### 1. Denomination, form and delivery of the Loan Notes

- (a) The Loan Notes are issued by the Issuer in the aggregate principal amount of EUR 600,000,000.
- (b) The Issuer reserves the right to reopen and increase the aggregate principal amount of the Loan Notes issued at any time and without prior consultation or permission of the Loan Noteholders through the issuance of further securities which will be fungible with the Loan Notes (having the same terms of the Loan Notes or terms which are the same in all respects save for the amount and date of the first payment of interest thereon and the date from which interest starts to accrue) so as to be consolidated and form a single series with such Loan Notes. The term Loan Notes shall, in the event of such further issue and increase, also comprise such further securities.
- (c) The Loan Notes are issued in certificated, registered form (*Namenpapiere*) and shall each bear the manual or facsimile signatures of two duly authorised officers of the Issuer as well as the manual signature of an authentication officer of the Registrar (each a **Certificate**). A Certificate shall have the denomination as stated on its front page, but in no event shall the denomination be less than EUR 100,000 and integral multiples of EUR 1,000 in excess thereof. Initially, only one Loan Note will be issued by the Issuer.
- (d) The Bank of New York Mellon (Luxembourg) S.A., or its duly appointed successor (the **Registrar**) will maintain a register of the holders of record of the Loan Notes (the **Loan Noteholders**) reflecting the ownership of the Loan Notes (the **Register**). A Transfer of any Loan Notes shall only be made in accordance with and subject to Condition 9 (*Transfer and sub-participation*).

- (e) A Loan Noteholder may at any time require the Issuer to replace such Loan Noteholder's Certificate representing the Loan Notes with other Certificates in minimum denominations of EUR 100,000 and integral multiples of EUR 1,000 in excess thereof; the Registrar shall accordingly authenticate such replacement Certificates and amend the Register.

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## 2. Status of the Loan Notes

- (a) The Loan Notes constitute direct, subordinated, unsecured and perpetual obligations of the Issuer and rank *pari passu*, without any preference, among themselves. The claims of the Loan Noteholders rank on an insolvency, winding-up, liquidation, composition, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes) or other similar proceedings of or against the Issuer:
- (i) after the claims of any Issuer Senior Creditors;
  - (ii) *pari passu* with any Parity Instruments; and
  - (iii) prior to the claims of the holders of all Junior Instruments.
- (b) **Parity Instruments** means (i) any preferred or preference shares of the Issuer ranking or expressed to rank *pari passu* with the Loan Notes (the **Parity Shares**), if any, (ii) the obligations of the Issuer under the 1999 floating rate subordinated perpetual loan callable in 2019 (private placement), (iii) the 2011 CHF 500,000,000 5.25% subordinated perpetual bonds callable in 2016 (ISIN: CH0122488445), (iv) the 2012 subordinated dated loan callable in 2022 with final maturity in 2042 (private placement), (v) the 2012 CHF 300,000,000 5.5% subordinated perpetual bonds callable in 2018 (ISIN: CH0194695190), (vi) the 2015 EUR 750,000,000 4.375% subordinated perpetual notes callable in 2025 (ISIN: XS1245292807), (vii) the 2016 CHF 450,000,000 3.75% subordinated perpetual bonds callable in 2021 (ISIN: CH0316994646), (viii) the 2016 CHF 150,000,000 4.375% subordinated dated bonds callable in 2026 with final maturity in 2046 (ISIN: CH0316994653), and (ix) any of the Issuer's future unsecured and subordinated obligations ranking or expressed to rank *pari passu* with the Issuer's obligations under the Loan Notes.



- (c) **Junior Instruments** means (i) ordinary shares of the Issuer, (ii) preference shares of the Issuer ranking or expressed to rank junior to the Issuer's Parity Shares, if any, and (iii) any other of the Issuer's securities or obligations ranking or expressed to rank junior to the Parity Instruments issued directly by it, including those under the 2007 EUR 590,000,000 5.849% subordinated perpetual bonds callable in 2017 issued to ELM B.V. (ISIN: XS0295383524).
- (d) **Issuer Senior Creditors** means creditors of the Issuer, (i) who are policyholders or other unsubordinated creditors of the Issuer, or (ii) whose claims are, or are expressed to be, subordinated (whether only in the event of the liquidation, dissolution or winding-up of the Issuer or otherwise) to the claims of policyholders and other unsubordinated creditors of the Issuer (including all existing and future unsecured, subordinated obligations of the Issuer (whether actual or contingent)), except those whose claims rank, or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under the Loan Notes.
- (e) For the avoidance of any doubt, in the event of the insolvency, winding-up, liquidation, composition, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes) or other similar proceedings of or against the Issuer, no amounts shall be payable in respect of the Loan Notes until the claims of all unsubordinated and subordinated creditors of the Issuer, the claims of which rank, or are expressed to rank, senior to the Loan Notes have first been satisfied in full.
- (f) The subordination provisions of this Condition 2 (*Status of the Loan Notes*) are irrevocable.

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### 3. Interest

#### 3.1. Fixed Rate of Interest

- (a) The Loan Notes will bear interest on their aggregate principal amount from and including 27 September 2016 (the **Issue Date**) to but excluding the First Call Date at a rate of 4.50 per cent per annum (the **Fixed Rate of Interest**), payable annually in arrear on 19 May in each year (each a **Fixed Interest Payment Date**). The first Fixed Interest Payment Date shall be 19 May 2017 and the last Fixed Interest Payment Date shall be the First Call Date (as defined in Condition 5.2). The first payment,

to be made on 19 May 2017, will be in respect of the period from, and including, the Issue Date to, but excluding, 19 May 2017 and will amount to EUR 28.85 per EUR 1,000 in principal amount of the Loan Notes (the **Calculation Amount**).

- (b) Interest in respect of the Loan Notes shall be calculated per Calculation Amount. The amount of interest payable per annum for any Fixed Interest Period following the first Fixed Interest Payment Date shall be EUR 45.00 per Calculation Amount.
- (c) Where it is necessary to compute an amount of interest in respect of any Loan Note for a Fixed Interest Period which is less than a complete year, the amount of interest payable per Calculation Amount shall be equal to the product of the rate of 4.50 per cent, the Calculation Amount and the day-count fraction as described in this section, rounding the resulting figure to the nearest cent (half a cent being rounded upwards). The relevant day-count fraction shall be determined on the basis of the actual number of days in the relevant Fixed Interest Period, from and including the date from which interest begins to accrue to but excluding the date on which it falls due, divided by the actual number of days in the Interest Period in which the relevant period falls (including the first such day but excluding the last).
- (d) **Fixed Interest Period** means the period from and including the Issue Date to but excluding the first Fixed Interest Payment Date and thereafter from and including each Fixed Interest Payment Date to but excluding the next following Fixed Interest Payment Date.

### 3.2. Floating Rate of Interest

- (a) The Loan Notes will bear interest at the rate specified in section (d) of this Condition 3.2 (*Floating Rate of Interest*) (the **Floating Rate of Interest**) on their aggregate principal amount from and including the First Call Date to but excluding the first Floating Interest Payment Date (which is 19 August 2027) and thereafter from and including each Floating Interest Payment Date to but excluding the next following Floating Interest Payment Date (each such period a **Floating Interest Period** and, together with any Fixed Interest Period, an **Interest Period**). Interest on the Loan Notes will be payable in arrear on each Floating Interest Payment Date.
- (b) **Floating Interest Payment Date** means subject to section (c) of Condition 6 (*Payments*) below, 19 February, 19 May, 19 August and 19 November in each year (and, together with any

Fixed Interest Payment Date, an **Interest Payment Date**); if any Floating Interest Payment Date would otherwise fall on a calendar day which is not a Business Day, it shall be postponed to the next calendar day which is a Business Day unless it would then fall into the next calendar month, in which event the Floating Interest Payment Date shall be brought forward to the immediately preceding Business Day.

- (c) **Business Day** means a day (other than a Saturday or Sunday) on which commercial banks in London and Zurich are open for business and which is a TARGET Day.
- (d) The Floating Rate of Interest for each Floating Interest Period will, except as provided below, be the sum of 3 month EURIBOR determined as of 11.00 a.m. (Brussels time) on the relevant Interest Determination Date, the Initial Margin and one per cent, all as determined by the Agent.

If no Screen Rate is available on an Interest Determination Date for 3 month EURIBOR, the applicable EURIBOR shall be the Interpolated Screen Rate.

If no Screen Rate is available for 3 month EURIBOR and it is not possible to calculate the Interpolated Screen Rate on an Interest Determination Date, the applicable EURIBOR shall be the Reference Bank Rate covered in definition.

If no Screen Rate is available for 3 month EURIBOR and it is not possible to calculate the Interpolated Screen Rate and no or only one Reference Bank is available for quoting the Reference Bank Rate on an Interest Determination Date, the applicable EURIBOR shall be the most recent applicable Screen Rate for 3 months.

**EURIBOR** means, in relation to the Loan Notes, the euro inter-bank offered rate administered by the European Money Markets Institute (or any other entity which takes over the administration of that rate) for the relevant period displayed on Reuters EURIBOR01 (or any replacement page on that service which displays that rate) (the **Screen Rate**) as of the relevant Interest Determination Date.

**Interpolated Screen Rate** means the rate for 3 months (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (i) the applicable Screen Rate for the longest period (for which the Screen Rate is available) which is less than 3 months; and

- (ii) the applicable Screen Rate for the shortest period (for which the Screen Rate is available) which exceeds 3 months,

each as of the relevant Interest Determination Date.

**Reference Bank Rate** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks (A) (other than where section (B) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for 3 month interbank term deposits in EUR within the member states of the European Union that have the EUR as their lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union Participating Member States (the "**Euro-zone**") or (B) if different, as the rate (if any and applied to the relevant Reference Bank and for a period of 3 months) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator as of the relevant Interest Determination Date.

**Reference Banks** means the principal Euro-zone office of each of four major banks engaged in the Euro-zone interbank market selected by the Agent, provided that, once a Reference Bank has been selected by the Agent, that Reference Bank shall not be changed unless and until it ceases to be capable of acting as such.

**Interest Determination Date** means the second TARGET Day prior to the commencement of the relevant Floating Interest Period.

**TARGET2** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**TARGET Day** means any day on which TARGET2 is open for the settlement of payments in EUR.

**Initial Margin** means 4.10 per cent.

- (e) The Agent will, on or as soon as practicable after each Interest Determination Date at which the Floating Rate of Interest is to be determined, calculate the amount of interest payable on the Loan Notes for the relevant Floating Interest Period.
- (f) The amount of interest payable per Calculation Amount for the relevant Floating Interest Period shall be determined by applying the Floating Rate of Interest to the Calculation Amount, multiply-

ing the resulting figure by the actual number of days in the Floating Interest Period concerned divided by 360 and rounding the resulting figure to the nearest cent (half a cent being rounded upwards).

- (g) The Agent will notify the Floating Rate of Interest, each amount of interest for each Floating Interest Period, each Floating Interest Period and the relevant Floating Interest Payment Date to the Loan Noteholders in accordance with Condition 16 (*Notices*) as soon as possible after their determination, but in no event later than the first day of the relevant Floating Interest Period. Each amount of interest and Floating Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Floating Interest Period. Any such amendment will be promptly notified to the Loan Noteholders in accordance with Condition 16 (*Notices*).
- (h) All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 3.2 (*Floating Rate of Interest*) by the Agent shall (in the absence of manifest error) be binding on the Issuer, the Guarantor and the Loan Noteholders.
- (i) The Issuer will procure that, as long as any Loan Note is outstanding, there will at all times be a calculation agent for the purposes of the Loan Notes. If the Agent is unable or unwilling to continue to act as calculation agent or if the Agent fails duly to establish the Floating Rate of Interest for any Floating Interest Period or to calculate the amount of interest, the Issuer will appoint another leading bank to act as such in its place. The Agent may not resign its duties without a successor having been appointed.

