EUROPEAN COMMISSION

Brussels, 28.11.2012
C(2012) 8759 final

Subject: State aid n° SA. 33735 (2012/N) – Spain
Restructuring of Catalunya Banc S.A.

Sir,

1 PROCEDURE

(1) On 28 January 2010, the Commission adopted a decision not to raise objections to a recapitalisation scheme[1], set up and managed by the newly established "Fondo de Reestructuración Ordenada Bancaria" ("**the FROB**")[2] in the context of the financial crisis, to provide public support for the consolidation of the Spanish banking sector by, inter alia, strengthening the capital buffers of credit institutions ("**the FROB recapitalisation scheme**").

(2) On 26 March 2010, Spain informed the Commission that the FROB had decided to participate in the merger of three saving banks: *Caixa Catalunya*, *Caixa Tarragona* and *Caixa Manresa*, creating the CatalunyaCaixa Group ("**CatalunyaCaixa**") with aggregated assets totalling EUR 81 billion[3]. The FROB agreed to subscribe for EUR 1 250 million of convertible preference shares in CatalunyaCaixa, representing 2.37% of its risk weighted assets[4], pursuant to the terms of the FROB recapitalisation scheme[5].

(3) On 31 March 2010, the Commission informed the Spanish authorities that it considered that the requirements of the FROB recapitalisation scheme were met for CatalunyaCaixa to benefit from the aforementioned capital injection. Consequently,

1 Case N 28/2010, OJ C57 of 09.03.2010, p. 2.
2 After the enactment of Royal Decree Law 24/2012, the FROB has been entrusted with the management of the restructuring and resolution proceedings of Spanish credit institutions. For this purpose, it may provide public support to distressed institutions. The FROB funds are contributed by the State budget. Additionally, the FROB may obtain other funding (via issuance of securities, loans, credits or other debt transactions) up to the limit annually established in the State budget. The maximum amount of funds for 2012 is EUR 120 000 million.
3 As of 31 December 2009.
4 As of 31 December 2009.
5 Case N 28/2010, OJ C57 of 09.03.2010

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on 28 July 2010, the FROB subscribed for EUR 1 250 million of convertible preference shares in CatalunyaCaixa.

(4) Within the framework of the Spanish Royal Decree Law of 18 February 2011, CatalunyaCaixa transferred, on 28 July 2011, its banking business to a newly established banking entity, the Catalunya Banc S.A ("**the Bank**"), an institution through which CatalunyaCaixa exercises its financial activities indirectly.

(5) On 23 September 2011, the Spanish authorities notified the Commission of their intention to inject additional capital of EUR 1 718 million in the form of ordinary shares into the Bank.

(6) On 30 September 2011, the Commission approved the new capital injection for six months, pending the notification of a restructuring plan[6].

(7) On 20 July 2012, the Memorandum of Understanding on Financial Sector Policy Conditionality between the Kingdom of Spain and the Heads of State and Government of the Euro Area ("**the MoU**") was signed. The MoU sets a strict timeline for the recapitalisation and restructuring of the different groups of banks established on the basis of stress test results[7]. In particular, for credit institutions controlled by the FROB, such as the Bank, the FROB will only provide financial support once individual restructuring plans have been approved by the Commission. The MoU indicates that the restructuring plans will be finalized in light of the stress test exercise and presented in time to allow the Commission to approve them by November 2012.

(8) On 31 March 2012, a restructuring plan was notified to the Commission which took into account an imminent sale of the Bank through a competitive tender that would start in the following weeks. This sale was interrupted, however, due to the on-going negotiations of the MoU, so that the restructuring plan needed to be adapted to a standalone scenario.

(9) This adapted version was sent to the Commission on 13 September 2012. Subsequently, numerous meetings, conference calls and exchanges of information took place between the Spanish authorities and the Commission.

(10) On 20 November 2012, the Spanish authorities communicated the final version of the restructuring plan ("**the Restructuring Plan**"), including the Term-Sheet, the final figures pertaining to the size, composition and valuation of the assets and credit portfolio to be transferred to an Asset Management Company ("**AMC**") in the context of an impaired asset measure. With regards to issues pertaining to the asset valuation methodologies employed in the context of the impaired asset measure, the Commission has drawn on technical assistance provided by independent experts.

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6 Case SA.33103 Second rescue recapitalisation of CatalunyaCaixa, OJ C41 of 14.02.2012

7 On the basis of the stress test results and the recapitalisations plans, banks are categorised accordingly:
Group 0 - banks for which no capital shortfall is identified and no further action is required;
Group 1 - banks already owned by the FROB;.
Group 2 - banks with capital shortfalls identified by the stress test and unable to meet those capital shortfalls privately without having recourse to State aid;
Group 3 - banks with capital shortfalls identified by the stress test with credible recapitalisation plans and which are, in principle, able to meet those shortfalls privately without recourse to State aid. Group 3 banks will be split into:
(i) Group 3a - banks planning a significant equity raise (>2% Risk Weighted Assets - "RWA") and
(ii) Group 3b - banks planning a less significant equity raise (<2%RWA).

(11) Spain exceptionally accepts that the present decision be adopted in the English language.

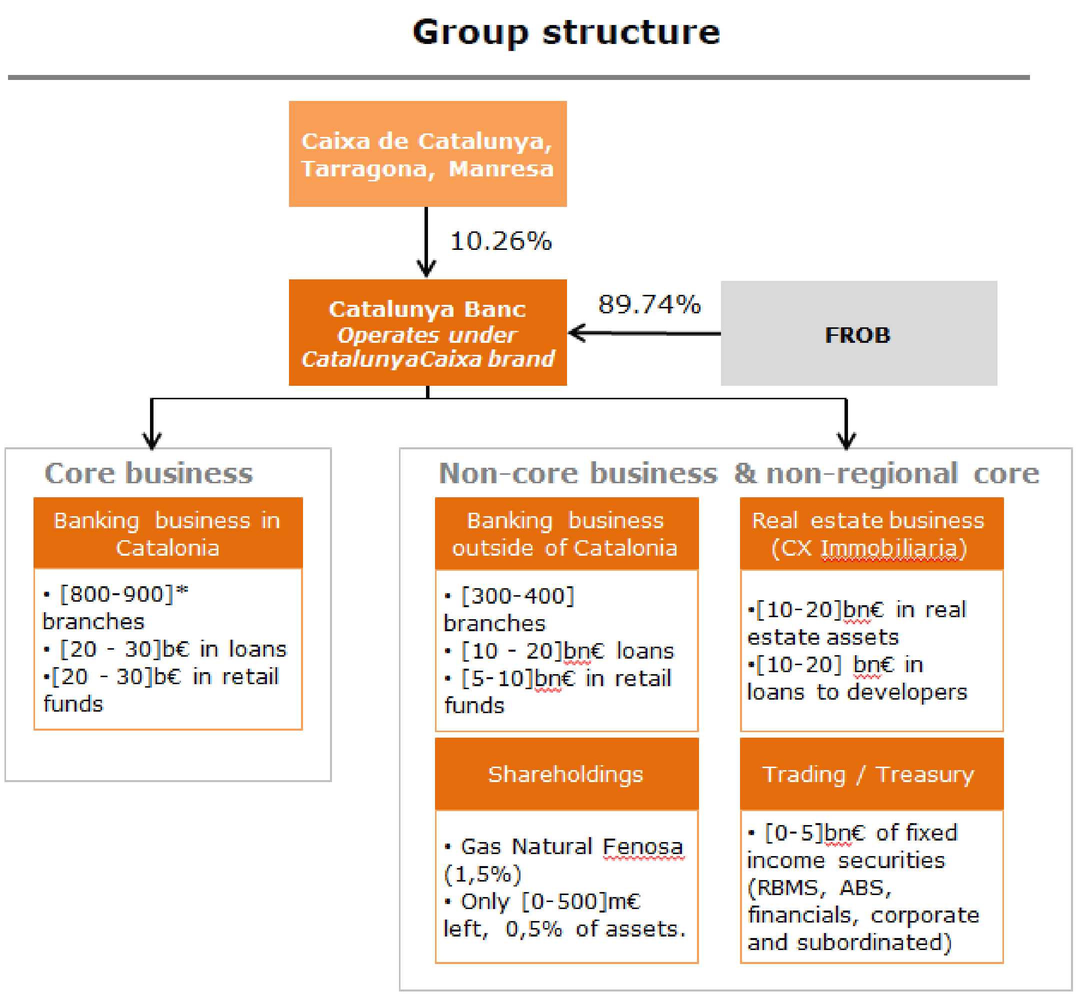
2 DESCRIPTION OF THE MEASURE

2.1 The beneficiaries

(12) The CatalunyaCaixa Group ("**the Group**") includes CatalunyaCaixa, a Spanish savings bank, as parent entity, and subsidiaries providing a range of financial services, including the Bank. Since the transfer of its banking business to the Bank on 28 July 2011, CatalunyaCaixa exercises all its financial activities indirectly through the Bank. The charitable institution Obra Benéfico Social ("**OBS**") remained with CatalunyaCaixa after this transfer.

(13) Figure 1 below sets out the structure of the Group.

Figure 1: The CatalunyaCaixa Group structure:



(14) Taking into account the description in the recital above, two separate levels of beneficiaries can be identified for the purposes of the present decision, namely: a) CatalunyaCaixa, the merged savings banks, which, through integration, established

and initially owned 100% of the Bank; and b) the Bank itself, which exercises the banking activities of the Group. Following the recapitalisation measures described below, CatalunyaCaixa's stake in the Bank will be consecutively reduced to zero.

(15) The Bank operates mainly in the region of Catalonia ("**the core region**") with a market share of 12.5% in deposits and 11% in loans[8]. At a national level, its market share is approximately 2.6% in deposits and 3.2% in loans[9]. It ranks eighth among Spanish banks by assets.

(16) Table 1 provides an overview of the Bank's main financial figures.

Table 1: Overview of the Bank's financial figures:

	30.06.2010 (peak)	**31.12.2011**	**31.12.2016**
Total assets	81 874 million €	77 049 million €	[50 000 - 60 000] million €
Loans to customers*	55 538 million €	50 477 million €	[20 000 – 30 000] million €
Retail deposits**	31 640 million €	29 380 million €	[20 000 – 30 000] million €
Total wholesale funds***	38 291 million €	31 817 million €	[20 000 – 30 000] million €
Employees	9 096	7 197	[4 000 – 5 000]
Number of branches	1 556	1 163	[700 - 800]
National market shares in deposits****	2.6%	2.6%	[0 - 5]%
Regional market shares in deposits****	12.7%	12.5%	[10 - 20]%
National market shares in loans****	3.2%	3.2%	[0 - 5]%
Regional market shares in loans****	11.1%	11%	[5 - 10]%

*** Gross Value**
**** Without money market repos and client repos**
***** Includes Central Bank, Liabilities from financial institutions, Covered bonds and bonds and marketable debt securities**
****** According to the baseline scenario for the sector**

2.2 The events triggering the measure

(17) Following the outbreak of the financial crisis in 2008, the Spanish authorities laid down, via Royal Decree Law 9/2009, the legal foundations for the restructuring of

* Business secret
[8] As of 31 December 2011.
[9] As of 31 December 2011.

the Spanish banking sector. The savings banks (*cajas de ahorro*)[10], which form a significant part of this sector, had several structural limitations, such as the legal restrictions on the raising of capital and, in some cases, weak corporate governance systems which prevented those institutions from detecting problems at an early stage.

(18) Pursuant to that legislation, CatalunyaCaixa benefited from a first capital injection in 2010 in the form of convertible preference shares purchased by the FROB to support the merger of the three founding savings banks and partially fund their restructuring costs[11]. This aid measure was based on the FROB recapitalisation scheme. Under the terms of this scheme, beneficiaries committed to repurchase the convertible preference shares as soon as they are in a position to do so. At the end of the fifth year, those preference shares would have to be bought back or converted into ordinary shares of the beneficiary. In addition, should the Bank of Spain ("**BoS**") consider a buy-back to be unlikely in light of the situation of the beneficiary (or its group), the FROB could convert the preference shares into ordinary shares (or its equivalent item) of the beneficiary at any time.

(19) In July 2010, CatalunyaCaixa failed the Stress Test of the Committee of European Banking Supervisors[12], with a capital shortfall of EUR 1 032 million, even though this stress test exercise took into account the capital subscribed by the FROB.

(20) On 18 February 2011, Spain adopted more stringent regulatory capital requirements [13] for the entire banking sector which, inter alia, obliged all credit institutions operating in Spain to meet, by 30 September 2011 at the latest, higher minimum regulatory solvency levels, known as "*capital principal*". On 10 March 2011, as a result of the new legislation, the BoS informed the Group that under the new regime it required EUR 1 718 million of additional capital in order to meet a 10% solvency ratio, known as "capital principal", over its risk weighted assets ("**RWA**") [14].

(21) On 28 March 2011, the Group formally requested a new recapitalisation measure from the FROB of EUR 1 718 million to meet the new solvency requirements[15]. As a result of this new capital injection in the form of ordinary shares, the FROB possessed 89.74% of the Bank's equity with the balance being held by CatalunyaCaixa. The FROB also possessed convertible preference shares worth EUR 1 250 million it subscribed for in 2010.

(22) In July 2011, the Group again failed the Stress Test of the European Banking Authority ("**EBA**") with a core tier 1 ratio of 4.8%[16].

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10 *"Cajas de ahorros"* are credit institutions that have no shareholders, but instead are governed by their members. Their legal form is a private charity that holds a banking license and is entitled to provide banking services as commercial or cooperative banks do. Profits are partially used to strengthen their capital and the remainder is used to fund the social activities that each caja de ahorros carries out through its OBS.