### **3.3. Recalculation of Interest**

- (a) The rates of interest provided for in the Terms of the Loan Notes are minimum interest rates.
- (b) When issuing the Loan Notes, the Issuer and the Guarantor have assumed that the interest payable by Issuer is not and will not become subject to Swiss Withholding Tax.
- (c) Notwithstanding the foregoing, if a Tax Deduction is required by law to be made by the Issuer in respect of any payment of interest in respect of the Loan Notes or, as the case may be, any

payment by the Guarantor under the Guarantee, for Swiss Withholding Tax purposes, and should it be unlawful for the Issuer or the Guarantor to comply with section (a) of Condition 7 (*Taxation*) for any reason, where this would otherwise be required by Condition 7 (*Taxation*) (in particular taking into account the exclusions in section (b) of Condition 7 (*Taxation*)), then (A) the applicable interest rate with respect to that interest payment shall be the interest rate which would have applied to that interest payment as provided for by Condition 3 (*Interest*) divided by 1 minus the rate at which the relevant Tax Deduction is required to be made under Swiss domestic tax law and/or applicable double taxation treaties (where the rate at which the relevant Tax Deduction is required to be made is for this purpose expressed as a fraction of 1) and (B) the Issuer shall (x) pay the relevant interest at the adjusted rate in accordance with this section (c), (y) make the Tax Deduction on the interest so recalculated and (C) all references to a rate of interest under the Terms of the Loan Notes shall be construed accordingly.

- (d) To the extent that interest payable by the Issuer in relation to the Loan Notes or, as the case may be, any payment by the Guarantor under the Guarantee, becomes subject to Swiss Withholding Tax, each relevant Loan Noteholder and the Issuer or the Guarantor shall promptly cooperate in completing any procedural formalities (including submitting forms and documents required by the appropriate Tax authority) to the extent possible and necessary (A) for the Issuer or the Guarantor to obtain authorisation to make interest payments without them being subject to Swiss Withholding Tax and (B) to ensure that any person which is entitled to a full or partial refund under any applicable double taxation treaty is so refunded. In case of a refund the amount of such refund that, together with the respective interest payments and/or payments under the Guarantee received by the Loan Noteholders, exceeds the amount of interest and/or payments under the Guarantee that the Loan Noteholders were entitled to if no Swiss Withholding Tax had been deducted (i.e. the interest calculated at the interest rates provided for in the Terms of the Loan Notes other than in Condition 3.3 (*Recalculation of Interest*)) shall be paid back by the person entitled to the refund to the Issuer or the Guarantor which had to remit the Swiss Withholding Tax to the Tax authority.

#### **3.4. Cessation of interest accrual**

The Loan Notes shall cease to bear interest from the end of the day preceding the day on which they become due for redemption. If the Issuer fails to redeem the Loan Notes when due, interest shall continue to accrue on the outstanding principal amount of the Loan Notes be-

yond the due date until the end of the day preceding the day of the actual redemption of the Loan Notes. The applicable rate of interest will be determined in accordance with this Condition 3 (*Interest*). This does not affect any additional rights that might be available to the Loan Noteholders.

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#### 4. Payment of interest and deferral

##### 4.1. Optional Deferral of Interest Payments

The Issuer will have the right to defer interest payments on the Loan Notes, in whole but not in part, on any Optional Interest Payment Date by giving notice to the Loan Noteholders in accordance with Condition 16 (*Notices*) not less than 3 (three) Business Days prior to the relevant Optional Interest Payment Date. An **Optional Interest Payment Date** will be deemed to be occurring on any Interest Payment Date which does not constitute a Solvency Interest Deferral Date or a Compulsory Interest Payment Date. A notice given by the Issuer according to this Condition 4.1 (*Optional Deferral of Interest Payments*) shall no longer have any effect, if the Interest Payment Date falling after such notice is a Compulsory Interest Payment Date.

##### 4.2. Solvency Deferral of Interest

A **Solvency Interest Deferral Date** will occur if in relation to an Interest Payment Date a Solvency Event has occurred and is continuing on the relevant Reference Date. In such case the Issuer will be required to defer payment of any interest amount; provided that in the case where the payment of such interest amount would itself cause a Solvency Event to occur, the Issuer will only be required to defer the Solvency Shortfall, except that the Issuer will not be required to defer the payment of such interest amount or Solvency Shortfall, as the case may be, if the Regulator has given its consent to such payment.

If the Issuer is required to defer interest in accordance with this Condition 4.2 (*Solvency Deferral of Interest*), it will give notice to the Loan Noteholders in accordance with Condition 16 (*Notices*), not less than 3 (three) Business Days prior to such Solvency Interest Deferral Date of the amount of the relevant interest payment that shall be deferred.

**Reference Date** means the 10<sup>th</sup> (tenth) Business Day preceding the relevant Interest Payment Date.

A **Solvency Event** shall occur if:

- (a) the Issuer does not have appropriate funds to cover the Required Solvency Margin, or the amount of such funds would, as a result of a full or partial interest payment (including, for the avoidance of doubt, Deferred Interest) or redemption payment or repurchase, respectively, that would otherwise be due under the Terms of the Loan Notes, be or become less than the Required Solvency Margin, all as shown in the most recent solvency report submitted by the Issuer to the Regulator;
- (b) the Issuer is unable to pay its debts owed to the Issuer Senior Creditors as they fall due;
- (c) the Assets of the Issuer do not exceed its Liabilities (other than liabilities to persons who are not Issuer Senior Creditors); or
- (d) the Regulator has given (and not withdrawn) notice to the Issuer or the Guarantor that it has determined, in view of the financial and/or capital position of the relevant entity, that in accordance with applicable regulations at such time, the Issuer must take specified action in relation to payments on the Loan Notes.

**Assets** means the unconsolidated total assets (*Umlauf- und Anlagevermögen*) of the Issuer, as shown in the Issuer's latest annual audited balance sheet, but adjusted for all subsequent events, as reasonably determined by the Issuer, or if the Issuer is being liquidated, its liquidator.

**Liabilities** means the unconsolidated total liabilities (*Fremdkapital*) of the Issuer, as shown in the Issuer's latest annual audited balance sheet, but adjusted for all subsequent events, as reasonably determined by the Issuer, or if the Issuer is being liquidated, its liquidator.

**Regulator** means the Swiss Financial Market Supervisory Authority (FINMA) or such other agency that, from time to time, assumes or performs the function that is performed by FINMA as at the Issue Date.

**Required Solvency Margin** means the required solvency margin (or a comparable term in case of a change in applicable rules) in accordance with mandatorily applicable regulatory capital requirements (including but not limited to Swiss insurance regulatory law (for group or, if applicable, solo solvency purposes) or a generally recognised administrative practice, if any, of the Regulator) which is used by the Regulator in determining whether deferral of interest is required.

**Solvency Shortfall** means the portion of the interest amount (including, for the avoidance of doubt, Deferred Interest), which, if paid when otherwise due under the Terms of the Loan Notes, would cause a Solvency Event to occur or be continuing.



### 4.3. Compulsory Payment of Interest

Interest will be mandatorily due and payable in full on any Compulsory Interest Payment Date.

A **Compulsory Interest Payment Date** means each Interest Payment Date prior to which either:

- (a) at any time during a period of six months a Compulsory Interest Payment Event has occurred; provided however that no Solvency Event has occurred and is continuing in relation to such Interest Payment Date, except that if a Solvency Event would only occur or be continuing as a result of any payment of the relevant interest amount (including, for the avoidance of doubt, any Deferred Interest) on such Interest Payment Date, such Interest Payment Date shall be a Compulsory Interest Payment Date, but the Issuer shall only be required to pay the relevant interest amount other than the Solvency Shortfall; or
- (b) a Regulatory Event has occurred and is continuing.

A **Compulsory Interest Payment Event** will occur if:

- (a) either the Issuer or the Guarantor has declared any dividend or other distribution (including for the avoidance of doubt, any nominal value reduction of the Guarantor's ordinary shares but not including a dividend made solely through the issuance of new shares) or has paid interest (or arrears thereof) on or in respect of any Junior Instruments and/or Parity Instruments excluding any declaration of a distribution or any interest payment (i) that is made intra-group; or (ii) that was itself mandatory under the terms and conditions of such Parity Instrument or Junior Instrument or (iii) made in connection with any employee compensation arrangement so long as the dividend or distribution is itself either a Parity Instrument or Junior Instrument or if a derivative, where the deliverable is either a Parity Instrument or a Junior Instrument; or
- (b) redemption, repayment, repurchase or any other acquisition for purposes of cancellation of any of their respective Parity Instruments and/or Junior Instruments has been made by or on behalf of the Issuer and the Guarantor unless that redemption, repurchase or repayment was (i) made by way of a direct exchange into new Parity Instruments and/or Junior Instruments in an amount which is no more than the amount of the Parity Instruments or Junior Instruments redeemed, repaid, repurchased or acquired; or (ii) made in connection with a distribution resulting from a nominal value reduction of the Guarantor's ordinary shares; (iii) made in connection with any employee compensa-

tion arrangement or (iv) was itself mandatory under the terms and conditions of such Parity Instrument or Junior Instrument.

Notwithstanding the provisions above, should the occurrence of the Compulsory Interest Payment Event under section (a) or (b) above be in relation to a Parity Instrument, it will only be a Compulsory Interest Payment Event to the extent that it does not in itself cause a Regulatory Event.

#### **4.4. Satisfaction of Deferred Interest**

Interest deferred by the Issuer on an Optional Interest Payment Date or a Solvency Interest Deferral Date will constitute **Deferred Interest**.

Deferred Interest may at the option of the Issuer be paid in whole or in part, at any time, on giving 10 (ten) Business Days' notice to the Loan Noteholders in accordance with Condition 16 (*Notices*), subject to: (i) the Regulator's approval if such approval is required in accordance with the SPICO or any Future Regulations, (ii) no Solvency Event having occurred and which is continuing on the 10<sup>th</sup> (tenth) Business Day preceding the payment date of such Deferred Interest and (iii) such payment not causing a Solvency Event to occur (in which case the Issuer may only pay an amount other than the Solvency Shortfall). However, Deferred Interest shall become due and payable in full upon the occurrence of any of the following events:

- (a) the occurrence of a Compulsory Interest Payment Date following the deferral of interest;
- (b) any Optional Redemption or Special Early Redemption of the Loan Notes;
- (c) a decree or order being made by a court or agency or supervisory authority in Switzerland having jurisdiction in respect of the same, or a resolution being passed, for the opening of bankruptcy proceedings, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes), liquidation or winding-up of the Issuer; and
- (d) the occurrence of the next Optional Interest Payment Date upon which the Issuer elects to make an Interest Payment.

Notwithstanding the above, Deferred Interest which becomes due and payable subject to sections (a) and (d) above may be subject to the Regulator's approval if such approval is required in accordance with the SPICO or any Future Regulations.

For the avoidance of doubt, any amount paid to Loan Noteholders on a Solvency Interest Deferral Date will not lead to a required satisfaction of all Deferred Interest. Deferred Interest shall not itself bear interest.

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## 5. Redemption

### 5.1. No fixed maturity

The Loan Notes are undated perpetual obligations in respect of which there is no fixed maturity date. The Loan Notes are not redeemable at the option of the Loan Noteholders and will not otherwise be redeemed, except at the option of the Issuer and in accordance with this Condition 5 (*Redemption*).

### 5.2. Optional redemption

- (a) Subject to Condition 5.5 (*Conditions for redemption and repurchases*), the Issuer may redeem the Loan Notes (in whole but not in part) at the Early Redemption Amount on 19 May 2027 (the **First Call Date**), or on any Interest Payment Date thereafter subject to having given not less than 30 (thirty), and not more than 60 (sixty) calendar days' prior notice to the Loan Noteholders (each such redemption an **Optional Redemption**).
- (b) The appropriate redemption notice is a notice given by the Issuer to the Loan Noteholders in accordance with Condition 16 (*Notices*). The notice shall be irrevocable and shall specify the Interest Payment Date on which the Loan Notes are to be redeemed.
- (c) The Issuer will inform, if required by any stock exchange on which the Loan Notes are then listed, such stock exchange, and the Agent as soon as possible of such Optional Redemption.

### 5.3. Special Early Redemption

- (a) If at any time after the Issue Date (i) a Recalculation of Interest Event, (ii) a Tax Event, (iii) an Accounting Event, (iv) a Rating Agency Event or (v) a Regulatory Event (each a **Special Early Redemption Event** and together the **Special Early Redemption Events**) occurs, the Issuer may, subject to Condition 5.5 (*Conditions for redemption and repurchases*), call and redeem the Loan Notes (in whole but not in part) at the Early Redemption Amount subject to having given not less than 30 (thirty),

and not more than 60 (sixty) calendar days' prior notice to the Loan Noteholders (which notice shall be irrevocable and shall specify the date fixed for redemption) in accordance with Condition 16 (*Notices*) (each such redemption a **Special Early Redemption**).

- (b) No Special Early Redemption will apply in respect of a Rating Agency Event or an Accounting Event if at any time any application of the right to redeem would result in a Regulatory Event.