11 The merger involved an integration plan, approved by BoS, setting out the commercial strategy of the group, rationalising the branches network (closure of 510 branches, i.e., -30% of the branch network from 2008 until 2011) and the workforce (2330 employees were made redundant, i.e., -25% employee adjustment from 2008 until 2011).

12 The Committee of European Banking Supervisors was succeeded by the European Banking Authority on 1 January 2011.

13 See Royal Decree-Law 2/2011 of 18 February 2011: "Real Decreto-ley 2/2011, de 18 febrero para el reforzamiento del sistema financiero".

14 According to article 1 of Royal Decree-Law 2/2011 of 18 February 2011 on the strengthening of the Spanish financial system, the so called "core capital ratio" is to be required on a consolidated and solo basis.

15 By decision of 30 September 2011, the Commission approved the capital injection.

16 Under the EBA definition of core tier 1, the generic provisions and the convertibles bonds are not taken into account. Had they been taken into consideration, Catalunya Caixa's core tier 1 ratio would have reached 6.3%.

(23) On 12 April 2012, FROB initiated a competitive tender process to dispose of its equity stake in the Bank. However, on 21 June 2012, FROB suspended the process due to the on-going negotiations of the MoU.

(24) On 28 September 2012, the results of the bottom-up stress test and asset quality review conducted by the independent consultant, Oliver Wyman, in the context of the MoU[17] ("**the MoU Stress Test**") revealed that the Bank has a capital shortfall of EUR 10.83 billion under the adverse scenario and EUR 6.49 billion under the base case for the three year time horizon (2012-2014) of that exercise. Under the adverse scenario, the cumulative expected losses for the Bank are estimated at EUR 17.23 billion, with a loss absorption capacity of EUR 6.41 billion.

(25) The Bank faces important operational challenges stemming mainly from the expansion undergone by each of its three founding savings banks. This expansion has *inter alia* resulted in high exposure to the real estate sector[18], which has driven up its non-performing loans[19], and a large reliance on structural funding with a loan-to-deposit ratio of [100 - 200]% and liquidity issues with constrained access to wholesale markets, as well as pressure exerted on its net interest because of heightened competition for deposits in the Spanish banking sector over the past few years. The Bank's Moody's credit-rating as of 25 June 2012 is B1.

2.3 Overview of the aid measures provided

(26) Since 2010, the Bank and CatalunyaCaixa have benefitted or will benefit from several aid measures. Overall, the Spanish State has provided or will provide guarantees worth EUR 10.76 billion, capital injections totalling approximately EUR 12.05 billion and asset transfers to the AMC of EUR [10 - 20] billion. Table 2 provides an overview of these aid measures.

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[17] Ref. Oliver Wyman report, Asset Quality Review and Bottom-up Stress test exercise, 28 September 2012, http://www.bde.es/bde/en/secciones/prensa/infointeres/reestructuracion/.

[18] The overall exposure of Catalunya Banc to the real estate sector represents [40-50]% of its balance sheet, when on average for non-state aided banks this exposure is around 15%.

[19] The non-performing loan ratio stood at [10- 20]% on 31 December 2011.

Table 2: Overview of the aid measures

Measure	Description	State aid amount (in bn)	Approved	RWA[20]
A	State guarantees on senior unsecured debt: under the Spanish Guarantee Scheme	€10.76	23.12.2008 25.06.2009 9.02.2012	Not applicable
B	Recapitalisation measure: *FROB I convertible preference shares*	€1.25	31.03.2010	3%
C	Recapitalisation Measure: *September 2011*	€1.72	30.09.2011	4.1%
D	Recapitalisation measures: *Conversion of the FROB I convertible preference shares into equity*	€1.25	28.11.2012	Already counted in measure B
E	Recapitalisation Measure: *December 2012*	€9.08	28.11.2012	21.5%
F	Impaired asset measure	€1.6[21]	28.11.2012	3.8%

2.3.1 Measure A: Guarantees on liabilities

(27) Between 2008 and June 2012, the Bank and CatalunyaCaixa have received guarantees on liabilities issued, under the approved Spanish guarantee scheme, worth EUR 10.76 billion[22].

20 Risk Weighted Assets (or RWA) EUR 42.2 billion as of 31.12.2011.

21 See recital (122)

22 On 23 December 2008, the Commission approved the creation of a debt guarantee scheme (State aid case NN 54b/2008 OJ C 122/2009 of 29.05.2009). On 16 April 2009 the Commission approved changes to that scheme. On 23 April 2009, a corrigendum was published to correct some translation and stylistic mistakes. Five prolongations for six additional months were each approved by the Commission on 25 June 2009 (State aid case N 336/2009 OJ C 174/2009 of 28.07.2009), 1 December 2009 (State aid case N 588/2009 OJ C 25/2010 of 02.02.2010), 28 June 2010 (State aid case N 263/2010 OJ C 190/2010 of 14.07.2010), 29 November 2010 (State aid case N 530/2010 OJ C 7/2010 of 12.01.2011) and 1 June 2011 (State aid case SA.32990 2011/N OJ C 206/2011 of 12.07.2011) respectively, which expire on 31 December 2011. On 9 February 2012, the Commission approved the reintroduction a new debt guarantee scheme (State aid case SA.34224 2012/N OJ C 82/2012 of 21.03.2012) which was then prolonged up to 31 December 2012 by decision on 29 June 2012 (SA.34904 2012/N OJ C 232/2012).

Table 3: Overview of the amounst approved under the Spanish guarantee scheme

ISSUER (1)	2008 PROGRAMME				2009 PROGRAMME				2012 PROGRAMME			
	Guarantee amount		Debt securities already issued		Guarantee amount		Debt securities already issued		Guarantee amount		Debt securities already issued	
	Million euros	% on total granted	Million euros	% on allocation	Million euros	% on total granted	Million euros	% on allocation	Million euros	% on total granted	Million euros	% on allocation
BANCO FINANCIERO Y DE AHORRO (BFA)	[...]	[...]	12,031	[...]	[...]	[...]	7,737	[...]	[...]	[...]	15,000	[...
CATALUNYA BANC	[...]	[...]	3,383	[...]	[...]	[...]	2,132	[...]	[...]	[...]	5,241	[...
BANCA CÍVICA	[...]	[...]	2905	[...]	[...]	[...]	1,835	[...]	[...]	[...]	1,000	[...
NOVA CAIXA GALICIA	[...]	[...]	2859	[...]	[...]	[...]	1,725	[...]	[...]	[...]	2,994	[...
UNICAJA S.A.U.	[...]	[...]	1,000	[...]	[...]	[...]	0	[...]	[...]	[...]	300	[...
BANCO CAJA ESPAÑA INVERSIONES, SALAMANCA Y SORIA	[...]	[...]	1,200	[...]	[...]	[...]	1,038	[...]	[...]	[...]	0	[...
UNNIM	[...]	[...]	800	[...]	[...]	[...]	605	[...]	[...]	[...]	900	[...
BANCO CAM S.A.U.	[...]	[...]	400	[...]	[...]	[...]	0	[...]	[...]	[...]	4,000	[...
B PASTOR	[...]	[...]	4,637	[...]	[...]	[...]	500	[...]	[...]	[...]	500	[...
B. COOPERATIVO ESPAÑOL	[...]	[...]	2,492	[...]	[...]	[...]	900	[...]	[...]	[...]	1,500	[...
B. BANKINTER	[...]	[...]	2,070	[...]	[...]	[...]	1,353	[...]	[...]	[...]	800	[...
B. VALENCIA	[...]	[...]	--	[...]	[...]	[...]	--	[...]	[...]	[...]	1,500	[...
TOTAL	**[...]**	**[...]**	**33,777**	**[...]**	**[...]**	**[...]**	**17,825**	**[...]**	**[...]**	**[...]**	**33,735**	**[...**
Other issuers	[...]	[...]	13,512	[...]	[...]	[...]	4,547	[...]	[...]	[...]	--	[...
TOTAL GRANTED	**[...]**	**[...]**	**47,289**	**[...]**	**[...]**	**[...]**	**22,372**	**[...]**	**[...]**	**[...]**	**33,735**	**[...**

(1) This table has been formulated on the basis of new structures existing in 2012, sprung up from the latest mergers and restructuring processes.

2.3.2 Measure B: FROB I convertible preference shares

(28) On 31 March 2010, the Commission approved the FROB's decision to participate in the merger of the three saving banks by subscribing for EUR 1 250 million of convertible preference shares in CatalunyaCaixa, pursuant to the terms of the FROB recapitalisation scheme, representing 2.37% of its RWA[23].

(29) Consequently, on 28 July 2010, the FROB subscribed for EUR 1 250 million of convertible preference shares in CatalunyaCaixa. Under the terms of the FROB recapitalisation scheme, these convertible preference shares had to be repurchased as soon as the beneficiaries were in a position to do so. At the end of the fifth year, the convertible preference shares had to be bought back or converted into ordinary shares of the beneficiary. In addition, should the BoS consider the buy-back to be unlikely in view of the situation of the beneficiary (or its group), the FROB could convert the preference shares into ordinary shares (or its equivalent item) of the beneficiary at any time.

2.3.3 Measure C: Recapitalisation of September 2011

(30) On 23 September 2011, the Spanish authorities notified the Commission of their intention to inject an additional EUR 1 718 million of capital in the form of ordinary shares into the Bank falling outside the FROB recapitalisation scheme.

(31) On 30 September 2011, the Commission approved the new capital injection for six months pending the notification of a restructuring plan.

[23] As of 31 December 2009.

2.3.4 Measure D: Conversion of the FROB I convertible preference shares into equity

(32) Due to the present financial climate, the Spanish authorities have informed the Commission that the BoS considers it unlikely that CatalunyaCaixa will redeem or repurchase the convertible preference shares within the period prescribed by the FROB recapitalisation scheme. In consequence, the FROB wishes to trigger the conversion option described in recital (18) and (29). Accordingly, the initial capital injection of EUR 1 250 million subscribed by the FROB in 2010 will be converted into equity.

(33) On 12 November 2012, the planned conversion was notified to the Commission by Spain, in accordance with the FROB recapitalisation scheme, in order to allow the Commission to assess the situation of the benefitting bank[24].

(34) This conversion will reinforce the capital position of the Group, as equity capital is junior to the convertible preference shares.

2.3.5 Measure E: Recapitalisation of December 2012

(35) Following the results of the MoU Stress Test on the Group and the series of recapitalisation measures proposed by the Group and approved by the Spanish authorities, an additional capital injection of EUR 9.08 billion was still needed for the Group to meet the new Spanish regulatory solvency requirements.

(36) The Bank plans to clean its balance sheet by taking accounting losses to a level of loan loss provisions and other results of EUR [5 - 10] billion in December 2012, deducting the estimated increase in own funds of EUR [0 - 5] billion from the burden sharing exercise and the benefits from the transfer to the AMC of EUR [100 - 200] million, and being recapitalised to a level that will allow the Bank to reach an appropriate Basel III common equity Tier 1 (CET1) ratio.

(37) On 20 November 2012, the FROB, based on the Restructuring Plan as presented by the Bank, decided to subscribe for EUR 9.08 billion in ordinary shares issued by the Bank. Based on the initial best estimates provided by the Spanish authorities and pending the economic valuation of the Bank[25], the FROB will control approximately [60 - 90]% of the Bank as a result of measures D and E and the conversion of hybrid capital instruments into equity as described in the burden-sharing section[26].

[24] Section 24 of Decision N28/2010 states "*The conversion of the FROB securities into ordinary shares (or its equivalent item), will be notified by the FROB to the Commission, including information regarding the situation of the Beneficiary at the time of the conversion and the FROB'S intentions as regards the ordinary shares (or equivalent items) subscribed for in the Beneficiary*".

[25] See recital (84).

[26] Measures D and E will be executed in the following sequence: First, following a write-down of the existing capital to zero, the conversion of preference shares (measure D) will take place. Second, the new capital as described in measure E as well as the converted capital of the former holders of hybrid instruments will be injected (following possibly a mandatory SLE). This process will be finalised in December 2012.

2.3.6 Measure F: Transfer of impaired assets to the AMC

a. *Objective*

(38) The Bank will benefit from an impaired asset ("**IA**") measure whereby it transfers assets to the AMC. The aim of that measure is to remove uncertainty about the future value of its most problematic asset portfolio and allow the Bank to concentrate on the implementation of the Restructuring Plan.

b. *AMC: set up and special characteristics*

(39) Under the terms of the MoU, assets related to real estate development of banks needing State aid will be transferred to the AMC, for which a blueprint and legislative framework[27] has been prepared by the Spanish authorities in consultation with the Commission, the European Central Bank ("**ECB**"), the European Stability Mechanism ("**ESM**") and the International Monetary Fund ("**IMF**").

(40) The overall objective of the AMC will be the management and orderly divestment of the portfolio of assets and loans received, maximising their recovery over a maximum of 15 years. In pursuing this activity, the AMC contributes to the restructuring of the financial system, while minimising the use of public funds and avoiding market distortions as much as possible.

(41) The FROB worked on the design of the AMC (including its legal and financial structure, operational model, and business and divestment plans) in close collaboration with the BoS and the Ministry of Economic Affairs and Competitiveness ("**the MOF**"), as well as with the Commission, the ECB, the ESM and the IMF.

(42) The volume of assets to be transferred to the AMC – taking into account only the portion corresponding to Group 1 banks following the classification pursuant to the MoU Stress Test[28] – is estimated to be around EUR 45 billion. That amount will increase after the assets of the Group 2 banks are transferred. However, the maximum volume of impaired assets and real estate loans that Spanish banks may contribute to the AMC under the MoU will in principle not exceed EUR 90 billion.

(43) The own funds of the AMC, established as a limited liability company, will be approximately 8% of the volume of its total assets. Its capital structure will consist of a non-majority holding of the FROB and a majority holding by private investors. This structure was chosen in order to prevent the consolidation of the overall debt of the AMC with the debt of the Spanish state.

(44) As part of the AMC's governing bodies, a so-called "Monitoring Committee" was established, consisting of four parties (the MOF, the Ministry of Financial Affairs and Public Administration, the BoS and the CNMV[29]), with a mandate to oversee compliance with the general objectives for which the AMC was set up. The Committee's functions include the analysis of the business plan and of possible deviations from it, the monitoring of divestment plans and of the repayment of

[27] Royal Decree-Law 24/2012 on credit institution restructuring and resolution specifies the details of the AMC.
[28] See footnote 7.
[29] The Spanish government agency responsible for regulating the securities market..

guaranteed debt. The Monitoring Committee will ask the AMC for such periodic information as it considers appropriate for the carrying out of its task.

c. *Scope of the transfer of impaired assets and loans*

(45) As envisaged in the MoU, all banks classified in Group 1, such as the Bank, shall transfer the following categories of assets to the AMC as from December 2012: a) foreclosed assets whose net carrying amount exceeds EUR 100 000; b) loans/credits to real estate developers whose net carrying amount exceeds EUR 250 000, calculated at borrower, rather than transaction, level; and c) controlling corporate holdings linked to the real estate sector. Loans or foreclosed assets that have been fully written down are excluded from transfer.

(46) The overall portfolio to be transferred by the Bank to the AMC amounts to EUR [10 - 20] billion in terms of gross book value. The value of the controlling corporate holdings linked to the real estate sector has been estimated based on the underlying assets (loans) held by those holdings and is therefore included in those figures.

d. *Methodology of the calculation of the transfer value (or transfer price)*

(47) The transfer value has been established on the basis of two components. First, the economic value of the assets was determined, both for the foreclosed assets and the loans related to the real estate development sector. Furthermore, for calculating the transfer value, the expected losses in the baseline scenario of the MoU Stress Test for the Bank was used as a reference. The methodology of that valuation was endorsed by a dedicated group composed of the Spanish supervisory authority (the BoS), the Commission and the ECB, with the IMF acting as an observer.

(48) Second, the estimate of the economic value was adjusted by applying a discount based on the characteristics inherent to the transfer of the assets to the AMC. That adjustment is the result of aspects such as: a) the aggregate acquisition of the assets; b) the consideration of certain expenses previously borne by the Bank which must now be assumed by the AMC, such as asset management and administration costs including financial costs; and c) the negative short-term outlook for divestment of the assets by the AMC.

e. *Independent expert advice for the Commission*

(49) The Commission has retained independent experts in order to assist it in the assessment of the proposed methodology and transfer price in connection with the real economic value of the transferred assets, as laid down in the Communication from the Commission on the treatment of impaired assets in the Community banking sector ("**the Impaired Assets Communication**")[30], which serves as the reference framework for that State aid measure.

f. *Purchase of those assets by the AMC*

[30] OJ C 72, 26.03.2009, p. 1-22

(50) The AMC will pay the Bank the established transfer value by means of State-guaranteed debt securities issued by the AMC ("**the AMC bonds**"). The AMC bonds have a one, two or three-year maturity, with an average weighted life of 1.95 years. The foreseen yield on the AMC Bonds will be the lower of: a) the Spanish government bond yield for the same maturity or b) 12 month Euribor plus 200 basis points ("**bps**").

g. *The transfer value*

(51) Based on the methodology and discounts described in recitals (47) to (48), the transfer value of the assets and real estate loans of the Bank amounts to approximately EUR [5 - 10] billion, which is equal to approximately [40 - 50]% of the gross book value. These figures are estimates based on the situation of those assets as of 30 June 2012. It is possible that the final figures could differ from these level as the asset transfer will only take place as from December 2012.

(52) The Spanish authorities have provided a letter from the BoS certifying the valuation methodology of the asset transfer to the AMC by the Bank.

h. *Market price*

(53) The independent experts assisting the Commission have also estimated the market value of the asset portfolio to be transferred by the Bank to the AMC. Based on their estimates, that market value is approximately [30 - 40]% of the transferred gross book value of those assets, and thus, amounts to approximately EUR [5 - 10] billion.

3 RESTRUCTURING OF THE BANK

(54) The Restructuring Plan states that the Bank, in accordance with Royal Decree Law 24/2012 ("**RDL 24/2012**") and in view of: a) its significant capital shortfall as revealed in the Stress Test[31], b) the considerable amount of State aid it already received since 2010, and c) the low probability that it will be able to fully repay the public funds granted through the various aid measures proposed in the Restructuring Plan, should be placed under resolution. Accordingly, the Spanish authorities will carry out an in-depth restructuring of the Bank's activities as set out in the Restructuring Plan with a view to sell the Bank as soon as market conditions permit and within a maximum timeframe of five years, failing which, the Bank will be placed under orderly resolution in accordance with the above-mentioned RDL 24/2012.

[31] See recital (24) above.

3.1 Restoration of viability by refocusing on the core activities of the Bank followed by the sale of the Bank

(55) The following table presents the main financial projections contained in the Restructuring Plan of the Bank ("**the Summary Table**").

Table 4: Summary of the Balance sheet and P&L of the Bank

P&L	2011		2012		2013		2014		2015		2016		Evolution rate 2012-2016 (%)	
	Core	Total	Core	Total	Core	Total	Core	Total	Core	Total	Core	Total	Core	Total
Profit before tax	N/A	-2,002	-[1,000 - 0]	-[12,000 - 11,000]	[60-70]	-[200 - 100]	-[200 - 100]	-[200 - 100]	[200 - 300]	[200 - 300]	[200 - 300]	[200 - 300]	-[150 - 100]%	-[150 - 100]%
Cost of Income Ratio	N/A	73.7%	[65 -70]%	[80 - 90]%	[70 - 80]%	[90 - 100]%	[70 - 80]%	[80 - 90]%	[60 -70]%	[60 - 70]%	[60 -70]%	[60 - 70]%	[0 - 5]%	-[30 - 20]%
FTE	[5,000 - 6,000]	7,197	[5,000 - 6,000]	[7,000 - 8,000]	[5,000 - 6,000]	[6,000 -7,000]	[4,000 - 5,000]	[5,000 - 6,000]	[4,000 - 5,000]	[4,000 - 5,000]	[4,000 - 5,000]	[4,000 - 5,000]	-[20 - 10]%	-[30 - 20]%
Branch	[800 - 900]	1,163	[800-900]	[1,000 - 2,000]	[800-900]	[1,000 - 2,000]	[700-800]	[700-800]	[700-800]	[700-800]	[700-800]	[700-800]	-[20 - 10]%	-[40 - 30]%
ROE				-[500 - 400]%		-[10 - 5]%		-[10 - 5]%		[5 -10]%		[5 - 10]%		

Balance sheet	2011			2012			2015			2016			Evolution rate 2012-2016 (%)		
Assets	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core
Loans to clients (net)	48,346	N/A	N/A	[30,000 - 40, 000]	[20,000 - 30, 000]	[9,000-10,000]	[20,000 - 30, 000]	[20,000 - 30, 000]	[4,000 - 5,000]	[20,000 - 30, 000]	[20,000 - 30, 000]	[4,000 - 5,000]	-[30 - 20]%	-[10 - 5]%	-[60 - 50]
NPLs		N/A	N/A	[5,000 - 6,000]	[4,000 - 5,000]	[1,000 - 2,000]	[5,000 - 6,000]	[4,000 - 5,000]	[1,000 - 2,000]	[5,000 - 6,000]	[4,000 - 5,000]	[1,000 - 2,000]	[0 - 5]%	[10 - 20]%	-[30 - 20]
Total assets	77,049	N/A	N/A	[60,000 - 70, 000]	[30,000 - 40, 000]	[30,000 - 40, 000]	[50,000 - 60, 000]	[30,000 - 40, 000]	[20,000 - 30, 000]	[50,000 - 60, 000]	[30,000 - 40, 000]	[20,000 - 30, 000]	-[30 - 20]%	-[20 - 10]%	-[40 - 30]
RWA	42,220	N/A	N/A	[20,000 - 30, 000]	[10,000 - 20, 000]	[7,000 - 8,000]	[10,000 - 20, 000]	[10,000 - 20, 000]	[2000-3000]	[10,000 - 20, 000]	[10,000 - 20, 000]	[2,000 - 3,000]	-[30 - 20]%	-[5 - 0]%	-[70 - 60]

	2011			2012			2015			2016			Evolution rate 2012-2016 (%)		
Liabilities	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core	Total	Core	Non-core
Central bank	5,906	N/A	N/A	[10,000 - 20, 000]	[2,000 - 3,000]	[10,000 - 20,000]	[10,000 - 20, 000]	[100 - 200]	[10,000 - 20, 000]	[10,000 - 20, 000]	[0 - 100]	[10,000 - 20, 000]	[0 - 5]%	-[100 - 90]%	-[40 - 30]
Liabilities to clients	31,116	N/A	N/A	[20,000 - 30, 000]	[20,000 - 30, 000]	[3,000 - 4,000]	[20,000 - 30, 000]	[20,000 - 30, 000]	[300 - 400]	[20,000 - 30, 000]	[20,000 - 30, 000]	[0 - 100]	-[20 - 10]%	[0 - 5]%	-[100 - 90
Total Liabilities	74,790	N/A	N/A	[60,000 - 70, 000]	[30,000 - 40, 000]	[30,000 - 40, 000]	[50,000 - 60, 000]	[10,000 - 20, 000]	[30,000 - 40, 000]	[50,000 - 60, 000]	[20,000 - 30, 000]	[20,000 - 30, 000]	-[30 - 20]%	-[20 - 10]%	-[40 - 30]
LTD	166%	N/A	N/A	[100 - 150]%	[100 - 150]%	[250 - 300]%	[100 - 150]%	[100 - 150]%	[1,000 - 2,000]%	[100 - 150]%	[100 - 150]%	-	-[20 - 10]%	-[20 - 10]%	-
EBA CT1	8.27%			[10 - 20]%			[10 - 20]%			[10 - 20]%					

(56) In order to achieve these deep structural changes, the measures listed in the Restructuring Plan include an analytical split of the Bank's activities into two parts: namely, a Core Unit and a Legacy Unit. These Units will remain within the same legal entity, but will be managed differently.

(57) The Core Unit will form the basis for a sound and viable bank which can be sold in the medium term. It will include the retail, small and medium enterprises (SME)[32] and public sector banking business of the Bank located in its core region, Catalonia, plus the additional assets and liabilities set out in a separate document entitled: "*Term-Sheet of the Spanish authorities' commitments for the approval of the restructuring plan of Catalunya Banc S.A. by the European Commission*" (hereinafter referred to as "**the Term-Sheet**")[33].

(58) The Legacy Unit will include the businesses, assets and liabilities that will be discontinued and will be sold, closed or held to maturity as set out in the Term-Sheet (annexed to the present decision). The Legacy Unit includes the banking business not in the Core Unit (e.g. the banking business outside Catalonia and the corporate business in Spain) as well as the assets and liabilities set out in the Term-Sheet[34] that will be allocated to it.

(59) As summarised in the Summary Table, the total balance sheet of the Bank will be reduced by [20 - 30]% between 2012 and 2016, due to a [20 - 30]% decrease in loans to clients, an increase in ECB funding of [100 - 200]% (resulting from the holding of the AMC bonds given in exchange of the assets transferred to the AMC) and a decline in deposits of [20 - 30]%.

(60) The Bank will transfer some real estate property and loans to real estate developers to the AMC with a gross value of EUR [10 - 20] billion, as explained in recital (46), which implies a reduction in RWA of EUR [5 - 10] billion.

(61) As part of its restructuring, the Bank will close and/or sell the whole business outside Catalonia, refocusing its activities in the core region. Furthermore, there will be additional branch and staff adjustments in the Catalan network and central services. These measures involve the reduction between 2012 and 2016 of [30 - 40]% in branches and [30 - 40]% in staff, which, if added to the previous restructuring effort (2010-2012), represents a [50 - 60]% closure of branches and a [40 - 50]% reduction in staff.

(62) In addition to these measures[35], the total balance sheet of the Bank will be reduced as a result of divesting the portfolio of industrial stakes and the sale of the entire trading/treasury portfolio of fixed-income securities[36].

(63) Accordingly, the volume of RWA in the Bank will fall to [20 - 30]%, which, if added to the previous restructuring period, represents a net reduction of [60 - 70]% of RWA as of 30 June 2010.

[32] As defined by the Bank and explained in the Term-sheet section 2
[33] See Term-Sheet section 5.3.1
[34] See Term-Sheet section 5.4.1
[35] See Recital (59), (60) and (61).
[36] See Term-Sheet section 5.4.5

(64) Following this restructuring, the Bank projects to reach a profit before tax in 2015 of EUR [200 - 300] million, a cost of income ratio of [60 - 70]% and an EBA capital ratio of [10 - 20]%. In 2016, the Bank's profit before tax is projected to be EUR [200 - 300] million, the cost-to-income ratio [60 - 70]% and the EBA capital ratio of [10 - 20]%.