**Recalculation of Interest Event** means the occurrence of (i) a recalculation of interest in accordance with Condition 3.3 (*Recalculation of Interest*) or (ii) any other event which requires the Issuer, pursuant to the Terms of the Loan Notes, to pay Additional Amounts in respect of the Loan Notes and this cannot be avoided by the Issuer taking such reasonable measures as the Issuer (acting in good faith) deems appropriate.

**Tax Event** means that an opinion of a recognised tax counsel has been delivered to the Agent and the Issuer or the Guarantor, stating that the Issuer is, or there is more than an insubstantial risk that the Issuer will be, no longer able to obtain a tax deduction for the purposes of Swiss corporation tax for any payment of interest by the Issuer on the Loan Notes, and this cannot be avoided by the Issuer taking such reasonable measures as it (acting in good faith) deems appropriate.

**Accounting Event** means that an opinion of a recognised accounting firm has been delivered to the Issuer or the Guarantor, stating that obligations of the Issuer in respect of the Loan Notes must not or must no longer be recorded as liabilities on the balance sheet of the Guarantor published in the Guarantor's annual consolidated financial statements pursuant to the International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board, and this cannot be avoided by the Issuer or the Guarantor, as the case may be, taking such reasonable measures as the Issuer or the Guarantor, as the case may be, (acting in good faith) deems appropriate. With respect to an Accounting Event the Issuer or the Guarantor, as the case may be, will deliver a copy of the applicable opinion to the Agent.

A **Rating Agency Event** means when, at any time, as a consequence of a change on or after the Issue Date in the methodology of a Rating Agency, or interpretation of such methodology, in relation to the equity content of securities (such as the Loan Notes), the equity content, in the reasonable opinion of the Issuer, assigned to the Loan Notes as of the date of such change is lower than the equity content previously assigned by such

Rating Agency at or around the Issue Date or when such equity content was assigned for the first time (as applicable) by the relevant Rating Agency.

A **Regulatory Event** means the occurrence of any of the following events occurrence of which cannot be avoided by the Issuer or the Guarantor, as the case may be, taking such reasonable measures as the Issuer (acting in good faith) deems appropriate:

- (i) the Regulator states that the Loan Notes are no longer eligible, in whole or in part, to qualify as upper additional capital (*oberes ergänzendes Kapital*) pursuant to Art. 49 in connection with Arts. 22a, 22b and 47 of the SPICO, and no longer, in whole or in part, fulfil the requirements for such category, or equivalent thereof, for group or solo solvency purposes; or
- (ii) the Regulator issues further guidance (by way of law, ordinance, regulation or a published interpretation thereof) in relation to instruments qualifying under Arts. 22a, 22b and 47 of the SPICO or under any Future Regulations for group or solo solvency purposes, and following which the Regulator states that such guidance has an adverse regulatory capital implication for the Issuer or the Guarantor in relation to the Loan Notes.

**SPICO** means the Ordinance on the Supervision of Private Insurance Companies (*Verordnung über die Beaufsichtigung von privaten Versicherungsunternehmen – AVO*) of 9 November 2005, as amended from time to time.

**Future Regulations** means any solvency margin, regulatory capital or capital adequacy regulations which may be introduced in Switzerland and which are applicable to the Issuer and/or the Guarantor, which set out the requirements to be satisfied by financial instruments in order that they be eligible to be included in Tier 2 Capital.

**Early Redemption Amount** means the aggregate principal amount of the Loan Notes outstanding on the relevant redemption date plus accrued interest to but excluding the redemption date plus Deferred Interest, if any.

**Rating Agency** means Standard & Poor's Credit Market Services Europe Limited (**S&P**) or such other internationally recognised credit rating agency that, from time to time, assumes or performs the function that is performed by S&P as at the Issue Date.

**Tier 2 Capital** means all items classified as tier two capital (*ergänzendes Kapital*) of the Issuer or the Guarantor as defined in the rules and regulations of the Regulator, at the time of issuance comprising upper additional capital (*oberes ergänzendes Kapital*) and lower additional capital (*unteres ergänzendes Kapital*).

The Issuer will inform, if required by any stock exchange on which the Loan Notes are then listed, such stock exchange, and the Agent as soon as possible of such early redemption.

#### **5.4. Purchase of Loan Notes**

Subject to Condition 5.5 (*Conditions for redemption and repurchases*) and subject to the Non-Bank Rules and any other mandatory provisions of law, the Issuer, the Guarantor or any other member of the Swiss Life group may at any time purchase Loan Notes in the open market or otherwise and at any price. Such acquired Loan Notes may be cancelled, held or resold.

#### **5.5. Conditions for redemption and repurchases**

Any redemption in accordance with Condition 5.2 (*Optional redemption*) or Condition 5.3 (*Special Early Redemption*) and any repurchase of the Loan Notes in accordance with Condition 5.4 (*Purchase of Loan Notes*) is subject to:

- (a) the Issuer obtaining the prior written consent of the Regulator with such notice period as required by applicable regulations at such time;
- (b) no Solvency Event having occurred, which is continuing at the time of delivery of notice (in the case of a redemption under Condition 5.2 (*Optional redemption*) or Condition 5.3 (*Special Early Redemption*)) or at the time of a repurchase (in the case of a repurchase in accordance with Condition 5.4 (*Purchase of Loan Notes*)) and such redemption or repurchase not causing a Solvency Event to occur; and
- (c) in the case of:
  - (i) a redemption in accordance with Condition 5.3 (*Special Early Redemption*); or
  - (ii) a repurchase,

that occurs, in each case, within five years after the Issue Date, such redemption or repurchase being (A) funded out of the proceeds of a new issuance of capital of at least the same quality of the Loan Notes (at least Tier 2 Capital) and (B) otherwise permitted under the then applicable rules.

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## 6. Payments

- (a) The Issuer undertakes to pay, as and when due, principal and interest on the Loan Notes in EUR. Payment of principal and interest on the Loan Notes shall be made to the Agent or to its order for credit to the relevant account holders of the Agent as of the relevant Record Date. **Record Date** means the date that is 5 (five) Business Days prior to the relevant Interest Payment Date, First Call Date or date of early redemption pursuant to Condition 5.2 (*Optional Redemption*) or 5.3 (*Special Early Redemption*).
- (b) The Issuer or the Guarantor, as the case may be, shall be discharged by payment to the Agent.
- (c) If the due date for payment of interest or any other amount in respect of the Loan Notes is not a Business Day, then the due date shall be delayed to the next Business Day and no Loan Noteholder shall be entitled to further interest or other payment in respect of such delay.
- (d) Certificates presented for redemption must be delivered and surrendered for payment together with all unmaturing interest payments.

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## 7. Taxation

- (a) All payments of principal and interest in respect of the Loan Notes and all payments by the Guarantor under the Guarantee will be made free and clear of, and without Tax Deduction for any Taxes, unless the Issuer or the Guarantor, as the case may be, is required by law to make such Tax Deduction. If a Tax Deduction is required by law to be made, the Issuer or the Guarantor, as the case may be, will pay such additional amount (the **Additional Amount**) as the Loan Noteholders would have received, if no Tax Deduction had been required.
- (b) However, no such Additional Amounts or interest recalculated pursuant to Condition 3.3 (*Recalculation of Interest*) shall be

payable with respect to such Taxes in respect of any Loan Noteholder:

- (i) if the Loan Note is presented for payment by or on behalf of a Loan Noteholder which is liable to such Tax in respect of that Loan Note by reason of it having some connection with Switzerland other than the mere holding of that Loan Note;
- (ii) if the Loan Note is presented for payment more than 30 (thirty) calendar days after the Relevant Date, except to the extent that the relevant Loan Noteholder would have been entitled to payment of such Additional Amounts or interest recalculated pursuant to Condition 3.3 (*Recalculation of Interest*) on presenting such Loan Note for payment on the last day of such period of 30 (thirty) calendar days;
- (iii) if the Loan Note is presented for payment by or on behalf of a Loan Noteholder which would have been able to avoid such Tax Deduction by presenting the Loan Note to another Agent in another Member State of the European Union;
- (iv) if the payment could have been made without a Tax Deduction if the Loan Noteholders had complied with Condition 9 (*Transfer and sub-participation*);
- (v) if the payment could have been made to the relevant Loan Noteholder without a Tax Deduction if it was a Qualifying Bank, but on that date that Loan Noteholder is not or has ceased to be a Qualifying Bank other than as a result of any change after the date it became a Loan Noteholder under the Terms of the Loan Notes in (or in the interpretation, administration, or application of) any law or double taxation treaty, or any published practice or concession of any relevant taxing authority;
- (vi) if any such Taxes are imposed pursuant to or required to be deducted or withheld on a payment pursuant to Sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986, as amended from time to time (FATCA), any current or future regulations or agreements thereunder, official interpretations of, or any law implementing an intergovernmental approach thereto;
- (vii) if any such Taxes are imposed pursuant to or required to be deducted or withheld on a payment pursuant to laws enacted by Switzerland providing for the taxation of payments according to principles similar to those laid down in the draft legislation proposed by the Swiss Federal Council on 17 December 2014 (*Zahlstellensteuer*), in particular, the principle



to have a person other than the Issuer or the Guarantor withhold or deduct such Taxes;

- (viii) if any such Taxes are imposed pursuant to or required to be deducted or withheld on a payment pursuant to the Agreement between the European Community and the Swiss Confederation dated 26 October 2004 providing for measures equivalent to those laid down in the European Union Directive 2003/48/EC of 3 June 2003 as amended by Council Directive 2014/48/EU adopted by the European Council on 24 March 2014 regarding the taxation of savings income (the **EU-Swiss Savings Tax Agreement**), or any other directive implementing the conclusions of the ECOFIN Council meeting of November 26 and 27, 2000 on the taxation of savings income or any law implementing or complying with or introduced in order to conform to the EU-Swiss Savings Tax Agreement; or
  - (ix) if any such Taxes are imposed pursuant to or required to be deducted or withheld on a payment pursuant to an agreement between Switzerland and another country on final withholding taxes levied by Swiss paying agents in respect of persons resident in the other country on income of such person or a Loan Note booked or deposited with a Swiss paying agent (*Abgeltungssteuer*).
- (c) Within 30 (thirty) calendar days of making either a Tax Deduction or a payment required in connection with a Tax Deduction the Issuer or the Guarantor must deliver to the relevant Loan Noteholder evidence satisfactory to that Loan Noteholder (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.
  - (d) If the Issuer or the Guarantor must make a Tax Deduction and the relevant Loan Noteholder (acting in good faith) determines that (i) a tax refund for such Tax Deduction is available to it and it has retained that Tax refund, that Loan Noteholder shall pay within 10 (ten) Business Days after such Tax refund an amount to the Issuer which that Loan Noteholder determines (in its sole discretion) will leave it (after that payment) in the same after-tax position as it would have been if the payment of the Additional Amount or a payment at an interest rate recalculated pursuant to Condition 3.3 (*Recalculation of Interest*) had not been required to be made by the Issuer or the Guarantor.
  - (e) At the date hereof and for so long as the Loan Notes are outstanding, the Issuer shall ensure that it is in compliance with the Non-Bank Rules, provided that the Issuer will not be in breach of

this section (e) of Condition 7 (*Taxation*) if either of the Non-Bank Rules are breached solely by reason of a failure by one or more Loan Noteholders to comply with their respective obligations under Condition 9 (*Transfer and sub-participation*).

**Guidelines** means together, the guidelines S-02.122.1 in relation to bonds of April 1999 as issued by the Swiss Federal Tax Administration (*Merkblatt S-02.122.1 vom April 1999 betreffend "Obligationen"*) and S-02.123 in relation to inter-bank transactions of 22 September 1986 as issued by the Swiss Federal Tax Administration (*Merkblatt S-02.123 vom 22. September 1986 betreffend Zinsen von Bankguthaben, deren Gläubiger Banken sind ("Interbankguthaben")*), S-02.128 in relation to syndicated credit facilities of January 2000 (*Merkblatt S-02.128 vom Januar 2000 "Steuerliche Behandlung von Konsortialdarlehen, Schuld-scheindarlehen, Wechseln und Unterbeteiligungen"*), and S-02.130.1 in relation to accounts receivable of Swiss debtors of April 1999 (*Merkblatt S-02.130.1 vom April 1999 "Geldmarktpapiere und Buchforderungen inländischer Schuldner"*), circular letter No. 15 in relation to bonds and derivative financial instruments of 7 February 2007 (*Kreisschreiben Nr. 15 vom 7. Februar 2007 betreffend Obligationen und derivative Finanzinstrumente als Gegenstand der direkten Bundessteuer, der Verrechnungssteuer sowie der Stempelabgaben*), circular letter No. 34 of 26 July 2011 (1-034-V-2011) in relation to customer credit balances (*Kreisschreiben Nr. 34 ("Kundenguthaben") vom 26. Juli 2011*) and guideline S-02.132 in relation to issuance stamp duty on fixed deposits of 1 April 1993 (*Merkblatt S-02.132 vom 1. April 1993 betreffend Emissionsabgabe auf Festgeldanlagen bei inländischen Banken*), in each case as issued, amended or replaced from time to time, by the Swiss Federal Tax Administration, and taking into consideration any amendment of the respective legislation (including the ordinance of the Swiss Federal Council of 18 June 2010, amending Swiss withholding tax and Swiss stamp tax regulations entered into force as of 1 August 2010).