3.1.1 Core Unit

(65) As summarised in the Summary Table the balance sheet of the Core Unit will be reduced by [10 - 20]% between 2012 and 2016, with a[…] in loans to clients of [5 - 10]%, a reduction in ECB funding of [90 - 100]% and an increase in deposits of [0 - 5]%. This is achieved by significant deleveraging through marginal new mortgage lending and very limited credit growth.

(66) As explained in recital (61), the Bank will refocus on the core region which will lead to additional branch and staff adjustments in the Catalan network and central services. These measures involve a [10 - 20]% reduction in branches and [10 - 20]% in staff in the Core Unit between 2012 and 2016.

(67) Accordingly, the volume of RWA in the Core Unit will be reduced by [0 - 5]%.

(68) This comprehensive rebalancing of the structure of the Bank's balance sheet will bring the Core Unit's business loan-to-deposit ratio to [100 - 120]% in 2016.

(69) The Restructuring Plan projects a net margin of EUR [200 - 300] million, which represents an increase of [80 - 90]% between 2013 and 2016.This is mainly due to an increase in the margins for the new production. In this respect, the average loan to clients net margin for the existing portfolio in 2012 is [300 - 400] bps above Euribor and the new production is being priced at [400 - 500] bps above Euribor in 2013. More specifically, the Bank projects an increase in the new production of the net margin over Euribor of [20 - 30] bps in SMEs and of [90 - 100] bps in residential mortgages over the restructuring period.

(70) This restructuring is projected to allow the Core Unit to reach a profit before tax in 2016 of EUR [200 - 300] million and a cost of income ratio of [60 - 70]%.

3.1.2 Legacy Unit

(71) As mentioned in recital (58), the Legacy Unit of the Bank will encompass all banking activities outside Catalonia, the corporate banking business and other assets as specified in the Term-Sheet.

(72) The size of its balance sheet will be reduced by [30 - 40]% between 2012 and 2016, arriving at a maximum level of EUR [0 - 5] billion in 2016, excluding the AMC bonds[37].

(73) The Bank will gradually reduce the size of its corporate banking loan book (namely syndicated loans, project finance and large corporate loans) to a marginal size by […][38].

[37] See Term-Sheet section 5.4.2

(74) The assets in the Legacy Unit will be managed with the objective of being divested, liquidated or wound down in an orderly manner, but minimizing the cost for taxpayers. As a general rule, assets assigned to the Legacy Unit will be sold as quickly as possible so long as the sale does not lead to booking a loss[39].

(75) The total book value of the listed equity holdings in the Legacy Unit will amount to EUR 150.5 million (Gas Natural SDG) and that of the unlisted equity holdings/subsidiaries in the Legacy Unit will amount to EUR [200 - 300] million. The Bank will sell its listed and unlisted equity holdings/subsidiaries following the calendar recorded in section 5.4.5 of the Term-Sheet.

(76) The Legacy Unit structure will be reduced to zero branches before the end of […] and to [300 - 400] employees before the end of […], and will not increase thenceforth[40].

(77) As a general rule, there will be no new production in the Legacy Unit branches, except in the cases set out in the Term-Sheet and following the strict limitations on new lending, on new deposits, on transactional products and on the management of the existing assets[41].

3.2 Contribution of the Bank's stakeholders to the restructuring costs

(78) In accordance with the MoU[42] and RDL 24/2012, prior to benefiting from State aid, aided banks shall conduct burden sharing exercises on existing shareholders, and on holders of preference shares and subordinated (both perpetual and dated) debt instruments so as to, inter alia, maximise the loss-absorption capacity of the aided bank.

3.2.1 Burden sharing on existing shareholders of the Bank

(79) In light of the results of the MoU Stress Test, the Bank presents a capital shortfall of EUR 10.8 billion under the adverse scenario for it to reach a regulatory solvency level of 6% of its RWA.

(80) Furthermore, the Bank has posted material losses for half-year results[43]. It is worth noting that much of the losses stem from the need to comply with the regulatory framework approved in Spain in 2012, requiring all credit institutions to substantially increase the level of provision for those assets and loans related to the real estate development sector. Furthermore, the transfer of impaired assets and loans to the AMC will also contribute to further losses for the end of 2012.

(81) The current existing shareholder structure prior to the implementation of the conversion, recapitalisation and burden sharing measures envisaged in the

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38 See footnote 37

39 See Term-Sheet section 5.4.5

40 See Term-Sheet sections 5.4.3 and 5.4.5

41 See Term-Sheet section 5.4.4

42 "Banks with capital shortfalls and needing State aid will conduct SLEs against the background of the revised legal framework and in accordance with State aid rules, by converting hybrid capital and subordinated debt into equity at the time of public capital injection or by buying it back at significant discounts. For Group 3 banks this rule will apply on 30 June 2013, if they still are in receipt of public funds. For non viable banks, SLEs will also need to be used to the full extent to minimise the cost for the tax payer. Any capital shortfall stemming from issues arising in the implementation of SLEs will not be covered by the EFSF assistance".

43 EUR 1.48 billion losses

Restructuring Plan is as follows: CatalunyaCaixa is 100% owned by the founding savings banks and the Bank is 89.74% owned by the FROB following the capital injection of September 2011.

(82) With the implementation of the Restructuring Plan, all existing shareholders will be asked to bear losses in proportion to their stakes prior to any new capital injection under the MoU. As a result and given the significant capital needs of the Bank, all existing shareholders in the Bank other than the FROB, the founding savings banks, will be fully diluted and will lose all economic claims and all political/voting rights over the Bank.

3.2.2 Subordinated Liability Exercises

(83) In view of the significant losses posted and forecasted by the Bank for 2012, as described in recital (80), and in the context of the MoU, holders of preference shares and perpetual/dated-subordinated debt instruments will contribute to the adequate recapitalisation of the Bank in two different ways:

a) First, the securities shall be bought back by the issuing banks at their net present value ("**NPV**"), calculated in accordance with the methodology set out in section 6.A of the Term-Sheet[44], which implies deep discounts from the nominal value of the instruments. That action will generate immediate capital gains for the Bank amounting to EUR [0 - 5] billion that will reduce its needs to raise new capital.

b) Second, the proceeds of the buy-back will be automatically take the form of ordinary shares of the Bank (with the sole exception of dated subordinated debt whose holders will be afforded the opportunity to convert into more senior debt instruments as described in the Term-Sheet[45] in addition to the possibility to convert into ordinary shares or other equity-equivalent instruments). The conversion into core capital will further reduce the needs of the Bank to raise new capital by EUR [0 - 5] billion, while at the same time providing holders of these securities with a listed security and the potential upside in value of that security that should materialise upon the implementation of the Restructuring Plan.

(84) Conversion of the proceeds of the buy-back of those hybrid and subordinated debt securities into ordinary shares of the Bank will be completed following an independent economic valuation of the Bank and after all remaining losses have been taken by the existing shareholders of the Bank. Consequently, as a result of the burden sharing exercise, there will be no cash outflow from the Bank to the holders of these securities with the sole exception of the holders of dated subordinated debt instrument who decide to convert their shares into new debt securities of the same maturity.

(85) The rights of the new shares in the Bank will be allocated, following an independent economic valuation of the Bank, in proportion to the capital contribution of each of the new shareholders. As a result, based on the initial best estimates provided by the Spanish authorities and pending the economic valuation of the Bank, the FROB will

[44] See Term-Sheet

[45] See Term-Sheet, section 6

hold an approximately [60 - 90]% equity stake in the Bank following measures D and E and the equity conversion of the holders of hybrid and subordinated debt instruments. The other [10 - 40]% will be in the hands of private shareholder stemming from the conversion of their hybrid and subordinated debt instruments into equity.

3.3 Sale of the Bank

(86) Spain shall dispose or procure the disposal either of the Bank or the Core Unit of the Bank as described in recitals (87) to (92).

(87) The sale of the Bank will be conducted through a competitive tender process, with the objective to minimize the cost to taxpayers.

(88) To carry out this disposal, Spain shall start approaching potentially interested buyers for the Bank by the end of […] at the latest. It shall use its best efforts to sign a sale and purchase agreement with a prospective purchaser by no later than the end of […].

(89) If Spain has not entered into such an agreement by the end of […], it shall appoint a divestiture trustee ("**the Divestiture Trustee**") with the exclusive mandate to sell the Core Unit of the Bank and any other legacy commercial activity of the Bank considered relevant by the potential buyer, […].

(90) By the end of […], the Divestiture Trustee shall propose a selected buyer or communicate the impossibility of selling the Bank's Core Unit […].

(91) Spain is entitled to reject the buyer proposed by the Divestiture Trustee. In this case or in the event that is not possible to sell the Bank, Spain shall present a resolution plan for the Core Unit within the three months following the announcement by the Divestiture Trustee of the results of its mandate.

(92) Should the buyer of the Bank consider it necessary to modify certain aspects and conditions of the Restructuring Plan, Spain commits to notify a new restructuring plan to the Commission detailing the necessary changes and justifying how the overall proportionality of the aid is in any event respected.

4 POSITION OF THE SPANISH AUTHORITIES

4.1 Position of the Spanish authorities on the Restructuring Plan

(93) The Spanish authorities accept that the measures A through F constitute State aid and request the Commission to verify if the proposed measures are compatible with the internal market on the basis of Article 107(3)(b) of the Treaty on the Functioning of the European Union ("**the TFEU**"), as they are necessary in order to remedy a serious disturbance in the Spanish economy.

(94) The Spanish authorities also accept the market price estimates for the assets to be transferred as provided to them by the Commission, which themselves are based on the assessment of the independent experts assisting the Commission.

(95) In particular, the Spanish authorities submit that the measures are (i) appropriate and well-targeted; (ii) necessary and limited to the minimum amount necessary; and (iii) proportionate as designed to minimize negative spill-over effects on competitors.

a. *Appropriate and well-targeted*. The Spanish authorities submit that the Bank is important within the Spanish financial system, especially in its geographical operating area[46].

b. *Necessary and limited to the minimum amount*. The Spanish authorities submit that the proposed measures are required to bring the Bank's solvency position in line with the new solvency requirements in Spain. In addition, the measures are limited in size to what is necessary to ensure that the Bank meets a solvency ratio of 9% Core Tier 1 of its RWA, as required by the Spanish banking rules[47], and of 6% Core Tier 1 under an adverse scenario, as determined in the MoU Stress Test, taking into account the effects of the Subordinated Liability Exercise to be conducted. Finally, the Spanish authorities observe that the measures are limited in time since they will form part of the Restructuring Plan.

c. *Proportionate*. The Spanish authorities submit that the terms and conditions of the proposed measures together with the terms and conditions imposed on the Bank contain an extensive range of safeguards against possible abuses and distortions of competition.

4.2 Commitments of the Spanish Authorities

(96) The Spanish authorities have undertaken a number of commitments related to the implementation of the Restructuring Plan. The commitments by the Spanish authorities have been presented in the Term-Sheet[48]. The Spanish authorities commit to comply with the commitments listed in the Term-Sheet, if necessary, by ensuring that the Bank complies with the said commitments.

(97) In the event that market conditions allow for a sale of the Bank before the Restructuring Plan is completed and should the buyer of the Bank consider it necessary to modify certain aspects and conditions of the Restructuring Plan, Spain commits to notify a new restructuring plan detailing the necessary changes and justifying how the overall proportionality of the aid is in any event respected.

(98) Furthermore, in order to ensure that the various commitments are duly implemented during the implementation of the Restructuring Plan, the Spanish authorities commit to the appointment of a monitoring trustee in charge of monitoring all the commitments undertaken by the Spanish authorities and the Bank towards the Commission ("**the Monitoring Trustee**"). The Monitoring Trustee will be appointed by the Bank, and must be endorsed by the Commission. The Monitoring Trustee must be independent of the Bank and be remunerated by the Bank. The Monitoring Trustee will report to the Commission.

[46] Catalunya Banc's market share in deposits in the region where it operates is 12.5%.
[47] See footnote 27.
[48] See Term-Sheet.

(99) In case the sale of the Bank has not been completed by the end of […][49], the Divestiture Trustee[50] will be appointed under the same conditions as the Monitoring Trustee.

5 ASSESSMENT

5.1 Existence of State Aid

5.1.1 Measures already temporarily approved

(100) The Commission has already concluded that the aid measures approved by it as rescue aid in earlier decisions[51] or under a scheme[52] (namely, measures A to C), constitute State aid in favour of CatalunyaCaixa and the Bank. As a consequence, it is not necessary to reassess whether these measures constitute State aid under the present decision.

(101) The measures which need to be assessed for State aid under this decision are those described in recitals (32) through (53) (namely, measures D, E and F).

(102) According to Article 107(1) TFEU, State aid is any aid granted by a Member State or through State resources in any form whatsoever which distorts, or threatens to distort, competition by favouring certain undertakings, in so far as it affects trade between Member States. The Commission observes that the Spanish authorities do not dispute that measures D, E and F constitute State aid.

(103) The qualification of a measure as State aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and have the potential to affect trade between Member States.

5.1.2 State resources and imputability

(104) The Commission notes at the outset that the FROB, the intervening authority providing the measures, is directly financed through State resources and its decisions are directly imputable to the State. The FROB essentially acts as the prolonged arm of the State. The Commission therefore considers that the recapitalisation measures, including the conversion of preference shares (measures D and E), are financed by State resources.