**Non-Bank Rules** means the Ten Non-Bank Rule and the Twenty Non-Bank Rule.

**Permitted Non-Qualifying Loan Noteholder** means:

- (i) initially, Elm B.V., Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands (**Elm**), and
- (ii) a successor of Elm by way of Transfer of all of the Loan Notes (except for Loan Notes held by Qualifying Banks) that is not a Qualifying Bank on the date it becomes a Loan Noteholder, provided that:

- (1) such proposed Permitted Non-Qualifying Loan Noteholder (prior to it becoming a Loan Noteholder) is designated as the Permitted Non-Qualifying Loan Noteholder in writing by Elm with at least 20 (twenty) calendar days' notice to the Issuer before such designation notice is intended to become effective;
- (2) if the Issuer, on receiving such notification with respect to a proposed Permitted Non-Qualifying Loan Noteholder, believes such proposed Permitted Non-Qualifying Loan Noteholder is more than one person for purposes of the Non-Bank Rules, the Issuer may during such notice period request from that proposed Permitted Non-Qualifying Loan Noteholder (at its cost) a tax ruling of the Swiss Federal Tax Administration that such proposed Permitted Non-Qualifying Loan Noteholder constitutes one person for purposes of the Non-Bank Rules; and
- (3) following a request under section (2) above, such proposed Permitted Non-Qualifying Loan Noteholder shall only be a Permitted Non-Qualifying Loan Noteholder under this section (ii) if (x) the Issuer receives from such proposed Permitted Non-Qualifying Loan Noteholder a certified copy of such tax ruling and such tax ruling confirms, to the Issuer's full satisfaction, that such proposed Permitted Non-Qualifying Loan Noteholder constitutes one person only for purposes of the Non-Bank Rules and (y) such proposed Permitted Non-Qualifying Loan Noteholder confirms to the Issuer that such proposed Permitted Non-Qualifying Loan Noteholder has disclosed all facts relevant to this determination to the Issuer.

The Issuer will confirm within 10 (ten) calendar days of its receipt of any such tax ruling whether or not such tax ruling is satisfactory for this purpose and, in the absence of such confirmation, the Issuer will be deemed to have confirmed that such tax ruling is so satisfactory on the 10<sup>th</sup> (tenth) calendar day after the Issuer's receipt of such tax ruling; which (in each case) has not ceased to be a Loan Noteholder in accordance with the Terms of the Loan Notes.

**Qualifying Bank** means

- (iii) any bank as defined in the Swiss Federal Act on Banks and Savings Banks (*Bankengesetz*); or

(iv) a financial institution acting on its own account which (A) qualifies as a bank pursuant to the banking laws in force in its country of incorporation, or with respect to a branch, pursuant to the banking laws in force in the jurisdiction where such branch is situated, (B) carries on a true banking activity in such jurisdiction as its main purpose, and (C) has personnel, premises, communication devices and decision-making authority of its own, in each case, in accordance with the meaning of the Guidelines or legislation or explanatory notes addressing the same issues which are in force at any time.

**Relevant Date** means whichever is the later of the date on which the payment in question first becomes due and, if the full amount payable has not been received by the Agent on or prior to that due date, the date on which notice of receipt of the full amount has been given to the Loan Noteholder in accordance with Condition 16 (*Notices*).

**Swiss Federal Tax Administration** means the tax authorities referred to in Article 34 of the Swiss Federal Withholding Tax Act.

**Swiss Withholding Tax** means taxes imposed under the Swiss Federal Withholding Tax Act.

**Swiss Federal Withholding Tax Act** means the Swiss Federal Withholding Tax Act on the withholding of tax (*Verrechnungsteuergesetz*), together with the related ordinances, regulations and guidelines.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) imposed, levied, collected, withheld or assessed by or on behalf of Switzerland or any political subdivision thereof or any authority thereof having the power to tax.

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under the Loan Notes.

**Ten Non-Bank Rule** means the rule that the aggregate number of creditors (within the meaning of the Guidelines) (including Loan Noteholders) under the Loan Notes which are not Qualifying Banks must not exceed 10 (ten).

**Twenty Non-Bank Rule** means the rule that (without duplication) the aggregate number of creditors (including the Loan Noteholders), other than Qualifying Banks, of the Issuer under

all outstanding debts relevant for classification as debenture (*Kassenobligation*) (including debt arising under Loan Notes and intra-group loans (if and to the extent intra-group loans are not exempt in accordance with the ordinance of the Swiss Federal Council of 18 June 2010 amending the Swiss Federal Ordinance on withholding tax and the Swiss Federal Ordinance on stamp duties with effect as of 1 August 2010), loans, facilities and/or private placements) must not at any time exceed 20 (twenty), in each case in accordance with the meaning of the Guidelines.

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## 8. Agents

- (a) The agent means the fiscal, paying and calculation agent appointed pursuant to the Agency Agreement (the **Agent**).
- (b) The initial Agent for the Loan Notes will be The Bank of New York Mellon, acting through its London branch with specified offices at One Canada Square, London E14 5AL, United Kingdom.
- (c) The Issuer and the Guarantor reserve the right at any time to vary or terminate the appointment of the Agent and/or to appoint other Agents provided that they will at all times maintain (i) an Agent and (ii) an Agent in a jurisdiction within Europe other than the jurisdiction in which the Issuer or the Guarantor is incorporated (iii) so long as the Loan Notes are listed on a stock exchange, an Agent with a specified office in such city as may be required by the rules of the relevant stock exchange and (iv) an Agent with a specified office in a state such that no Tax Deduction is required under the EU-Swiss Savings Tax Agreement or any law implementing or complying with, or introduced in order to conform to such EU-Swiss Savings Tax Agreement. The Agent reserves the right at any time to change its respective specified office to some other specified office in the same city. Notice of all changes in the identities or specified offices of the Agent will be given promptly by the Issuer to the Loan Noteholders in accordance with Condition 16 (*Notices*).
- (d) The Agent acts solely as agent of the Issuer and the Guarantor, respectively, and does not assume any obligations towards or relationship of agency or trust for the Loan Noteholder. The Agent is exempt from the restrictions relating to self-dealing.

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## 9. Transfer and sub-participation

- (a) The Loan Notes may only be assigned and transferred by way of written assignment (*schriftliche Zession*), including upon an en-

forcement of any security over the Loan Notes (a **Transfer**) (and any Transfer is conditional (*aufschiebend bedingt*) and shall only become effective upon due registration of such Transfer by the Registrar in the Register according to section (b) below),

- (i) in whole or in part, if the Transfer is to a Qualifying Bank, provided that in the case of a Transfer of the Loan Notes in part, the Loan Notes may not be transferred to more than 5 (five) Qualifying Banks, or
  - (ii) in whole but not in part, if the Transfer is to a Permitted Non-Qualifying Noteholder.
- (b) Any Transfer of a Loan Note shall be recorded by the Registrar in the Register on production by the transferee at the registered office of the Registrar of:
  - (i) the relevant Certificate representing the relevant Loan Note together with a written assignment declaration duly signed by the transferor (which may be made on the back of the Certificate or in a separate document) and such written assignment declaration must include a representation by the transferee that it is a Qualifying Bank or a Permitted Non-Qualifying Noteholder; and
  - (ii) such other evidence as the Issuer may require to prove the authority of the person signing the written assignment and the transferee's status as a Qualifying Bank or the Permitted Non-Qualifying Noteholder (such evidence to include, if requested by the Issuer, a tax ruling confirmation from the Swiss Federal Tax Administration).
- (c) Subject to a permitted Transfer according to section (a) above, no Loan Noteholder shall transfer its credit exposure under the Loan Notes to third parties by way of entering into derivative transactions, sub-participations or similar instruments with such third parties, unless under such arrangement and at any time throughout the life of such arrangement:
  - (i) the relationship between the Loan Noteholder and that other person is that of debtor and creditor (including in the bankruptcy or similar event of the Loan Noteholder or the Issuer);
  - (ii) the other person will have no proprietary interest in the benefit of the Loan Notes or in any monies received by the Loan Noteholder under or in relation to the Loan Notes; and

- (iii) the other person will under no circumstances, other than permitted Transfers (A) be subrogated to, or substituted in respect of, the Loan Noteholder's claims under the Loan Notes and (B) have otherwise any contractual relationship with, or rights against, the Issuer or the Guarantor under or in relation to the Loan Notes.

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**10. Grants of security**

Any Loan Noteholder may, without the consent of the Issuer, at any time charge or create a security interest in all or any portion of its rights under the Loan Note to secure obligations of such Loan Noteholder, provided that:

- (a) no such charge or creation of a security interest shall:
  - (i) substitute any chargee or holder of the benefit of such security interest for such Loan Noteholder as Loan Noteholder except in accordance with the provision of Condition 9 (*Transfer and sub-participation*); or
  - (ii) require any payments to be made by the Issuer other than as required by the Loan Notes. A copy of any notice of charge or creation of security interest as envisaged in this section (a) shall be delivered to the Agent and the Agent shall not be obligated to take any action in regard to such notice; and
- (b) such charge or creation of a security interest shall in each case provide that upon any assignment or transfer of the interest in the Loan Note or enforcement of such charge or security interest, any resulting assignment or transfer shall be in accordance with Condition 9 (*Transfer and sub-participation*); and
- (c) the Loan Noteholder promptly notifies the Agent of any such charge or security interest and the secured party's identity and status by delivering to the Agent a notification thereof, which notification the Agent shall promptly forward to the Issuer.

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**11. No set-off rights**

No Loan Noteholder may set off any claims arising under the Loan Notes against any claims that the Issuer may have against the Loan Noteholders. The Issuer may not set off any claims it may have against any Loan Noteholder against any of its obligations under the Loan Notes.

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## 12. Events of default and acceleration

There will be no events of default in respect of the Loan Notes. In case of the Issuer's failure to discharge its payment obligations relating to interest under the Terms of the Loan Notes, Loan Noteholders shall have no right to claim or enforce an early redemption of the Loan Notes. In particular, Loan Noteholders shall not be entitled, and hereby waive any statutory right conferred to them, to file for the opening of bankruptcy proceedings (*Konkursbegehren*) pursuant to Art. 166 of the Swiss Federal Act on Debt Collection and Bankruptcy (*Bundesgesetz über Schuldbetreibung und Konkurs*) or to make other filings or motions which, if approved, will lead to a redemption of the Loan Notes. However, the Loan Notes shall become immediately due and payable, together with accrued interest thereon, if any, and Deferred Interest, if any, to the date of payment, following a decree or order being made by a court or agency or supervisory authority in Switzerland having jurisdiction in respect of the same, or a resolution being passed, for the opening of bankruptcy proceedings, the dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Issuer in respect of the Loan Notes), liquidation or winding-up of the Issuer.