(105) As regards the transfer of assets to the AMC (measure F), while the capital structure of the AMC will consist of a majority holding by private investors, the Commission nevertheless considers the impaired asset measure to involve State resources. First, the AMC was set up for a public policy objective, namely to help troubled Spanish banks by transferring their most risky assets off their balance sheet and thus by helping them implement their restructuring plans. That genesis in public policy considerations is also underlined by the fact that the AMC was set-up between the

49 See recital (88).
50 As described in recital (89).
51 See footnotes 5 and 6
52 See footnote 22

Spanish authorities and its international partners as a result of the MoU and the special legal setting implemented by the Spanish authorities for the AMC. Second, the FROB will be the single largest investor in the AMC and the bonds issued by the AMC will be guaranteed by the State. Without that State guarantee, the measure could not be financed. Indeed, the amount of own funds invested by private investors is very small when compared to the amount of State guaranteed bonds. Third, the Spanish public authorities will keep a high degree of oversight over the AMC's decisions and overall management issues. Therefore, the AMC's shareholding structure does not contradict the fact that measure F is imputable to the State and constitutes State resources.

5.1.3 Selectivity

(106) As measures D, E and F are exclusively addressed to the Bank they should be considered as selective in nature.

5.1.4 Advantage

(107) As regards measure D – the conversion of convertible preference shares into ordinary shares – the Commission recalls that it considered the original recapitalisation measure (measure B) as State aid. Although this conversion does not affect the nominal amount of the aid initially granted, it does change the nature of the measure and thereby confers an advantage on the beneficiaries. The new capital is more junior and therefore of a higher quality than the initial injection in terms of loss absorption. Moreover, unlike the convertible preference shares that had a fixed coupon, the remuneration for the new equity is decided by the Bank and has therefore become more uncertain. Consequently, measure D can be considered as Core Tier 1 capital, unlike measure B. That change in nature clearly provides an advantage to the Bank, considering the current financial market environment where market participants are especially focussed on the capital quality and amount of Core Tier 1 capital held by banks. The Commission also agrees with the assessment of the Spanish authorities that the conversion of preference shares cannot be seen in isolation when assessing the issue of aid. Instead, it must be seen in the context of the additional capital injection (measure E). This lends further support to the analysis that the conversion confers an advantage on the Bank as well.

(108) As regards measure E – the additional capital injection – it allows the Bank to cover further losses and remain above the minimum solvency ratio in the adverse case. In view of the large amount of aid and the comparatively limited expected profitability of the Bank, it is doubtful whether this additional capital injection will be remunerated in line with market terms and, in the current circumstances, that it would have been available on the market. By contrast, since the founding savings banks have seen their shareholding in the Bank reduced to zero as a consequence of measure D, measure E provides no advantage to them.

(109) Finally, as regards measure F – the impaired asset measure – banks transferring assets to the AMC receive a clear advantage in that their most risky portfolio is transferred off their balance sheets, thus avoiding future losses. Furthermore, the transfer significantly reduces the RWA of those banks, used in the denominator for calculating capital ratios, thus reducing their capital needs. In the case of the Bank, the transfer of problematic assets had been EUR [10 - 20] billion and the RWA's

reduction of EUR [5 - 10] billion.

(110) It should also be noted that the AMC cannot be considered as a market investor. The fact that private investors take part in the equity of the AMC does not alter that conclusion. Current market circumstances are such that purchases of such a large amount of assets related to real estate under market conditions can only happen if the purchaser receives vendor financing, i.e. that the purchase price is financed by the selling entity. Furthermore, private investors would purchase such assets only at very low prices (i.e. fire-sale conditions), given the uncertainty surrounding their value. Those low prices are due to liquidity constraints affecting the European financial system, particularly prevalent in Spain at the moment.

(111) In fact, the transfer price of the assets, while conservative and below the real economic value, is still above the market price that a private investor would have been willing to pay for those assets. It can therefore be excluded that a market economy investor would have purchased the proposed assets out of private funds on a comparable scale and on similar terms.

5.1.5 Distortion of competition and effect on trade between Member State

(112) The Commission finds that the measures distort competition as they allow the Bank, and CatalunyaCaixa which runs the banking activity through the Bank, to obtain the capital necessary to avoid technical insolvency (in the adverse case), and thereby prevent its immediate exit from the market.

(113) The Commission also considers that the measures are likely to affect trade between Member States because the Bank continues to compete on the Spanish retail market, the mortgage lending markets and the commercial lending markets. In all those markets, some of the Bank's competitors are subsidiaries and branches of foreign banks.

(114) Thus, the measures strengthen the competitive position of the Bank vis-à-vis its competitors in Spain and in other Member States.

5.1.6 Beneficiaries of the aid

(115) As described in detail above, the Bank is the economic successor of CatalunyaCaixa, which transferred its entire banking business to the Bank on 28 July 2011 and retained only its ownership over OBS and – prior to measure D – a stake in the Bank. It is clear that the Bank benefits from all the above measures, as the banking business could not have continued without the aid from Spain. As for CatalunyaCaixa, it is clear that it derived a benefit from the aid it was initially granted (measures A and B in particular) but, following measure D, which led it to lose its stake in the Bank, did not benefit from the subsequent aid measures granted to the Bank.

(116) The position of the three founding saving banks as beneficiaries of the aid has evolved significantly since the granting of the first measure (measure A) in March 2010. While the saving banks initially maintained a close ownership and structural link with the banking activities of CatalunyaCaixa and, thus, the Bank, successive legal and corporate changes increasingly broke this structural link. With the rescue recapitalisation (measure C) and the conversion of FROB's preference shares into equity in the Bank (measure D), any pre-existing link between the founding saving banks and the Bank was severed, in terms of ownership, control and operational involvement.

(117) The three founding saving banks have therefore completely ceased their involvement in the banking activities; their activities are currently limited to the charitable organisation (OBS). In terms of burden sharing, they have relinquished any ownership right in the Bank and will not recover any in the future. All the assets and resources they have maintained are directly linked to the exercise of these charitable activities. As they have lost any control over the Bank and completely ceased banking activities, the distortion of competition caused by the aid measures benefitting them has been minimised.

(118) For this reason, it is not necessary to further assess the compatibility of the State aid measures as regards the founding saving banks. The remainder of this decision will therefore focus on the compatibility of the measures as regards the Bank, which will continue to carry out banking activities. However, to the extent that CatalunyaCaixa shall benefit from the aid that the Bank has received or will receive, the Commission considers that the below compatibility assessment also applies to this residual aid.

5.1.7 Conclusion

(119) On the basis of the foregoing, the Commission considers that measures A to F fulfil all the conditions laid down in Article 107(1) TFEU and that these measures therefore constitute State aid.

5.2 Amount of aid

5.2.1 Guarantees on liabilities (measure A)

(120) As mentioned in recital (27), the Bank and CatalunyaCaixa received total guarantees on liabilities of EUR 10.76 billion.

5.2.2 Recapitalisations and conversion (measures B, C, D and E)

(121) As set out above in section 2.3, the Bank and CatalunyaCaixa have received total recapitalisations of EUR 12.05 billion. The Commission considers the aid element in the recapitalisation to be up to 100% of the nominal amount, and hence concludes that the recapitalisation measures and the conversion entail aid in the amount of up to EUR 12.05 billion (28.5% RWA).

5.2.3 Impaired asset measure (measure F)

(122) Point 15 of the Impaired Assets Communication states that public asset relief measures are considered as State aid if impaired assets are transferred at a value above market price and the amount of aid is the difference between those two values.

As described in recitals (51) and (52), the transfer price of the Bank's assets will be EUR [5 - 10] billion, which is greater than the current market value of those assets of EUR [5 - 10] billion, as estimated by the experts assisting the Commission. Consequently, the amount of aid resulting from the measure is approximately EUR 1.6 billion (3.8% RWA).

5.2.4 Conclusion

(123) On the basis of the foregoing, it should be concluded that the Bank and CatalunyaCaixa have received State aid in form of capital injections and impaired asset measures up to EUR 13.65 billion (32.3% of RWA), in addition to guarantees worth EUR 10.76 billion.

5.3 Legality of the aid

(124) The Commission notes that Spain notified aid measures D, E and F for its approval prior to putting them into effect and thus complied with its obligations under Article 108(3) TFEU.

6 COMPATIBILITY OF THE AID WITH THE INTERNAL MARKET

(125) As regards the compatibility of the aid provided to the Bank, the Commission must determine, first, whether the aid can be assessed under Article 107(3)(b) TFEU, i.e. whether the aid remedies a serious disturbance in the economy of Spain. Subsequently, the Commission, using that legal basis, must assess whether the aid is compatible with the internal market.

6.1 Legal basis for the compatibility of the aid

(126) Article 107(3)(b) TFEU empowers the Commission to find that aid is compatible with the internal market if it is intended "to remedy a serious disturbance in the economy of a Member State". The Commission has acknowledged that the global financial crisis can create a serious disturbance in the economy of a Member State and that measures supporting banks are apt to remedy that disturbance[53]. The Commission confirmed that view by adopting, on 1 December 2011, the 2011 Prolongation[54].

(127) In respect of the Spanish economy, that assessment was confirmed in the Commission's various approvals of measures undertaken by the Spanish authorities to combat the financial crisis[55]. Therefore, the legal basis for the assessment of measures A to F should be Article 107(3)(b) TFEU.

6.2 Compatibility assessment

(128) The Bank has benefited and will continue to benefit from several State aid measures

[53] This has been confirmed in the Banking Communication (Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, OJ C 270, 25.10.2008, p. 8), the Recapitalisation Communication (Communication from the Commission – The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2), the Impaired Asset Communication (Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72, 26.3.2009 p. 1)and the Restructuring Communication (Communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 9).

[54] OJ C 356, 6.12.2011, p. 7.

[55] See i.a. Reintroduction of the Spanish Guarantee Scheme SA 34224 (2012/N), OJ C82/2012 of 21.03.2012

whose compatibility has not previously been assessed by the Commission, namely measures D, E and F. The Bank has also benefitted from the approval of the Spanish guarantee scheme (measure A) and measures which have been found compatible by the Commission as rescue aid (measure C) referred to in recitals (30) and (31).

(129) Measures A through F have been provided in the context of the restructuring of the Bank. The Commission will therefore examine the Restructuring Plan under the Restructuring Communication[56] which sets out the rules applicable to the granting of restructuring aid to financial institutions in the current crisis.

(130) However, prior to this examination, the Commission will examine measures D (conversion of convertible preference shares into ordinary shares) and E (additional recapitalisation) under its Recapitalisation Communication. As regards measure F (the transfer of impaired assets to the AMC), the compatibility of this measure will need to be assessed under the Impaired Assets Communication.

6.3 Compatibility of measures D and E with the Banking and Recapitalisation Communications: Appropriateness, necessity, proportionality

(131) As recalled in point 15 of the Banking Communication, in order for an aid to be compatible under Article 107(3)(b) TFEU it must comply with general criteria for compatibility under Article 107(3) TFEU, which imply compliance with the following conditions:[57:]

a. *Appropriateness*: The aid must be well-targeted in order to effectively achieve the objective of remedying a serious disturbance in the economy.

b. *Necessity*: The aid measure must, in its amount and form, be necessary to achieve this objective. Thus, it must be of the minimum amount necessary to reach the objective, and take the most appropriate form to remedy the disturbance.

*c. Proportionality**:*** The positive effects of the measure must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measure's objectives.

a. Appropriateness of the Measures

(132) As regards measure D –- the conversion of the preference shares – this measure will reinforce the capital position of the Bank, as equity capital is junior to the convertible preference shares and will count as Core Tier 1 capital. Since this conversion contributes to providing the Bank with the necessary amount of Core Tier 1 to remain above the regulatory minimum capital requirement in an adverse scenario, the Commission considers it as appropriate to the intended objective.

(133) As regards measure E – the recapitalisation measure – the stress test revealed a capital deficit of EUR 10.83 billion, which will be reduced by the transfer of assets to the AMC and the burden sharing exercise to EUR 9.08 billion. Owing to the lack of

[56] OJ C 195, 19 August 2009, p. 9.
[57] See paragraph 41 of Commission decision in Case NN 51/2008, *Guarantee scheme for banks in Denmark*, OJ C 273, 28.10.2008, p. 2.

confidence on the markets in the Bank and the general uncertainty regarding the economic situation of Spain overall, it is virtually impossible for the Bank to raise the necessary capital from private investors. The Commission is therefore of the view that the additional capital injection is appropriate as it fills the remaining capital deficit of the Bank.

b. Necessity – limitation of the aid to the minimum

(134) According to the Banking Communication, the aid measures must, in their amount and form, be necessary to achieve the intended objective. That requirement implies that the aid measure must be of the minimum amount necessary to reach the objective. With the additional aid provided through measures D and E, the Bank will continue to meet regulatory capital ratios and, thus, the aid amount is limited to the minimum necessary.

(135) In addition, adequate remuneration of any State intervention contributes to ensuring that the aid is limited to the minimum necessary. As regards the required remuneration of the aid for recapitalisation in the form of ordinary shares, point 8 of the Prolongation Communication lays down that the new shares should be subscribed at a discount to the market price prevailing at the time of the announcement. However, such a discount is not necessary in the present case as the former owners of the Bank will be fully wiped out.

(136) Nevertheless, the Commission notes that an adequate remuneration of the entire capital injected is unlikely to be forthcoming, given the current troubled state of the Bank and the large amounts of aid it has received overall. According to point 34 of the Restructuring Communication, adequate remuneration of any State intervention is one of the most appropriate limitations of distortions of competition. Given that this remuneration is not ensured in this case, further restructuring is required.

c. Proportionality – measures limiting negative spill-over effects

(137) The Commission considers that, in principle, the proportionality of measures D an E should be assessed in the light of the depth of the restructuring plan, taking into account measures to ensure burden sharing and limiting distortions of competition. It therefore refers to its assessment of the measures under the Restructuring Communication below.

(138) It is, however, worth highlighting that given the significant degree of burden-sharing and the Bank's commitment to exist the market as a stand-alone entity over the course of the Restructuring period, as well as the mechanism to claw-back any excess capital after […] (discussed in recital (174)), the measure D and E are proportionate.

Conclusion

(139) The Commission thus concludes that the measures D and E are appropriate, necessary and, in the light of the deep restructuring foreseen, proportional to the intended objective of remedying a serious disturbance in the Spanish economy.

6.4 Compatibility of measure F with the Impaired Asset Communication

(140) Before examining the compatibility of all the measures with the Restructuring Communication, it is also necessary to assess the compatibility of measure F – the transfer of impaired assets to the AMC – on the basis of the Impaired Assets Communication. The Impaired Assets Communication defines impaired asset relief as any measure which "*free[s] the beneficiary bank from (or compensate[s] for) the need to register either a loss or a reserve for a possible loss on its impaired assets and/or free regulatory capital for other uses*" and sets out criteria for the compatibility of such measures with the internal market. These criteria comprise (i) the eligibility of the assets, (ii) the transparency and disclosure of impairments, (iii) the management of the assets, (iv) the correct and consistent approach to valuation, and (v) the appropriateness of the remuneration and burden sharing.

a) Eligibility of assets

(141) As regards the eligibility of the assets, section 5.4 of the Impaired Assets Communication indicates that asset relief requires a clear identification of impaired assets and that certain limits apply in relation to eligibility to ensure compatibility.

(142) The Impaired Assets Communication, however, further sets out that a balance needs to be found between meeting the objective of immediate financial stability and the need to ensure the return to normal market functioning, which would plead in favour of flexibility when identifying classes of assets. In particular, whilst the IAC cites as eligible assets those that have triggered the financial crisis (the IAC explicitly refers to US mortgage-backed securities), it also allows for the possibility to "extend eligibility to well-defined categories of assets corresponding to a systemic threat upon due justification, without quantitative restrictions". In this context the IAC specifically mentions as one of those systemic threats, the burst of a bubble in the domestic real estate market.

(143) As mentioned in recitals (45) and (46), measure F targets a specific type of assets, namely (i) all foreclosed real estate related assets and (ii) all real estate development loans.

(144) The Commission recognises that the Spanish financial system and domestic economy has been affected by the burst of a real estate bubble and agrees that as a consequence loans to the real estate development sector are at the source of the principal uncertainties in relation to asset quality in the Spanish financial system.

(145) On the basis of the above Spain has developed a proportionate approach within the meaning of point 34 of the Impaired Assets Communication and the scope of assets to be included in the asset transfer to the AMC is in line with the eligibility requirements of the IAC.

b) Transparency and disclosure

(146) As regards transparency and disclosure the Commission notes that section 5.1 of the Impaired Assets Communication demands full ex-ante transparency and disclosure of impairments by eligible banks on the assets which will be covered by the relief measures, based on an adequate valuation, certified by recognised independent

experts and validated by the relevant supervisory authority. In other words, the Impaired Assets Communication requires that disclosure and valuation should take place prior to government intervention.

(147) As regards measure F, the Commission notes that independent experts have been engaged to value the assets and that the valuation methodology has been endorsed by the supervisory authority as well as by a group including international institutions.

(148) However, while it is accurate that the definitive number of impaired assets falling under measure F are not currently available due to accounting and other changes that may occur between the date of this decision and the final date of the asset transfers, the asset classes to be transferred have been clearly identified and the transfer will only occur on the basis of the approved methodology. The Commission therefore considers that the Member State has provided full disclosure on the entirety of impaired assets on the balance sheet of the Bank.

(149) The requirement for transparency and disclosure are thus met.

c) Management of the assets

(150) As regards the management of assets, section 5.6 of the Impaired Asset Communication stipulates the necessity of a clear functional and organisational separation between the beneficiary bank and its assets, notably as to their management, staff and clientele. The Communication states, in that respect, that this should allow the bank to focus on the restoration of viability and to prevent possible conflicts of interest.

(151) As regards measure F, the Commission notes that the assets will be managed by the AMC, which is fully independent from the Bank. The Commission therefore concludes that the arrangements for asset management is thus in line with the Impaired Assets Communications.

d) Valuation

(152) Section 5.5 of the Impaired Assists Communication notes that a correct and consistent approach to valuation is of key importance to prevent undue distortions of competition. The main aim of valuation is to establish the real economic value of the assets. That value constitutes the benchmark level in so far as a transfer of impaired assets at that value indicates compatibility of aid – it creates a relief effect because it is in excess of the current market value.

(153) As regards measure F, Spain appointed Oliver Wyman to assess the asset portfolio and has applied a number of haircuts in order to arrive at the transfer value. In addition, Spain has provided a letter from the head of the supervisory authority, BoS, certifying the detailed results of the asset transfer to the AMC.

(154) The Commission has scrutinized the valuation and in particular the underlying general methodology in order to ensure a consistent approach at Union level. For that purpose, the Commission has called on the technical assistance of external experts. In particular, the Commission contracted external experts to scrutinize the valuation prepared by Oliver Wyman. According to their assessment, the real economic value of the transferred portfolio amounts to EUR [5 - 10] billion. The transfer price of

EUR [5 - 10] billion is thus well below the real economic value of those assets.

(155) Additionally, the prudent nature of the price of the asset transfer can be seen in the fact that banks receive one, two and three-year bonds in exchange for their assets, instead of cash. The yield on those bonds is the lowest of the corresponding maturity government bond rate and the 12 month Euribor plus 200 bps. It is very likely that the bonds will be rolled over several times at the request of the AMC, as eventual redemption will depend on the sales of the assets transferred over a 15 year time horizon. This implies that the Bank accepts to forgo revenue which it might otherwise have generated if had cash available, which could then be lent-on at a higher yield or invested in higher yielding or even risk-free bonds.

(156) In light of these factors, the Commission considers the valuation in line with the Impaired Assets Communication.

e) Burden-sharing and remuneration

(157) As regards burden-sharing, section 5.2 of the Impaired Assets Communication repeats the general principle that banks ought to bear the losses associated with impaired assets to the maximum extent so as to ensure equivalent shareholder responsibility and burden-sharing. Thus, the assets should be transferred at a price that matches or remains below the real economic value of those assets.

(158) Furthermore, the Impaired Assets Communication explains that burden-sharing is achieved through an adequate remuneration of the scheme. In Section II of Annex IV of the Impaired Assets Communication, the Commission explains that the pricing of the asset relief must include remuneration for the State that adequately takes account of the risks of future losses exceeding those that are projected in the determination of the real economic value. Such remuneration may also be provided by setting the transfer price of assets well below the real economic value to a sufficient extent so as to provide for adequate compensation for the risk in the form of a commensurate upside.

(159) As regards measure F, the transfer value of the assets is well below their real economic value as determined by the experts engaged by the Commission and explained in section 2.3.6.. The Commission notes in that regard that the assets have been fully written down to their transfer value and that the transfer price is, on a relative basis, about [20 - 30]% lower as compared to their real economic value. That difference corresponds to a remuneration for the State of EUR [0 - 5] billion.

(160) The Commission therefore concludes that since an adequate compensation for the risk of the State is embedded in the low transfer price, measure F provides adequate compensation and even the possibility of upside risk. The requirements for burden-sharing have thus been met.

f) Conclusion on compatibility

(161) In light of the above, the Commission concludes that measure F – the asset relief measure – fulfils the conditions on eligibility of assets, ex ante transparency and disclosure, asset management arrangements, valuation, burden sharing and remuneration as laid down in the Impaired Assets Communication.

6.5 Compatibility of all measures (A through F) with the Restructuring Communication

(162) According to the Restructuring Communication, in order to be compatible with the internal market under Article 107(3)(b) TFEU, the restructuring of a financial institution in the context of the current financial crisis must (i) lead to a restoration of the viability of the bank, or to the orderly winding-up thereof; (ii) ensure that the aid is limited to the minimum necessary and include sufficient own contribution by the beneficiary (burden-sharing); and (iii) contain sufficient measures limiting the distortion of competition.

6.5.1 Restoration of viability

(163) As the Commission has indicated in its Restructuring Communication[58], the Member State needs to provide a comprehensive restructuring plan which shows how the viability of the bank will be restored without State aid within a reasonable period of time and within a maximum five years. Long-term viability is achieved when a bank is able to compete in the marketplace for capital on its own merits in compliance with the relevant regulatory requirements. For a bank to do so, it must be able to cover all its costs and provide an appropriate return on equity, taking into account the risk profile of the bank. The return to viability should mainly derive from internal measures and be based on a credible restructuring plan.

(164) The Spanish authorities have submitted a Restructuring Plan for the Bank with a five year time span, going up to December 2017, showing a return to viability at the end of the restructuring period.

(165) First, point 10 of the Restructuring Communication requires that the proposed restructuring measures remedy to the entity's weaknesses. In that regard, the Restructuring Plan adequately addresses the causes of failures of the Bank as described in recitals (17) through (24). First, the segregation and transfer of the assets and loans related to the real estate development sector to the AMC (measure F) is an adequate response to the high concentrations of the Bank's balance sheet on the real estate development sector and level of non-performing assets ([10 - 20]% of its balance sheet in 2011 and [5 - 10]% of foreclosed assets[59]), and its past expansion outside its core retail banking business and historical core regions. That transfer will enable the Bank to gain a net capital benefit of EUR [100 - 200] million, and facilitate new production in core retail business such as residential mortgages and SME loans.

(166) Second, since the change of management in June 2010, a significant overhaul of strategy has been undertaken to strengthen the corporate governance management of the bank, most notably on risk management practices and controls. Thus, the Bank had a cost-to-income ratio of 73.7%[60] in 2011, one of the higher among its publicly quoted Spanish peers. . The Bank plans to reduce this ratio via a significant reduction in the branch network and personnel, generating cost savings. The Restructuring Plan projects a new cost-to-income ratio of [60 - 70]% in 2016.

[58] Commission communication on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 1.

[59] Source: Oliver Wyman analysis

[60] Source: CatalunyaCaixa responses to European Commission questions, 10.10.2012

(167) Third, the Restructuring Plan foresees a fundamental change to the Bank's business profile as it intends to concentrate on its core competences and to wind down the non-core activities and more risky activities. The Bank will also cease all activities regarding capital markets (wholesale activities) as well as specialised financing. The plan therefore includes a split between its core and legacy business and geographical activities, which will allow the Bank to focus on pure retail banking activities in Catalonia.

(168) The Bank will use the Legacy Unit as a run-off vehicle to maximise the value of non-core assets through ordered disposals and winding down. Thus, the Legacy Unit will be used to divest the Bank's equity stakes and fixed income portfolios as well as legacy loans. All international branches and representatives branches will also be included in the Legacy Unit.

(169) In terms of the viability of the Core Unit, the Commission notes that the plan uses underlying conservative assumptions in terms of market share evolution in the core regions, net margins on pricing new productions of loans, and cost of funding. The business plan foresees that the Bank will strengthen its position in its core historical regions and in business segments where the Bank has a good client base. In particular, the Core Unit to focus on the SME segment where growth rates are higher and where the Bank has had one of the lowest financial margins compared to its peers. In addition, it plans to increase cross-selling activities to its customer base. Overall, the re-pricing of new production (which has already been put in effect as of mid-June 2012) and the cross-selling strategy will improve the profitability of the Core Unit, and should compensate for the large long-term mortgage legacy portfolio. Hence, the Bank will gradually become smaller and the Core Unit a more balanced unit with total net loans to clients of EUR [20 - 30] billion by 2016 (and a non-core part from the Legacy Unit of EUR [0 - 5] billion). This will ensure a clean-up of the core business in terms of lending book allowing the entity to focus on its retail and SMEs strong client base. At the end of the restructuring period, the Core Unit should be able to cover all its costs and provide an appropriate return on equity of about [5 - 10]%, taking into account an adequate cost of risk in view of its new risk profile.

(170) Fourth, according to point 13 of the Restructuring Communication, the restructuring plan should address the requirements emerging from a stress test exercise and ensure that the entity is sufficiently and adequately capitalised. At group level, the Bank undertook the MoU Stress Test exercise as specified in recital (24). That exercise was well designed for assessing the current challenges of the Spanish banking system, with conservative assumptions and a robust execution under the close monitoring of the international partners. It included a comprehensive asset quality review as well as an identification of the capital needs in a three-year time frame Based on the results of this exercise, the Bank plans to clean its balance sheet by taking accounting losses to a level of loan-loss provisions of EUR [5 - 10] billion in December 2012, deducting the estimated increase in own funds of EUR [0 - 5] billion from the burden sharing exercise and the benefits from the transfer to the AMC of EUR 1.6 billion and be recapitalised to a level that will allow the group to reach a EBA Core Tier 1 ratio of [10 - 20]% at the end of December 2012 and [10 - 20]% at the end of the restructuring period.

(171) Finally, the Restructuring Plan provides information on the future funding profile of the Bank. The Restructuring Plan factors in conservative assumptions in terms of

deposits evolution and wholesale and central bank reliance. At the end of the restructuring period, the Core Unit will have a loan-to-deposit ratio of [100 - 120]% and at the total bank level the reliance on central bank funding will be reduced to zero by the end of the restructuring period. The Commission therefore considers that the implementation of the Restructuring Plan, which involves a significant reduction of the balance sheet and hence funding needs, as well as its loan-to-deposit ratio target of [100 - 120]% and exit from central bank reliance, will ensure the Bank with a conservative funding profile with a greater alignment of assets and liabilities.