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## 13. Subordinated guarantee

As security for the Loan Notes, the Guarantor has issued the following unconditional and irrevocable Guarantee:

### **GUARANTEE**

(in the meaning of Article 111 Swiss Federal Code of Obligations (*Obligationenrecht*), the **Guarantee**)

- (a) Being informed that Swiss Life AG, General-Guisan-Quai 40, CH-8002 Zurich, Switzerland (the **Issuer**), issued and sold Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes (the **Loan Notes**) in the aggregate principal amount of EUR 600,000,000, Swiss Life Holding AG, General-Guisan-Quai 40, CH-8002 Zurich, Switzerland (the **Guarantor**), herewith irrevocably and unconditionally, but on a subordinated basis in accordance with subsection (b) below, guarantees to the holders of the Loan Notes (the **Loan Noteholders**) in accordance with Article 111 CO, irrespective of the validity of the Loan Notes, the purchase agreement relating to the Loan Notes between the Issuer, the Guarantor and Elm B.V. dated 23 September 2016 (the **Purchase Agreement**) and the agency agreement relating to the Loan Notes between the Issuer, the Guarantor and The Bank of New York Mellon dated 27 September 2016 (the **Agency**



**Agreement**) and waiving all rights of objection and defence arising from the Loan Notes, the Purchase Agreement and the Agency Agreement, the due payment of the amounts (including but not limited to, principal and interest) expressed to be due and payable by the Issuer under and pursuant to the Terms of the Loan Notes. Accordingly, the Guarantor agrees to pay or deliver to The Bank of New York Mellon, London branch, in its capacity as fiscal, paying and calculation agent in respect of the Loan Notes (the **Agent**), on behalf of the Loan Noteholders, within 7 (seven) calendar days after the receipt by the Guarantor of the Agent's first written demand for payment and its confirmation in writing that an amount has become due and payable under the Loan Notes which is equivalent to the amount claimed under this Guarantee and has remained unpaid on the due date.

- (b) This Guarantee will constitute a direct, subordinated and unsecured obligation of the Guarantor and rank *pari passu*, without any preference, among such obligations. The claims of the Loan Noteholders under this Guarantee rank on an insolvency, winding-up, liquidation, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Guarantor in respect of the Guarantee) or other similar proceedings of or against the Guarantor:
- (i) after the claims of any Guarantor Senior Creditors;
  - (ii) *pari passu* with any other existing or future direct, subordinated and unsecured obligations of the Guarantor which whether now or in the future are ranking or expressed to rank *pari passu* with the claims of the Loan Noteholders under this Guarantee (the **Parity Obligations**); and
  - (iii) prior to the claims of the holders of all classes of issued shares in the share capital of the Guarantor and any other securities issued by the Guarantor or the Issuer ranking or expressed to rank junior to the claims of the Loan Noteholders under this Guarantee, including the obligations of the Guarantor under the Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes sold to ELM B.V. on 4 April 2007.

**Guarantor Senior Creditors** means creditors of the Guarantor (i) who are unsubordinated creditors of the Guarantor, or (ii) whose claims are, or are expressed to be, subordinated (whether only in the event of the liquidation, dissolution or winding-up of the Guarantor or otherwise) to the claims of other unsubordinated creditors of the Guarantor (including all existing and future unsecured, subordinated obligations of the Guarantor

(whether actual or contingent)), except those whose claims rank, or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under this Guarantee.

The subordination provisions set out above are irrevocable. The Guarantor may not create or permit to exist any charge or other interest over its assets to secure the obligations of the Guarantor in respect of this Guarantee.

- (c) Payments under this Guarantee shall be made in EUR. The receipt by the Agent of funds in EUR from the Guarantor shall release the Guarantor from its obligations under this Guarantee to the extent of amounts received by the Agent.
- (d) The Guarantor agrees to be bound by the provisions of section (c) of Condition 3.3 (*Recalculation of Interest*) and Condition 7 (*Taxation*) of the Terms of the Loan Notes as if set out in full in this Guarantee.
- (e) This Guarantee shall give rise to a separate and independent cause of action against the Guarantor and shall apply irrespective of any indulgence granted to the Issuer by the Agent or any Loan Noteholder from time to time and shall continue in full force and effect notwithstanding any judgement or order against the Issuer and/or the Guarantor. However, when enforcing the Guarantee, Loan Noteholders shall not be entitled, and hereby waive any statutory right conferred to them, to file for the opening of bankruptcy proceedings (*Konkursbegehren*) pursuant to Art. 166 of the Swiss Federal Act on Debt Collection and Bankruptcy (*Bundesgesetz über Schuldbetreibung und Konkurs*) or to make other filings or motions which, if approved, will have similar effects on the Guarantor.
- (f) This Guarantee is governed by Swiss law.
- (g) Any dispute in connection with this Guarantee which may arise between the Agent, the Guarantor and/or the Loan Noteholders shall be submitted to the exclusive jurisdiction of the courts of the city of Zurich, Switzerland, and, if permitted, the Commercial Court of the Canton of Zurich, Switzerland.

The Agent undertakes to call on the Guarantee and to claim from the Guarantor any due but unpaid amount, each in accordance with the Guarantee. Upon receipt, the Agent undertakes to forward such amount to the Loan Noteholders, who waives all rights of set off with respect to such Loan Noteholders. The Guarantor shall be liable to pay to the Agent all costs and expenses related to the collection of said amount, including court fees and legal fees.

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**14. Substitution and variation; Substitution of the Issuer**

If any Special Early Redemption Event has occurred and is continuing, then the Issuer may at any time, without the consent or approval of the Loan Noteholders, substitute all (but not less than all) of the Loan Notes, or modify the Terms of the Loan Notes.

- (a) Any substitution or modification of the Loan Notes is conditional on the substituting securities:
  - (i) having terms that are, in the opinion of two executive officers of the Issuer, not less favourable to the Loan Noteholders than the Terms of the Loan Notes in any material way;
  - (ii) being issued by the Issuer or in the case of a substitution of the Issuer by a successor issuer being a member of the Swiss Life group and with a guarantee by the Guarantor, such that Loan Noteholders have the same material rights and claims as provided by the Loan Notes and the Guarantee; and
  - (iii) ranking or expressed to rank at least equal to the Loan Notes and featuring the same perpetual tenor, denomination, interest rate (including applicable margins and step-up), interest payment dates and first call date as the Loan Notes.
- (b) In addition, any substitution or modification is subject to (i) the substitution or modification not affecting the rights to accrued interest, Additional Amounts and Deferred Interest, if any, unless specifically agreed otherwise; (ii) the prior written notice (if such notice is required to be given) by the Issuer to, and receiving no objection from, the Regulator; (iii) the substitution or modification not itself giving rise to a change in any published rating of the Loan Notes in effect at such time, it being understood that the Issuer shall (1) in case of a substitution of the Loan Notes or the Issuer, obtain prior written consent of the Rating Agency and (2) give written notice to the Rating Agency of any modification of the Loan Notes; (iv) the substitution or modification not triggering the right to effectuate a Special Early Redemption Event; and (v) certification by two executive officers of the Issuer that these conditions have been complied with. In connection with any substitution or modification as indicated above, the Issuer will comply with the rules of any stock exchange (if any) on which the Loan Notes are then listed.

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**15. Meetings of Loan Noteholders**

Art. 1157 et seq. of the Swiss Federal Code of Obligations (*Obligationenrecht*) shall be applicable.

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**16. Notices**

- (a) Notices to the Loan Noteholders will be valid if published in a national newspaper designated for exchange notices by any stock exchange on which the Loan Notes are then listed, and if the Loan Notes are unlisted the Issuer will deliver such notice to the Registrar for communication by the Registrar to the Loan Noteholders. Any notice so given will be deemed to have been validly given on the 3<sup>rd</sup> (third) calendar day after the date of the first such publication or on the calendar day after which said notice was given to the Registrar, as the case may be.
- (b) Provided this complies with the rules of the stock exchange on which the Loan Notes are listed (if any), the Issuer may replace any newspaper notice pursuant to section (a) of Condition 16 (*Notices*) by delivering the notice to the Registrar for communication by the Registrar to the Loan Noteholders. Any such notice shall be deemed to have been given to the Loan Noteholders on the 7<sup>th</sup> (seventh) calendar day after the day on which the said notice was given to the Registrar.

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**17. Prescription**

Claims against the Issuer in respect of Loan Notes will become void unless presented for payment within a period of 10 (ten) years (in the case of the principal) and within 5 (five) years (in the case of interest) from the relevant due date, by virtue of the statute of limitations of Swiss law.

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**18. Governing law and jurisdiction**

The form, construction and interpretation of the Loan Notes shall be subject to and governed by Swiss law.

Any dispute which might arise between Loan Noteholders on the one hand and the Issuer on the other hand in connection with the Loan Notes shall be submitted to the exclusive jurisdiction of the courts of the city of Zurich, Switzerland, and, if permitted, the Commercial Court of the Canton of Zurich, Switzerland.

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**19. Amendments**

The Agent may, without the consent of the Loan Noteholders, agree to any modification or arrangement of the Terms of the Loan Notes which, in the opinion of the Agent, is of a formal, minor or technical nature or is made to correct a manifest error.

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**20. Severability**

If at any time any one or more of the provisions of the Terms of the Loan Notes is or becomes unlawful, invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be in any way affected or impaired thereby.

## THE GUARANTEE

This section contains extracts of the guarantee (in the meaning of Article 111 of the Swiss Federal Code of Obligations) which will be given by the Guarantor on the Issue Date (the "**Guarantee**"):

1. "Being informed that Swiss Life AG, General-Guisan-Quai 40, CH-8002 Zurich, Switzerland (the "**Issuer**"), issued and sold Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes (the "**Loan Notes**") in the aggregate principal amount of EUR 600,000,000, Swiss Life Holding AG, General-Guisan-Quai 40, CH-8002 Zurich, Switzerland (the "**Guarantor**"), herewith irrevocably and unconditionally, but on a subordinated basis in accordance with subsection (2) below, guarantees to the holders of the Loan Notes (the "**Loan Noteholders**") in accordance with Article 111 CO, irrespective of the validity of the Loan Notes, the purchase agreement relating to the Loan Notes between the Issuer, the Guarantor and Elm B.V dated 23 September 2016 (the "**Purchase Agreement**") and the agency agreement relating to the Loan Notes between the Issuer, the Guarantor and The Bank of New York Mellon dated 27 September 2016 (the "**Agency Agreement**") and waiving all rights of objection and defence arising from the Loan Notes, the Purchase Agreement and the Agency Agreement, the due payment of the amounts (including but not limited to, principal and interest) expressed to be due and payable by the Issuer under and pursuant to the terms and conditions of the Loan Notes. Accordingly, the Guarantor agrees to pay or deliver to The Bank of New York Mellon, London branch, in its capacity as fiscal, paying and calculation agent in respect of the Loan Notes (the "**Agent**"), on behalf of the Loan Noteholders, within 7 (seven) calendar days after the receipt by the Guarantor of the Agent's first written demand for payment and its confirmation in writing that an amount has become due and payable under the Loan Notes which is equivalent to the amount claimed under this Guarantee and has remained unpaid on the due date.
  
2. This Guarantee will constitute a direct, subordinated and unsecured obligation of the Guarantor and rank pari passu, without any preference, among such obligations. The claims of the Loan Noteholders under this Guarantee rank on an insolvency, winding-up, liquidation, dissolution (other than pursuant to a merger, consolidation or amalgamation with another entity where the resulting or surviving entity assumes all the obligations of the Guarantor in respect of the Guarantee) or other similar proceedings of or against the Guarantor:
  - i. after the claims of any Guarantor Senior Creditors;
  
  - ii. pari passu with any other existing or future direct, subordinated and unsecured obligations of the Guarantor which whether now or in the future are ranking or expressed to rank pari passu with the claims of

the Loan Noteholders under this Guarantee (the "**Parity Obligations**"); and

- iii. prior to the claims of the holders of all classes of issued shares in the share capital of the Guarantor and any other securities issued by the Guarantor or the Issuer ranking or expressed to rank junior to the claims of the Loan Noteholders under this Guarantee, including the obligations of the Guarantor under the Guaranteed Subordinated Perpetual Fixed to Floating Rate Loan Notes sold to ELM B.V. on 4 April 2007.

"**Guarantor Senior Creditors**" means creditors of the Guarantor (i) who are unsubordinated creditors of the Guarantor, or (ii) whose claims are, or are expressed to be, subordinated (whether only in the event of the liquidation, dissolution or winding-up of the Guarantor or otherwise) to the claims of other unsubordinated creditors of the Guarantor (including all existing and future unsecured, subordinated obligations of the Guarantor (whether actual or contingent)), except those whose claims rank, or are expressed to rank, equally with or junior to the claims of the Loan Noteholders under this Guarantee.

The subordination provisions set out above are irrevocable. The Guarantor may not create or permit to exist any charge or other interest over its assets to secure the obligations of the Guarantor in respect of this Guarantee.

3. Payments under this Guarantee shall be made in EUR. The receipt by the Agent of funds in EUR from the Guarantor shall release the Guarantor from its obligations under this Guarantee to the extent of amounts received by the Agent.
4. The Guarantor agrees to be bound by the provisions of section (c) of condition 3.3 (*Recalculation of Interest*) and condition 7 (*Taxation*) of the terms and conditions of the Loan Notes as if set out in full in this Guarantee.
5. This Guarantee shall give rise to a separate and independent cause of action against the Guarantor and shall apply irrespective of any indulgence granted to the Issuer by the Agent or any Loan Noteholder from time to time and shall continue in full force and effect notwithstanding any judgment or order against the Issuer and/or the Guarantor. However, when enforcing the Guarantee, Loan Noteholders shall not be entitled, and hereby waive any statutory right conferred to them, to file for the opening of bankruptcy proceedings (*Konkursbegehren*) pursuant to Art. 166 of the Swiss Federal Act on Debt Collection and Bankruptcy (*Bundesgesetz über Schuldbetreibung und Konkurs*) or to make other filings or motions which, if approved, will have similar effects on the Guarantor.
6. This Guarantee is governed by Swiss law.

7. Any dispute in connection with this Guarantee which may arise between the Agent, the Guarantor and/or the Loan Noteholders shall be submitted to the exclusive jurisdiction of the courts of the city of Zurich, Switzerland, and, if permitted, the Commercial Court of the Canton of Zurich, Switzerland."

Zürich, 27 September 2016.

**Swiss Life Holding AG**

\_\_\_\_\_  
Name:  
Function:

\_\_\_\_\_  
Name:  
Function:



**USE OF PROCEEDS**

The Issuer will use the net cash proceeds of the Issue for general corporate purposes including future refinancing of outstanding debt instruments in accordance with applicable laws and regulations.

## **DESCRIPTION OF SWISS LIFE**

Swiss Life is one of Europe's leading providers of comprehensive life and pensions and financial solutions with core markets in Switzerland, France and Germany. Its main business areas include life insurance, risk protection, pensions and financial solutions for private and corporate clients, independent financial advisory and asset management. Swiss Life distributes its products through its own sales force and distribution partners such as brokers, banks and independent financial advisors.

In Switzerland, Swiss Life is the largest life insurance provider in terms of gross written premiums. In France, in addition to its life insurance business, Swiss Life also offers health and protection as well as property and casualty insurance solutions. In Germany, Swiss Life focuses on life and disability coverage. In addition to its core markets, Swiss Life provides multinational corporations with employee benefits solutions and high net worth individuals with structured life and pensions products through its division Swiss Life International.

Swiss Life's owned financial advisors (Swiss Life Select, tecis, Horbach, Deutsche Proventus and Chase de Vere advisors) offer advisory services and propose products for customers from a large universe of products from the market.

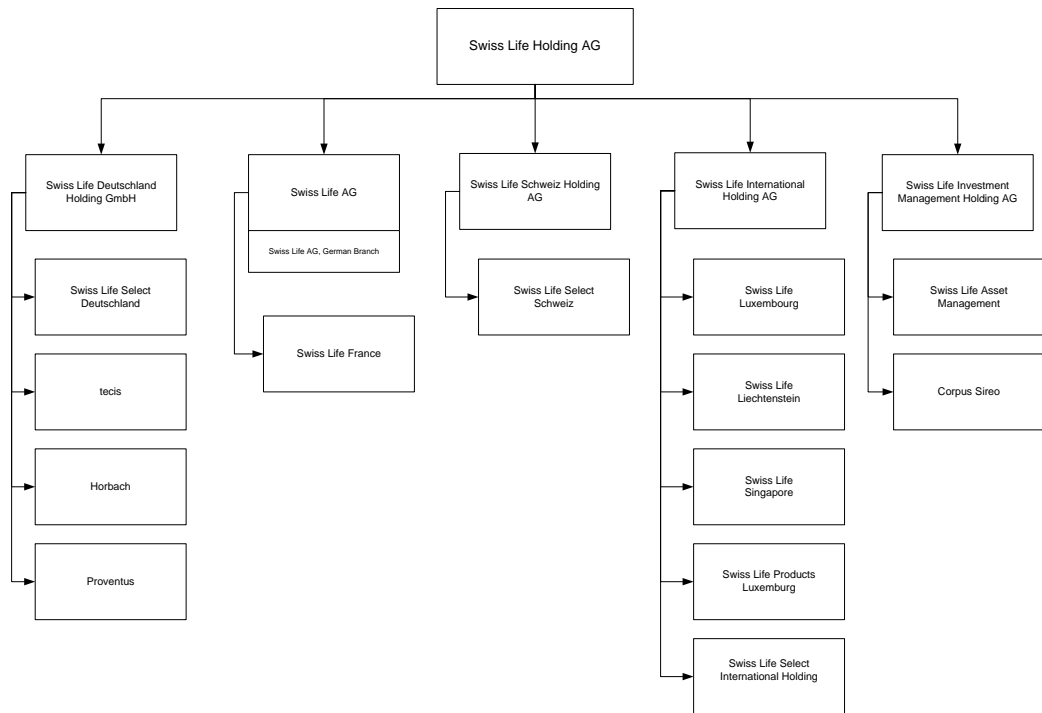
Swiss Life Asset Managers offers institutional and private investors access to investment services and products, and provides and actively manages a broad range of investment solutions in the fixed income, real estate, equity, infrastructure and balanced asset classes.

As of 31 December 2015, Swiss Life employed a workforce of around 7,600 FTE's and approximately 4,600 certified financial advisors. Total gross written premiums, policy fees and policyholder deposits for the year ended 31 December 2015 amounted to CHF 19 billion (2014: CHF 19 billion).

### **Group structure**

The Issuer was founded in 1857 as Schweizerische Rentenanstalt. As of 31 December 2015, Swiss Life comprised over 180 companies in 13 countries. The Guarantor is the holding company of Swiss Life and its shares (SLHN) are listed on the SIX Swiss Exchange.

In simplified form, the legal structure of Swiss Life as per 31 December 2015 can be summarised as follows:



The majority of Swiss Life's insurance activities are carried out by the Issuer, either directly, through branch offices or through its subsidiaries and associates.

## Strategy

In November 2015, Swiss Life announced its strategic group-wide programme for the three-year-period 2016-2018. The programme "Swiss Life 2018" builds on the results of the successful preceding programme "Swiss Life 2015" that set the scene to increase profitability and efficiency, as well as the resilience of the Swiss Life business model. The targets under the Swiss Life 2018 programme include a return on equity in the range of 8 to 10% (adjusted for unrealised gains / losses in fixed interest investments).

The four "Swiss Life 2018" strategic thrusts are:

### 1) Quality of earnings and earnings growth

Swiss Life strives to strengthen the quality of its earnings and to generate most of its earnings growth through an increased fee result with a view to protect the resilience of the business model in a low interest rate environment. At the same time, Swiss Life strives to defend the risk result over the course of the next three-year-period 2016-2018. With its disciplined ALM process, Swiss Life aims to keep the savings result at least stable over the 2016-2018 period. Moreover, Swiss Life seeks to further improve the value of new business by disciplined margin and product management.

- 2) **Operational efficiency**  
Swiss Life plans to finance additional investments in growth and digitalisation through additional cost savings. Swiss Life plans to achieve these cost savings by implementing a number of initiatives related to optimisation of systems, IT and other overhead expenses as well as through enhancement and digitalisation of processes.
- 3) **Capital, cash and dividend**  
Capital management remains paramount in an environment of increasing macroeconomic and regulatory uncertainties. Swiss Life will continue its disciplined capital management to safeguard its financial strength and to protect its solvency whilst striving to remit sufficient cash to the holding company in order to support the dividend pay-out.
- 4) **Customer centricity and advice**  
Swiss Life strives to further develop the multi-local business model to be able to quickly respond to local key trends in the insurance industry. Swiss Life will invest in advice and digitalisation initiatives to support customer centricity at the local business divisions.

With its "Swiss Life 2018" programme, Swiss Life believes it is prepared to meet trends in the insurance industry, which is key to capture the market potential. Firstly, the insurance industry has been facing increased regulatory pressure on capitalization and profitability, as well as from pension reforms in Switzerland and health reforms in France. Swiss Life addresses these trends by adjusting product and service offerings. Secondly, the socio-economic environment will continue to be challenging, with low interest rates on the one hand and a longer life expectation on the other hand. A longer life with a greater demand for self-determined financial control will provide new opportunities. Swiss Life expects to see an increasing demand for insurance solutions for individual and group life customers. Thirdly, Swiss Life expects changing customer behaviour with customers being better informed and possibly less loyal on average. Swiss Life will therefore continue to invest in digitalisation and automatisisation to address that development.

## **Business Divisions**

### ***Swiss Life Switzerland***

Swiss Life Switzerland is a comprehensive life and pensions and financial solutions provider, and the leading provider in the individual life insurance and occupational pensions sector with over 1.3 million customers.

#### Individual life insurance

Swiss Life Switzerland's individual life insurance business targets a wide range of private clients. Individual life insurance products consist of pensions as well as products covering mortality and disability risks that are often combined with savings elements. Swiss Life Switzerland offers a full range of products that use var-

ious combinations of these elements. It offers traditional life insurance products, characterised by guaranteed benefits, as well as unit-linked products (with or without capital protection). The products offered by Swiss Life Switzerland can be structured to fall within the limits necessary to qualify for tax advantages as part of the "third pillar" (individual pension-related savings scheme) of the Swiss pensions system, or can be written without such limitations and tax advantages.

#### Group life insurance

The group life insurance business in Switzerland targets pension institutions of small and medium-sized but also larger corporations. In Switzerland, the BVG requires employers to maintain an occupational pension plan for employees and to arrange for a pension institution to provide for that occupational pension plan. Swiss Life Switzerland offers BVG products to cover either the mandatory part or the non-mandatory part of the BVG or, as an integrated solution, to cover both parts.

Other products offered by Swiss Life Switzerland include products provided to semi-autonomous and autonomous pension institutions where only certain risks, not already insured by the pension institutions elsewhere, are covered.

Swiss Life Switzerland also provides tailor-made investment products to large entities with autonomous pension institutions seeking a flexible investment strategy. The investment risk of these products lies with the pension institutions.

The category of group life insurance products also encompasses a small number of individual insurance products which utilise the technical bases of group insurance products, but are aimed at individuals with vested benefits who are leaving an existing pension institution but not joining another, who become self-employed, or who have invested their pension funds in real estate for own usage.

Swiss Life Switzerland aims to offer to its clients a full-range of insurance solutions also including tailored products and services that reflect a customer's individual risk tolerance. Swiss Life Switzerland complements its full insurance contracts by pension solutions without traditional guarantees for small and medium-sized companies. In addition, Swiss Life Switzerland offers services to pension funds and larger corporations on a fee basis.

#### Distribution

Swiss Life Switzerland offers broad access to its clients via its multichannel strategy. As of 31 December 2015, its own distribution force in its home market comprised approximately 1,370 Swiss Life and Swiss Life Select advisors at 55 locations. Insurance advisors are specialists in life insurance and pensions solutions for corporate and private clients. They also provide to their clients partner products such as savings solutions, property insurance and healthcare insurance. Real estate specialists offer advisory and broker services related to the purchase of

residential property. Swiss Life Select advisors propose suitable products for customers from the market according to the Best Select approach.

Independent distribution partners, i.e. brokers and banks, plus online and direct channels, complete the distribution network of Swiss Life Switzerland.

### ***Swiss Life France***

Swiss Life France operates multiple lines of business in order to provide to its clients comprehensive wealth planning (savings and wealth development, pension planning, private banking, asset management and property and casualty insurance) and personal protection solutions (health, death & disability, credit life). Its offerings for individual and group clients are distributed by its own sales force, brokers, independent financial advisors and distribution partnerships with banks. The typical client base, particularly for its wealth planning solutions, are affluent- and high-net worth individuals.

Swiss Life Banque Privée (a subsidiary of Swiss Life France) supports the positioning in wealth planning and also acts as an intermediary in the financial markets on behalf of Swiss Life Asset Management (France), as well as custodian of the latter's investment portfolio and for Swiss Life France's insurance entities.

### ***Swiss Life Germany***

Swiss Life Germany is a financial advisory and insurance company.

Under the Swiss Life brand, Swiss Life Germany offers to private and corporate clients innovative insurance products and services in pensions saving and financial security. Core competencies are occupational disability insurance, occupational pensions, care insurance and modern guarantee concepts.