6.5.2 Own contribution and burden sharing

(172) The Restructuring Communication indicates that an appropriate contribution by the beneficiary is necessary in order to limit the aid to a minimum and to address distortions of competition and moral hazard. To that end, it provides that (i) both the restructuring costs and the amount of aid should be limited and (ii) a significant own contribution is necessary.

(173) The Restructuring Plan does not contain any elements that suggest that the proposed aid measures exceed the means required to cover the costs resulting from the restoration of viability.

(174) The measures committed to by Spain in the Restructuring Plan ensure that own resources are indeed used and that shareholders and private investors holding hybrid and subordinated debt instruments contribute as much as possible to the restructuring of the Bank. Those measures that are relevant for the assessment of whether the aid is limited to the minimum necessary and whether the criteria of own contribution and burden-sharing are fulfilled are recalled below:

a) The Commission notes positively that the commitments regarding burden-sharing of hybrid instruments are in line with the MoU but go beyond the minimum prerequisites of the Restructuring Communication. As described in section 3.2.1, all hybrids and subordinated debt instruments[61] will be converted into equity following a material haircut on their nominal prices, leading to a decrease in the capital shortfall. As the Commission would consider a cash buyback of hybrids securities at market price plus a premium to fulfil the requirements of the Restructuring Communication, it welcomes these commitments by Spain, which results in a greater burden-sharing by hybrid and subordinated debt holders and, consequently, a decrease in the amount of public funds that are necessary to restore the Bank's viability.

b) Regarding previous and existing shareholders of the Bank and in accordance with the Restructuring Plan, the FROB will acquire a significant equity stake in the Bank as a result of which previous owners will be fully wiped out.

c) As the proposed capital injection by the FROB will be made in the form of ordinary shares in the Bank, the remuneration of these securities is by definition uncertain and subject to the existence of distributable profits. However, in view of the Restructuring Plan it is expected that the FROB will receive a large portion of future profits and revenue from the envisaged sale of the Bank in the

[61] With the sole exception of dated subordinated debt instrument, which will also be offered the possibility to convert these instruments into a more senior non-remunerated debt instruments.

future. That expected return is in line with the Restructuring Communication, which provides that an adequate remuneration of the State capital is also a means of achieving burden-sharing.

d) To ensure that the Bank is not overcapitalised, if the adverse scenario used for the purpose of the MoU Stress Test does not materialise, Spain has committed that the Bank shall distribute any capital above the regulatory minimum level plus a buffer of […] bps to its shareholder by paying out the surplus in the form of dividends after […], as described in the Term-Sheet[62].

e) As regards covering part of the restructuring costs stemming from the Restructuring Plan through internal measures, the Commission notes that the Bank has carried out and will continue to implement significant cost-cutting measures[63], resulting in a reduction of annual operational costs to EUR [500 – 600] million by the end of the restructuring period, a decrease of [30 – 40]% as compared to 2011. Furthermore, the restructuring costs are also partly borne by the future proceeds from the proposed divestments of subsidiaries and equity stakes in non-core entities, as set out in the Term-Sheet.

(175) Therefore, burden sharing on equity, hybrid and subordinated debt holders, cost-reductions, divestments and adequate remuneration for the aid represent sufficient own contribution by the Bank to the costs of its restructuring. For these reasons the Commission concludes that the Restructuring Plan provides for an appropriate own contribution and burden-sharing in line with the requirements of its Restructuring Communication.

6.5.3 Limiting distortion of competition

(176) Finally, section 4 of the Restructuring Communication requires that the restructuring plan contains measures limiting distortions of competition. Such measures should be tailor-made to address the distortions on the markets where the beneficiary bank operates post-restructuring. The nature and form of such measures depend on two criteria: first, the amount of the aid and the conditions and circumstances under which it was granted and, second, the characteristics of the markets on which the beneficiary will operate. Furthermore, the Commission must take into account the extent of the beneficiary's own contribution and burden-sharing over the restructuring period.

(177) The Commission recalls the above conclusion that the Bank and CatalunyaCaixa have received State aid in the form of capital injections and impaired asset measures of an amount up to EUR 13.65 billion in addition to the guarantees amounting to EUR 10.76 billion.

(178) The aid amount of up to EUR 13.65 billion is equivalent to 32.3% of the Bank's RWA (EUR 42.2 billion in 2011). As the relative amount of aid to the beneficiaries is very large, significant measures are necessary to limit potential distortions of competition.

(179) The three main measures that will limit distortions of competition are (i) the

[62] See Term-Sheet section 7.
[63] See recital (56) through (77)

downsizing of the Bank in terms of total assets, RWA, geographical footprint, business segments and staff; (ii) the split into a viable Core Unit and a Legacy Unit; and (iii) the sale of the Core Unit (or the winding up of the Core Unit should the sale not materialise).

(180) First, the Bank will become a much smaller entity. As indicated in the Table 4, its total balance sheet will shrink from EUR 77.05 billion in 2011 to EUR [50 - 60] billion by December 2016, whilst its total RWA will be reduced from EUR 42.2 billion in 2011 to EUR [10 – 20] billion by December 2016.

(181) In parallel, the Bank will shrink in terms of branches and headcount, as illustrated by Table 4. The Bank will also divest a number of subsidiaries, including notably […] and […] and will sell its portfolio of equity holdings by steps ([20 - 50]% in 2013, [20 - 50]% in 2014 and [20 - 50]% in 2015) [64]. Should a sale not have succeeded by then, the Bank will fully write down its stake in those entities and each of them will be offered for EUR 1.

(182) Altogether, the Commission considers the reduction of the total balance sheet of the Bank between 2011 and 2016 to be appropriate, as compared to the distortions of competition stemming from the large amount of aid received.

(183) Second, the Commission recalls that in principle, subject to the limited exemptions in the Term-Sheet annexed to this decision, only the Core Unit is authorised to engage in new business. This Core Unit – the part of the Bank that will remain active on the market – will be even smaller than the total bank. The Core Unit's total balance sheet will be EUR [30 - 40] billion in 2012 and shrink to EUR [30 - 40]billion by December 2016; its total RWA will evolve from EUR [10 - 20] billion in 2012 to EUR [10 - 20] billion by December 2016.

(184) In addition, the Core Unit will focus exclusively on retail, SME and public sector banking in its core region, and will exit the market in all other segments (real estate development, corporate and wholesale activities in particular) and in the other regions as well as in other EU Member States. At the same time, it will also reduce its presence in the core region where arguably the distortions of competition post-restructuring caused by the aid are most significant. The Commission considers that the projected decrease of the Bank's market share in deposits and loans from 12.7% and 11.1% to [10 - 20]% and [5 -10]%, respectively, in its core region addresses this distortion in an appropriate manner.

(185) As for the distortions of competition that will continue to result from the residual business allocated to the Legacy Unit before it is fully resolved or sold, the Commission is of the view that those will be minor[65]. The Legacy Unit will not enter into new activities and will stop the collection of deposits, while its lending activities will be limited to the normal management and work-out of its loan book. Eventually – unless it is jointly sold with the Core Unit – it will fully disappear from the market and therefore no longer distort competition.

[64] See Term-Sheet section 5.4.5

[65] Cf. Case C 11/2010 and No SA.32504, Anglo Irish Bank and Irish Nationwide Building Society, OJ L 139, 26.5.2012, p. 18, recital 174 et seq.

(186) Third, Spain has committed to sell the Core Unit or the entire Bank by the end of the restructuring period (31 December 2017), which will be undertaken in an open, transparent and non-discriminatory procedure by the Divestiture Trustee. If it is not possible to sell the Bank, it will be wound down according to a resolution plan that Spain would have to submit by the end of 2017.

(187) The sale of the Bank, as the beneficiary of the aid, to another market player in the framework of an open sales process constitutes a form of mitigation of potential distortions of competition[66]. This process, which gives potentially harmed competitors the possibility to assume this business, resembles to some extent the "counterfactual" situation that would have occurred in the absence of State aid, as a company in difficulty (or indeed in bankruptcy) will normally often seek a potential buyer in the market or, failing to do so, would be liquidated. As a result, the sale/resolution process in the present case contributes significantly to limiting the distortions of competition resulting from the aid.

(188) In addition to those far-reaching structural measures, Spain also committed to several additional behavioural constraints[67]: namely, a) the Bank will verify the incentives and appropriateness of its remuneration system; b) a ban on coupon payments until the burden-sharing measures on hybrid and subordinated debt have been implemented; c**)** a ban on advertising State support preventing the Bank from using the aid granted for anti-competitive market conduct; d) a ban on commercial aggressive practises, which ensure that the Bank will not compete in terms of pricing of its products in an aggressive way; e) an acquisition ban, which ensures that State aid will not be used to take over competitors, but to restore the Bank's viability; and f) a capital repayment mechanism to ensure that any extra capital not needed for prudential reasons is repaid to the Bank's shareholders.

(189) Taking into account this mix of measures and commitments and in view of the above assessment that the own contribution and burden-sharing are appropriate and, in some cases, go beyond what the Commission would normally require, the Commission considers that there are sufficient safeguards to limit potential distortions of competition despite the high amount of aid the Bank will receive.

6.6 Monitoring

(190) Pursuant to section 5 of the Restructuring Communication, regular reports are required to allow the Commission to verify that the restructuring plan is being implemented properly.

(191) The Restructuring Plan will need to be properly implemented throughout its duration. To ensure this proper implementation, the Spanish authorities will ensure that the Bank, wholly-owned by the FROB, complies with the commitments listed in the Term Sheet. The Spanish authorities will report regularly on the measures taken to comply with the commitments recorded in the Term Sheet. The first report will be submitted to the Commission no later than six months after the date of this Decision and, thereafter, at six-monthly intervals.

[66] Cf. Case C 10/2008, IKB Commission decision of 21 October 2008, OJ L 278, 23.10.2009, p. 32, recital 113; Case NN 42/2008, NN 46/2008 and NN/53/A/2008, Fortis Banque & Fortis Banque Luxembourg, Commission decision of 3 December 2008, point 95; Case N 344/2009 and N 380/2009 Kaupthing Luxembourg Decision of 9 July 2009, point 79; and Case NN 19/2009 Dunfermline of 25 January 2010, points 126 and 130.

[67] See Term-Sheet section 7.

(192) Furthermore, as mentioned in recital (98) and section 9 of the Term-Sheet, a Monitoring Trustee will be appointed for the duration of the restructuring period. The Monitoring Trustee will be in charge of monitoring all the commitments undertaken by the Spanish authorities and the Bank towards the Commission. To this end, the Monitoring Trustee will report to the Commission.

6.7 Conclusions on compatibility

(193) The Commission concludes that the notified measures (measures D through F) namely, the capital injection in the form of ordinary shares, the conversion of the convertible preference shares into ordinary equity and the transfer of impaired assets to the AMC in favour of the Bank constitute State aid pursuant to Article 107(1) TFEU. The Commission finds that the restructuring aid, namely measures A through F referred to above, in favour of the Bank and CatalunyaCaixa are compatible with the internal market for reasons of financial stability on the basis of Article 107(3)(b) TFEU, in light of the commitments made under the Term Sheet.

7 CONCLUSION

The Commission has accordingly decided:

– to consider the aid to be compatible with the Treaty on the Functioning of the European Union.

- The Commission notes that Spain exceptionally accepts that the adoption of the present Decision be in the English language.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/competition/elojade/isef/index.cfm;

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue Joseph II 70
B-1049 Brussels
Fax No: (+32)-2-296.12.42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President

TERM-SHEET OF THE SPANISH AUTHORITIES' COMMITMENTS FOR THE APPROVAL OF THE RESTRUCTURING PLAN OF CATALUNYA BANC S.A. BY THE EUROPEAN COMMISSION (CASE 33735 (2012/N))

1. BACKGROUND

1.1. This document (the "**Term Sheet**") sets out the terms (the "**Commitments**") for the recapitalisation and restructuring of Catalunya Banc S.A. ("**CX Banc**"), which the Kingdom of Spain and CX Banc have committed to implement. The Kingdom of Spain reserves the right to notify modifications of these commitments in particular in the case where CX Banc resumes and successfully finalizes its privatization process in […].

1.2. In accordance with the Memorandum of Understanding of July 2012, on specific measures to reinforce financial stability in Spain, and the subsequent Royal Decree 24/2012 on restructuring and resolution of financial institutions, CX Banc has been categorized as Group 1 entity, which entails the requirement of submitting a resolution or restructuring plan to be approved by the European authorities in November 2012.

2. DEFINITIONS

In this document, unless the context requires otherwise, the singular shall include the plural (and vice versa) and the capitalised terms used herein have the following meanings:

AMC: Asset Management Company. Its legal name has already been established as Sociedad de Gestión de Activos Procedentes de la Reestructuración Bancaria or SAREB.

Core bank Unit: The Core Bank Unit includes the banking business of CX Banc in the core region of Catalonia and its related activities.

Legacy Unit: The Legacy Unit relates to the banking activities of CX Banc outside the core region of Catalonia and other non-banking businesses such as residual real estate and equity holdings.

Divestiture trustee: It is the person who will be responsible to dispose of CX Banc if such an event was decided by the Spanish and European authorities after […].

Monitoring trustee: It is the person who will verify the adherence to the commitments listed in this term-sheet.

CX Banc: It is the short form of Catalunya Banc, S.A., the subject of this term-sheet.