Distribution is organised via cooperation with brokers, independent financial advisors and banks as well as the owned financial advisors in Germany: Swiss Life Select, HORBACH, tecis and Deutsche Proventus. These brands stand for holistic and individual financial advice. The advisory approach enables customers to make an informed choice from a range of suitable solutions offered by selected product partners.

### ***Swiss Life International***

Swiss Life International comprises business with international high net worth individuals (Private Clients), multinational corporates (Corporate Clients) and financial advisors.

Private Clients offers structured life and pension solutions to high net worth individuals in Europe and Asia through its insurance carriers in Luxembourg, Singapore and Liechtenstein. Corporate Clients provides global employee benefit solutions to multinational corporations through the Swiss Life Network, and offers local and international products through its insurance carrier in Luxembourg. The

owned financial advisors Swiss Life Select in Austria and the Czech Republic as well as Chase de Vere in the UK offer customised pension, risk and investment advice to retail and affluent clients.

### **Swiss Life Asset Managers**

Swiss Life Asset Managers manage assets from both Swiss Life's insurance operations and from third-party investors, including its own and third-party real estate portfolios. In the past years, Swiss Life Asset Managers has substantially increased its third-party business and now strives to pursue its growth path under the "Swiss Life 2018" programme.

Together with CORPUS SIREO, a fully owned real estate asset management service provider in Germany and Swiss Life REIM France, a fully owned real estate asset management company in France, Swiss Life Asset Managers positions itself as a leading European real estate manager with about CHF 68 billion in real estate under management and administration.

### **Risk management**

#### ***Overview***

Swiss Life pursues an integrated, value-oriented risk management approach, involving both quantitative and qualitative elements. The goal is to protect customers' funds and ensure the optimal use of risk capital, while complying with regulatory requirements and taking into account continued challenging economic conditions.

Risk management is a key component of Swiss Life's management process. The respective committees of the corporate executive board and the board of directors monitor and take risk management decisions, which are then incorporated into the annual planning process. On the one hand, the process comprises qualitative assessments from a strategic perspective and takes into consideration operational risks and the internal control system (**ICS**). On the other hand, quantitative elements for each insurance unit, such as risk budgeting and investment strategy, are included in asset and liability management. Based on the overall risk capacity and risk appetite as well as taking into account regulatory requirements, limits are set for financial risks incurred by the individual units, according to which the investment targets are pursued.

#### ***Quantitative Risk Management***

The risk capacity and risk appetite of Swiss Life's insurance operations are primarily defined based on economic principles. To control and limit exposure to risks, capital and exposure limits are defined. They include overall market risk capital, credit risk capital and, more specifically, interest rate risk capital and credit spread risk capital as well as equity exposure. The main objective of the ALM process is to ensure that Swiss Life can meet its commitments to policyholders at all times while also adequately compensating shareholders for provid-

ing risk capital. Based on the economic principles of risk management and on the risk appetite definition applied in the risk budgeting process, ALM's main tasks are the determination of the strategic asset allocation and of the risk capital and exposure sublimits.

The ALM process is centrally coordinated and steered at Swiss Life's group level by means of local asset and liability management committees with representatives from both local senior management and from Swiss Life. Local units are in charge of implementing the decisions. The process requires the involvement of investment management, finance, actuarial and risk functions.

### ***Strategic risk management***

Swiss Life uses analytical methods to ensure that strategic risks are dealt with adequately in what continues to be a very challenging economic environment. In its strategic risk management process, Swiss Life incorporates all the information on risks and risk/return characteristics in its strategic decisions. A thorough understanding of the interplay of individual risks is essential to take into account the factors influencing risks during strategy development so that these factors can be steered appropriately.

### ***Operational risk management and internal control system***

The operational risk management of Swiss Life includes the methods and processes used for the identification, assessment and steering or avoidance of operational risks. Operational risk management defines operational risk as the danger that losses may result from shortcomings or failures in internal processes, people or systems, or from external events. Swiss Life's ICS consists of the entirety of procedures, methods and measures prescribed by the board of directors and the corporate executive board to ensure the orderly conduct of business. The focus is on the reliability of financial reporting, compliance with laws and regulations and reducing the risk of failures in operational processes to protect the group's assets.

### **Recent Developments**

For information on recent developments with respect to Swiss Life see the unaudited (reviewed) consolidated financial statements for the half-year ended 30 June 2016 as incorporated by reference in this Information Memorandum.



## Board of directors

The respective articles of incorporation provide that the board of directors of the Issuer must consist of at least seven but not more than 14 members and that the board of directors of the Guarantor must consist of at least five but not more than 14 members. Member of the board of directors of the Guarantor are elected by the general meeting of shareholders on an individual basis for a one-year period. The term of office of members of the board of directors of the Issuer is three years. The term of one year is deemed to signify the period from one annual general meeting up to and including the next. Members whose terms of office are expiring are eligible to stand for immediate re-election.

The board of directors is ultimately responsible for the Issuer's and the Guarantor's strategy and policies and for the supervision of its management. The board of directors establishes the strategic, accounting, organisational and financing policies to be followed by the management of the Issuer and the Guarantor, it appoints the executive officers and authorised signatories of the Issuer and the Guarantor and supervises the operations of the Issuer and the Guarantor.

Furthermore, the board of directors is entrusted with the preparation of shareholders' meetings and with the carrying out of shareholders' resolutions. The board of directors has, in accordance with the articles of incorporation and pursuant to written by-laws, delegated the conduct of business operations to the corporate executive board, which remains under its control and supervision. Pursuant to the by-laws, the board of directors has established the following committees: (i) the chairman's and corporate governance committee; (ii) the investment and risk committee; (iii) the audit committee; and (iv) the compensation committee. The board of directors can establish additional special committees for specific duties.

The Issuer and the Guarantor currently have a board of directors of 11 members, all of which are non-executive board members. Resolutions of the board of directors are adopted with a majority of votes cast. In the event of deadlock, the chairman has the casting vote. Resolutions may also be adopted by way of written consent (circular resolution).

The members of the board of directors are as follows:

### ***Board of directors of the Issuer and the Guarantor***

<b>Name</b>	<b>Main function</b>	<b>Year appointed</b>
Rolf Dörig	Chairman	2008
Gerold Bühler	1 <sup>st</sup> Vice Chairman	2002 <sup>1</sup>

<sup>1</sup> Member of the board of directors of Swiss Life AG since 2000.

Frank Schnewlin	Vice Chairman	2009
Wolf Becke	Member	2012
Adrienne Corboud Fumagalli	Member	2014
Ueli Dietiker	Member	2013
Damir Filipovic	Member	2011
Frank W. Keuper	Member	2013
Henry Peter	Member	2006
Franziska Tschudi Sauber	Member	2003
Klaus Tschütscher	Member	2013

The business address of the members of the board of directors is at c/o Swiss Life AG, General-Guisan-Quai 40, CH-8002 Zurich.

***Corporate executive board of the Issuer and the Guarantor***

<b>Name</b>	<b>Position</b>
Patrick Frost	Group Chief Executive Officer
Thomas Buess	Group Chief Financial Officer
Stefan Mächler	Group Chief Investment Officer
Ivo Furrer	Chief Executive Officer Switzerland
Charles Relecom	Chief Executive Officer France
Markus Leibundgut	Chief Executive Officer Germany
Nils Frowein	Chief Executive Officer International

The business address of the members of the corporate executive board is at c/o Swiss Life AG, General-Guisan-Quai 40, CH-8002 Zurich.

## TAXATION

### General

This following summary describes the principal tax consequences under the laws of Switzerland of the acquisition, ownership and disposal of Loan Notes for investors who are either Qualifying Banks or the Permitted Non-Qualifying Loan Noteholder. This summary does however not address the tax treatment of any other investors.

This summary is based on the tax laws, regulations and regulatory practices of Switzerland, as in effect on the date hereof, which are subject to change (or subject to changes in interpretation), possibly with retroactive effect, and a tax ruling with the Swiss Federal Tax Administration.

Loan Noteholders or prospective Loan Noteholders are advised to consult their own tax advisers in light of their particular circumstances as to the Swiss tax laws, regulations and regulatory practices that could be relevant for them in connection with acquiring, owning and disposing of Loan Notes and receiving interest, principal or other payments under the Loan Notes.

### Withholding Tax

Payments by the Issuer of interest on, and repayment of principal of, the Loan Notes, will not be subject to Swiss Federal Withholding Tax (currently levied at a rate of 35%), provided that the aggregate number of holders of Loan Notes who are not Qualifying Banks will not at any time while any Loan Notes are outstanding exceed ten (Ten Non-Bank Rule; as defined in the Conditions), and the aggregate number of lenders to the Issuer (including holders of Loan Notes) under all of the Issuer's financial debt (including Loan Notes) who are not Qualifying Banks will not at any time while any Loan Notes are outstanding exceed twenty (Twenty Non-Bank Rule). The Conditions require the Issuer to comply at all times while any Loan Notes are outstanding with the Non-Bank-Rules and require the holders of Loan Notes to comply with the restrictions on transfer of Loan Notes and grants of security which, inter alia, limit the holders of Loan Notes to one single Permitted Non-Qualifying Loan Noteholder and Qualifying Banks. The Swiss Federal Tax Administration confirmed in a tax ruling that Elm B.V, i.e., the initial Permitted Non-Qualifying Loan Noteholder, counts as one lender only for the purpose of the Non-Bank Rules.

### Stamp Taxes

The issue and redemption of the Loan Notes by the Issuer are not subject to the Swiss federal issuance stamp tax (*Emissionsabgabe*).

Provided that at all times while any Loan Notes are outstanding the Issuer complies with the Non-Bank Rules and the Loan Noteholders comply with the transfer restrictions provided for in the Conditions, no Swiss transfer stamp tax (*Um-*

*satzaabgabe*) will be payable on a potential transfer or assignment of the Loan Notes (see "Swiss Federal Withholding Tax" above for a summary of the transfer restrictions).

## **Swiss Corporate Income Tax**

### ***Non-resident Holders***

A Loan Noteholder who is a corporate entity and not resident in Switzerland (including the Permitted Non-Qualifying Loan Noteholder as defined in the Conditions) and who during the fiscal year has not engaged in a trade or business carried on through a permanent establishment or a fixed place of business in Switzerland to which the Loan Note is attributable is in respect of such Loan Note not subject to income tax in Switzerland (see "Swiss Federal Withholding Tax" above for a summary on the Swiss Federal Withholding Tax).

### ***Loan Notes held in Switzerland as Swiss business assets***

Swiss resident corporate taxpayers and corporate taxpayers resident abroad holding Loan Notes through a permanent establishment or a fixed place of business in Switzerland are required to recognise the payments of interest and any capital gain or loss realised on the sale or other disposal of such Loan Note, in each case converted into Swiss francs at the exchange rate prevailing at the time of payment or sale, as applicable in their income statement for the respective tax period and are taxable on any net taxable earnings for such period.

## **Foreign Final Withholding Tax**

On 1 January 2013 treaties on final withholding taxes between the Switzerland and the United Kingdom and between Switzerland and Austria entered into force. The treaties, inter alia, require a Swiss paying agent to levy a final withholding tax at specified rates in respect of an individual resident in the United Kingdom or resident in Austria, as applicable, on interest or capital gain paid, or credited to an account, relating to the Loan Notes. The final withholding tax substitutes the United Kingdom or Austrian income tax, as applicable, on such income of interest or capital gain. If such a final withholding tax were to be deducted or withheld from a payment of interest or capital gain relating to the Loan Notes, neither the Issuer nor any paying agent nor any other person would, pursuant to the Conditions, be obligated to pay additional amounts with respect to any Loan Note as a result of the deduction or imposition of such foreign final withholding tax. A Loan Noteholder may, however, in lieu of the final withholding tax, opt for voluntary disclosure of the interest or capital income to the tax authority of his or her country of residency.

The AEOI (please refer to "Exchange of Information" below) will replace the treaties on final withholding taxes between Switzerland and the United Kingdom and between Switzerland and Austria.

## **EU Savings Tax**

The EU Council Directive 2003/48/EC of 3 June 2003 (as amended by Council Directive 2014/48/EU adopted by the European Council on 24 March 2014) on the taxation of savings income (the "**EU Savings Directive**") which required the automatic exchange of information between EU member states on private savings income, was repealed by the Council of the European Union on 10 November 2015, effective for all EU member states as of 1 January 2016, except for Austria (for which the EU Savings Directive will continue to apply until 31 December 2016). The EU Saving Directive was repealed to prevent overlap between the EU Savings Directive and a new automatic exchange of information regime to be implemented under EU Council Directive 2011/16/EU on administrative cooperation in the field of taxation as amended by EU Council Directive 2014/107/EU. The new regime under EU Council Directive 2011/16/EU (as amended) is in accordance with the global standard for automatic exchange of information published by the Organisation for Economic Co-operation and Development in July 2014. It is generally broader in scope than the EU Savings Directive, although it does not impose withholding taxes.

On 26 October 2004, the European Union ("**EU**") and Switzerland entered into an agreement on the taxation of savings income pursuant to which Switzerland will adopt measures equivalent to those of the EU Savings Directive (the "**EU-Swiss Savings Tax Agreement**"). In accordance with the EU-Swiss Savings Tax Agreement and the Swiss law implementing it, Swiss paying agents, if any, have to withhold tax at a rate of 35% on interest payments made under the Loan Notes to a beneficial owner who is an individual and resident of an EU member state, with the option of the individual to have the paying agent and Switzerland provide to the tax authorities of the EU member state the details of the interest payments in lieu of the withholding. If such a withholding tax were to be deducted or withheld from a payment of interest or capital gain relating to the Loan Notes, neither the Issuer nor any paying agent nor any other person would, pursuant to the Conditions, be required to pay additional amounts with respect to any Loan Note as a result of the deduction or imposition of such a withholding tax.

On 27 May 2015, Switzerland and the EU signed an agreement regarding the introduction of the global standard for the automatic exchange of information in tax matters (the "**AEOI Agreement**" and automatic exchange of information in tax matters "**AEOI**"). The AEOI Agreement will replace the EU-Swiss Savings Tax Agreement that has been in force since 2005 and will apply with regard to all EU member states, likely as from 1 January 2018 (related to data collected from 2017).

### **Exchange of Information**

Apart from the AEOI Agreement, Switzerland has already signed joint declarations on the introduction of the AEOI on a reciprocal basis with Australia, Canada, the British crown dependencies of Jersey, Guernsey and the Isle of Man, Japan, South Korea, as well as with Iceland and Norway. Switzerland and these countries intend to start collecting data in accordance with the global automatic exchange of information standard in 2017 and to start transmitting data in 2018,

after the necessary legal basis has been created. The Swiss Federal Council has authorised the Swiss Federal Department of Finance to initiate a consultation on introducing the AEOI with the other countries.

As part of its commitment to improve transparency, Switzerland signed the OECD / Council of Europe Convention on Mutual Administrative Assistance in Tax Matters ("**MCAA**") in 2013, which provides three forms of information exchange: (i) upon request, (ii) automatic and (iii) spontaneous. In January 2015, the Swiss Federal Council initiated a decree to allow ratification of the MCAA and to amend the Swiss Tax Administrative Assistance Act (the "**TAAA**") to introduce spontaneous exchange of information. A draft decree was submitted to the Swiss Parliament for approval in June 2015 and passed in the final vote in December 2015. The revised TAAA introducing spontaneous exchange of information into Swiss law should become effective in 2017. First spontaneous exchanges of information are thus expected to occur from 1 January 2018 relating to data collected from 2017.

## Foreign Account Tax Compliance Act

FATCA imposes a new reporting regime and potentially a 30 per cent. withholding tax with respect to certain payments to (i) any non-U.S. financial institution (a "foreign financial institution", or "**FFI**" (as defined by FATCA)) that does not become a "Participating FFI" by entering into an agreement with the IRS to provide the IRS with certain information in respect of its account holders and investors or is not otherwise exempt from or in deemed compliance with FATCA and (ii) any investor (unless otherwise exempt from FATCA) that does not provide information sufficient to determine whether the investor is a U.S. person or should otherwise be treated as holding a "United States account" of the Issuer (a "**Recalcitrant Holder**"). The Issuer is classified as an FFI and the Guarantor may be classified as an FFI.

The new withholding regime is now in effect for payments from sources within the United States and will apply to "foreign passthru payments" (a term not yet defined) no earlier than 1 January 2017.

The United States and a number of other jurisdictions have entered into inter-governmental agreements to facilitate the implementation of FATCA (each, an "**IGA**"). Pursuant to FATCA and the "Model 1" and "Model 2" IGAs released by the United States, an FFI in an IGA signatory country could be treated as a "**Reporting FI**" not subject to withholding under FATCA on any payments it receives. Further, an FFI in an IGA jurisdiction generally would not be required to withhold under FATCA or an IGA (or any law implementing an IGA) (any such withholding being "**FATCA Withholding**") from payments it makes. Under each Model IGA, a Reporting FI would still be required to report certain information in respect of its account holders and investors to its home government or to the IRS.

The United States and Switzerland have entered into an agreement (the "**U.S.-Switzerland IGA**") based largely on the Model 2 IGA. The agreement between Switzerland and the United States on cooperation to simplify the implementation of FATCA (the "**FATCA Agreement**") entered into force on 2 June 2014. The Swiss Federal Council brought the corresponding implementing act into force on 30 June 2014. The administrative burden associated with the implementation of FATCA will be reduced by the FATCA Agreement, as it makes provision for reductions in the administrative burden for Swiss financial institutions. On 8 October 2014, the Swiss Federal Council approved a mandate for negotiations with the United States in order to switch to a "Model 1" IGA.

If the Issuer and Guarantor are treated as Reporting FIs pursuant to the U.S.-Switzerland IGA they do not anticipate that they will be obliged to deduct any FATCA Withholding on payments they make. There can be no assurance, however, that the Issuer and Guarantor will be treated as Reporting FIs, or that they would in the future not be required to deduct FATCA Withholding from payments they make. Accordingly, the Issuer, Guarantor and financial institutions through which payments on the Loan Notes are made may be required to withhold FATCA

Withholding if (i) any FFI through or to which payment on such Loan Notes is made is not a Participating FFI, a Reporting FI, or otherwise exempt from or in deemed compliance with FATCA or (ii) an investor is a Recalcitrant Holder.

If a FATCA Withholding were to be deducted or withheld from interest, principal or other payments on the Loan Notes as a result of FATCA, neither the Issuer nor any paying agent nor any other person would, pursuant to the Conditions, be required to pay additional amounts as a result of such deduction or withholding.

**FATCA is particularly complex and its application is uncertain at this time. The above description is based in part on regulations, official guidance and model IGAs, all of which are subject to change or may be implemented in a materially different form. Prospective investors should consult their tax advisers on how these rules may apply to the Issuer and to payments they may receive in connection with the Loan Notes.**



## TRANSFER RESTRICTIONS

### General

Transfers of Loan Notes shall be made in accordance with the provisions of Condition 9. A Loan Note may only be assigned or transferred (a "**Transfer**" and "**Transferred**" shall be construed accordingly), in whole or in part, but only if the Transfer is:

- (i) in whole or in part, if the Transfer is to a Qualifying Bank, provided that in the case of a Transfer of the Loan Notes in part, the Loan Notes may not be transferred to more than 5 (five) Qualifying Banks, or
- (ii) in whole but not in part, if the Transfer is to a Permitted Non-Qualifying Noteholder, i.e. initially, Elm B.V., Prins Bernhardplein 200, 1097 JB Amsterdam, The Netherlands ("**Elm**") and a successor of Elm by way of Transfer of all of the Loan Notes

(in each case subject to the provisions set out in the Conditions).

Subject to a permitted Transfer, no Loan Noteholder shall transfer its credit exposure under the Loan Notes to third parties by way of entering into derivative transactions, sub-participations or similar instruments with such third parties, unless under such arrangement and at any time throughout the life of such arrangement:

- (i) the relationship between the Loan Noteholder and that other person is that of debtor and creditor (including in the bankruptcy or similar event of the Loan Noteholder or the Issuer);
- (ii) the other person will have no proprietary interest in the benefit of the Loan Notes or in any monies received by the Loan Noteholder under or in relation to the Loan Notes; and
- (iii) the other person will under no circumstances, other than permitted Transfers (A) be subrogated to, or substituted in respect of, the Loan Noteholder's claims under the Loan Notes and (B) have otherwise any contractual relationship with, or rights against, the Issuer or the Guarantor under or in relation to the Loan Notes.

For the avoidance of doubt, the granting of security in accordance with Condition 10 will not be subject to the foregoing limitations.

Title to the relevant Loan Note passes only on due registration in the Register. The Loan Notes will be issued in certificated, registered form, and will bear a legend setting forth the applicable transfer restrictions.

## **U.S. Securities Law Restrictions**

The Loan Notes have not been, and will not be registered, under the Securities Act or the securities laws of any state or other jurisdiction of the United States and may not be offered, sold or resold in the United States (as defined in Regulation S under the Securities Act), except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state or local securities laws. The Loan Notes are not being offered in the United States or to U.S. persons.

## **Restrictions Applicable in the United Kingdom**

This Information Memorandum is for distribution only to, and is only directed at, persons who (i) have professional experience in matters relating to investments falling within Article 19(5) of the FSMA (Financial Promotion) Order 2005, as amended, (the "**Financial Promotion Order**"), (ii) are persons falling within Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the Financial Promotion Order, (iii) are outside the United Kingdom, or (iv) are persons to whom an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) in connection with the issue or sale of any Loan Notes and the issue of any securities upon substitution of the Loan Notes may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as "**relevant persons**"). This Information Memorandum is directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons. Any investment or investment activity to which this Information Memorandum relates is available only to relevant persons and will be engaged in only with relevant persons.

## **Restrictions Applicable in Switzerland**

The Loan Notes may not be publicly offered, sold, or advertised, directly or indirectly, in, into or from Switzerland and will not be listed on the SIX Swiss Exchange or any other exchange or regulated trading facility in Switzerland.

Neither this Information Memorandum nor any other offering and marketing material relating to the offering of the Loan Notes, the Loan Notes or SL have been or will be filed with or approved by any Swiss regulatory authority. The Loan Notes themselves are not subject to the supervision by FINMA or any other Swiss regulatory authority, and investors in the Loan Notes will not benefit from protection or supervision by any such authority.

## **Restrictions Applicable in Other Jurisdictions**

The distribution of this Information Memorandum in other jurisdictions may be restricted by law and persons into whose possession this Information Memorandum comes should inform themselves about, and observe any such restrictions. Any failure to comply with these restrictions may constitute a violation of U.S. securities laws or the laws of any such other jurisdictions.

## **GENERAL INFORMATION**

### **Authorisations**

The issuance of the Loan Notes has been authorised by resolutions of the board of directors of the Issuer passed on 7 September 2016. The issuance of the Guarantee has been authorised by resolutions of the Guarantor passed on 7 September.

### **No Material Adverse Change**

Since the publication date of the latest financial statements as incorporated by reference in this Information Memorandum, there has been no material change in the assets and liabilities, financial position and profits or losses of the Issuer or the Guarantor.

### **Litigation**

Except as it may otherwise be indicated in this Information Memorandum, the Issuer and the Guarantor have not been involved in any litigation, governmental, or arbitration proceedings, including any such proceedings which are pending or threatened of which the Issuer and the Guarantor are aware, during the 12 months preceding the date of this Information Memorandum which may have, or have had in the recent past, a significant effect on our financial position.

### **Independent Statutory Auditors**

The independent statutory auditors of the Issuer and the Guarantor are PricewaterhouseCoopers Ltd., Birchstrasse 160, CH-8050 Zurich.

The consolidated financial statements of Swiss Life prepared in accordance with IFRS as of and for the years ended 31 December 2014 and 2015 have been audited by PricewaterhouseCoopers Ltd., as stated in its reports incorporated by reference into this Information Memorandum. PricewaterhouseCoopers Ltd. has also reviewed the consolidated interim financial statements of Swiss Life prepared in accordance with IAS 34 as of and for the half-year ended 30 June 2016, as stated in their review report incorporated by reference into this Information Memorandum.

PricewaterhouseCoopers Ltd. is a member of EXPERTsuisse – Swiss Expert Association for Audit, Tax and Fiduciary.

### **Documents Available for Inspection**

Printed copies of this Information Memorandum can be obtained free of charge at the offices of the Agent at One Canada Square, London E14 5AL, United Kingdom.

Copies of the audited consolidated financial statements of Swiss Life (including the notes thereto) and related the reports of the statutory auditors as at, and for the years ended 31 December 2014 and 2015 and the consolidated unaudited financial statements of Swiss Life fas at, and for the half-year ended 30 June 2016 (including the notes thereto) and related review report of the independent auditors can be downloaded from the website [www.swisslife.com](http://www.swisslife.com), following the link to Investors, Results & Reports and Info Kits.

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