Retail activities: It is the core business of CX Banc and includes loan writing, deposit taking, transactional banking, private and personal banking and insurance distribution among other traditional banking services provided to households and SMEs.

Residential mortgages: First or second lien mortgages with retail clients.

Developers and construction: The economic sectors related to the development of real estate projects as well as private and public construction.

SME: Those companies with an annual turnover below 6 million

Large Corporates: Those companies with an annual turnover over 6 million.

Consumer loans: Unsecured loans to individuals.

FTE: A full-time equivalent or FTE is a unit that indicates the workload of a person employed by CX Bank (including its fully-owned subsidiaries) who works full time.

RWA: Risk Weighted Assets that shall be calculated on a consolidated basis in accordance with Circular 3/2008 and with the models already approved by Bank of Spain as of 30 June 2012.

Remedial action: action(s) that will allow CX Banc to meet the identified target(s). The remedial actions need to be submitted within one month by CX Banc to the Monitoring Trustee. The Monitoring Trustee will analyse the remedial actions proposed and will report to the Commission on their adequacy to meet the targets in the Restructuring Plan.

Restructuring Plan: It is the document that outlines the required restructuring of CX Banc in the context of the recapitalisation of the group by the FROB and is the base of this term-sheet. The Plan, in particular, defines the segregation of assets to be transferred to the AMC (or SAREB), identifies those activities to be considered as core business in relation to those to be wound-down and also frames balance-sheet and income projections from 2012 to 2016.

LDR: A ratio expressed as a percentage and calculated by dividing the total amount of loans by the total liabilities to clients (including any securities distributed among retail clients).

3. GENERAL

3.1 Spain is to ensure that the Restructuring Plan ("**the Restructuring Plan**") for CX Banc submitted on 20 November 2012 is correctly and fully implemented.

3.2 Spain is to ensure that the commitments listed below (**"Commitments")** are fully observed during the implementation of the Restructuring Plan.

3.3 The restructuring period will end on 31 December 2017. The Commitments apply during the restructuring period, unless otherwise provided.

3.4 Whenever appropriate, in response to a request from the Kingdom of Spain showing good cause, the Commission will make changes when justified on the merits either to (i) grant an extension of the time period of the Commitments or (ii) waive, modify or substitute one or more aspects of any Commitment hereunder.

4. ADJUSTMENTS TO THE CURRENT PERIMETER OF THE BANK

The Restructuring Plan includes the execution of the following adjustments to the current perimeter of CX Banc:

4.1 The transfer and/or contribution to the AMC of CX Banc real estate exposure falling within the following parameters defined by FROB:

a) all the loans to developers exceeding a net book value of €250,000

b) the foreclosed real estate assets exceeding a net book value of €100,000 and,

c) the equity interests in real estate companies (jointly, the "**Real Estate Business**").

The net value of these assets at CX Banc amounts to EUR [10 - 20] billion and the transfer value amounts to EUR [5 - 10] billion as of June 2012.

The above mentioned figures on the impact of the assets transferred to the Asset Management Company (SAREB) are an estimate based on the situation of those assets as of 30 June 2012. Although this estimate can be considered as rather accurate, the final impact could differ from this as it could be affected by the events happening during the interim period from 30 June 2012 to the date when the assets transfer will become effective, such as changes in accounting classification and assets inflows and outflows.

5. RESTRUCTURING OF CX: SPLIT INTO A CORE UNIT AND A LEGACY UNIT

5.1 The Restructuring Plan consist in particular of the transfer of the majority of the real estate assets and exposures ("the RE Assets") to an external Asset Management Company ("the AMC"), the split of the remaining activities in core and non-core activities, the continuation of the core activities in the Core Unit, the wind-down of the non-core activities in the Legacy Unit and the sale of the bank by […] at the latest.

5.2 CX Banc will split its balance sheet into two parts: namely the Core Unit and the Legacy Unit. The split of CX Banc will be executed as follows:

5.3 The Core Unit

5.3.1 Assets and Liabilities allocated to the Core Unit

A. The Core Unit shall include the Retail, SME, Corporate and public sector banking business of CX Banc located in its core region, unless otherwise provided in the Term-Sheet, which is Catalonia (the "**Core Region**"), plus the additional assets and liabilities set out below (see Appendix 1 for detailed assets and liabilities core unit). The following assets are allocated to the Core Unit (cut-off date 30 June 2012)

(i) EUR [10 - 20] billion of real estate mortgages;

(ii) EUR [0 - 5] billion of SME loans;

(iii) EUR [0 - 5]billion of consumer loans;

(iv) EUR [0 - 5] billion of public sector loans;

(v) EUR [0 - 5] billion of other loans (including large corporates);

(vi) EUR [10 - 20] billion of financial assets (ALM portfolio)

(vii) EUR [5 - 10] billion of deposits and reverse repos with private and central banks:

(viii) EUR [0 - 5] billion of tax assets;

(ix) EUR [0 - 5] billion of others assets

(x) Subsidiaries (detail list in Appendix 2);

(xi) The assets allocated to the Core Unit were financed by deposits from customers (EUR [20 - 30] billion), medium and long term wholesale debt instruments (EUR [5 - 10] billion), ECB funding (EUR [10 - 20] billion) and also own funds, including FROB preference shares, among other equity (EUR [0 - 5] billion)

B. The following sites are considered as part of the Core Unit in the context of this restructuring plan (cut-off date 30 June 2012):

(xii) The headquarters in the city of […], and the [800 - 900] branches in the Core Region;

(xiii) Three operative branches (in […]) and the business generated therein

5.3.2 **Size**

By end-December 2014, the balance sheet size of the Core Unit will not be higher than EUR [30 – 40] billion.

By end-December 2014, the size of the loan book of the Core Unit will not be higher than EUR [20 – 30] billion.

By end-December 2016, the balance sheet size of the Core Unit will not be higher than EUR [30 – 40] billion.

By end-December 2016, the size of the loan book of the Core Unit will not be higher than EUR [20 – 30] billion.

If the loan book reduction targets are not met, CX Banc will not engage in new production in terms of loans to clients as long as the targets defined above are not reached.

The RWAs for 2014 will not be higher than EUR [10 - 20] billion and not higher than EUR [10 - 20] billion for 2016. If these targets are not met, CX Banc shall present remedial actions.

CX Banc commits that the target of loan to deposit ratio (hereinafter "LDR targets") of the Core Unit is [100 - 120]% in 2014 and [100 - 120]% in 2016.

If the LDR targets are not met, CX Banc shall present remedial actions.

The Monitoring Trustee will analyse the remedial actions proposed and will report to the Commission on their adequacy to meet the targets in the Restructuring Plan.

5.3.3 Branches and FTEs

The Core Unit will reduce its current structure from [800 - 900] to [700 – 800] branches (see Appendix 6) before the end of […] and from [5 000 – 6 000] to [4 000 – 5 000] employees (FTE) before the end of […] ([4 000 – 5 000] related with banking activities and [10 - 20] managing foreclosed assets in the core region not transferred to AMC). After the year […] the number of branches and employees will not increase.

The calendar for branch closing will be as follows: [10 - 20] closures during 2013, [70 – 80] closures during 2014 and [50 – 60] closures during 2015.

The number of employees will be reduced accordingly to the branch closures and as a result of efficiencies: [100 - 200] employees during […], [300 - 400] employees during […], [300 – 400] employees during […] and [100 - 200] employees during […].

5.3.4 Activities of the Core Unit

The Core Unit shall be a pure retail bank, with a focus on its Core Region. Consequently, CX Banc shall not engage in any new business during the restructuring phase in the following areas:

(i) Loans outside the core region

(ii) Real estate development

(iii) Wholesale activities

5.4 The Legacy Unit

5.4.1 Assets and Liabilities

The following assets are allocated to the Legacy Unit (cut-off date 30 June 2012)

(xiv) EUR [5 - 10] billion of real estate mortgages;

(xv) EUR [0 - 5] billion of SME loans;

(xvi) EUR [0 - 5] billion of consumer loans;

(xvii) EUR [0 - 5] billion of public sector;

(xviii) EUR [0 - 5] billion of other loans (including large corporates)

(xix) EUR [5 - 10] billion of developers and construction, including those loans that will be transferred to the AMC;

(xx) EUR [5 - 10] billion of net real estate assets, including those assets that will be transferred to AMC;

(xxi) EUR [0 - 5] billion of fixed income assets;

(xxii) EUR [0 - 5] billion of multi-seller covered bonds;

(xxiii) EUR [0 - 5] billion of others assets;

(xxiv) non-real estate troubled assets originated outside the Core Region;

(xxv) subsidiaries (detail list in Appendix 4);

(xxvi) equity holdings (detail list in Appendix 5);

The following sites are considered as part of the Legacy Unit in the context of this restructuring plan (cut-off date 30 June 2012):

(xxvii) The previous headquarter of Caixa Tarragona in the city of […] and the [300 - 400] branches outside the Core Region;

(xxviii) All operating branches located outside the core region, except for the operating branch of […].

5.4.2 **Size**

By end-December 2014, the balance sheet size of the Legacy Unit, excluding the FROB and AMC bonds, will not be higher than EUR [5 – 10] billion.

By end-December 2016, the balance sheet size of the Legacy Unit, excluding the FROB and AMC bonds, will not be higher than EUR [0 - 5] billion.

CX Banc shall gradually reduce the size of its corporate banking loan book, namely Syndicated Loans, Project Finance and Large Corporate loans, to EUR [100 - 200] million by […].

5.4.3 **Branches and FTEs**

The Legacy Unit will reduce its current structure from [300 - 400] to 0 branches (see Appendix 7) before the end of […] and from [1 000 – 2 000] to [300 - 400] employees (FTE) before the end of […]. After the year […] the number of branches and employees will not increase. In particular, outside Catalonia, [300 – 400] branches will be either sold by the end of […] or closed down.

5.4.4 **Principles which apply to the branches to be closed and to be sold**

The final list with the branches to be closed or sold is indicative and may be subject to some small adjustments, previous approval by the Monitoring trustee. These will not in any case change the scale and total number of branch reduction, nor the geographical distribution.

<u>Principles which apply to the […] branches to be closed by […]</u>

(i) Limitation on new lending

[…]

(ii) Management of existing assets

[…]

(iii) Limitation on new deposit

[…]

(iv) Limitation on transactional products

[…].

<u>Principles which apply to the […] branches to be sold by end of […]</u>

(i) Limitation on new lending

[…]

<u>For branches with a L/D ratio >100%</u>

[…]

For branches with a L/D ratio <100%:

[…]

(ii) Management of existing assets

[…]

(iii) Limitation on new deposit

[…]

(iv) Limitation on transactional products

[…]

5.4.5 **Active winding down of the assets in the Legacy Unit**

The assets in the Legacy Unit will be managed with the sole objective of being divested, liquidated or wound down, in an orderly manner once the assets mature, minimizing the cost for taxpayers. No new activities will be undertaken, unless explicitly mentioned in the term-sheet. To that end, the following actions may be undertaken:

(i) Branches allocated to the Legacy Unit (see Appendix 7) will be closed in the following sequence: [100 - 200] branch closures during […] and [200 - 300] branch sales or closures during […];

(ii) Staff assigned to the Legacy Unit will be made redundant in the following sequence: [500 - 600] employees during […] and [700 - 800] (of which [300 - 400] will be transferred with the sale of branches) employees during […]; The remaining staff at the end of the restructuring period is allocated to the following tasks: (i) Management of the assets transferred to the AMC ([200 – 300] employees); (ii) Management of the remaining loan portfolio ([50 – 60] employees);

(iii) As a general rule, assets assigned to the Legacy Unit will be sold as quickly as possible. CX Banc commits to sell non-core assets whenever the sale does not lead to having to book a higher loss than the one included in the Restructuring Plan, unless it its approved by the Monitoring Trustee;

(iv) Sale of listed and unlisted subsidiaries/equity holdings (see Appendix 5): CX Banc commits to divest the subsidiaries/equity holdings by […].

(v) Listed subsidiaries/equity holdings: CX Banc commits to sell the entire portfolio of listed companies before […]. The stake in Gas Natural will be sold as soon as possible and not later than […]. If a divestment of any such listed subsidiary/equity holding has not taken place before […], then the sales will be executed within […] at any price.

(vi) Unlisted subsidiaries/equity holdings: CX Banc commits to sell the entire portfolio of unlisted subsidiaries before […]. In particular, CX Banc will sell the Unlisted Subsidiaries under the following minimum cumulative divestment calendar from […].

The total book value of the unlisted subsidiaries/equity holdings amounts to EUR [0 - 5] billion. CX Banc will at least divest [20 - 50]% of the book values in […], [20 - 50]% of the book values in […] and [20 - 50]% in […]. In terms of number of unlisted subsidiaries CX Banc will at least divest [20 - 50]% of the total number in […], [20 - 50]% of the total number in […] and [20 - 50]% in […].

In the period until the sale, CX Banc will do its best effort to decrease its financial exposure (loans, guarantees, etc.) to these companies but will in any case not increase its exposure.

If the subsidiaries/equity holdings mentioned above are not sold by the deadlines laid down, CX Banc will fully write down its stakes, and terminate any financial and operational involvement in the companies. Each equity holding/subsidiary will be offered to the market for the sum of […] Euro.

5.5 Sale of the Headquarters

CX Banc commits to sell or close down […] and the [300 – 400] branches outside the Core Region by […];

6. BURDEN SHARING MEASURES

6.1 For holders of preference shares and perpetual subordinated debt, burden sharing will be implemented through conversion of these securities into equity or equity equivalent instruments. As regards the holders of dated subordinated debt they will be given the choice between conversion into equity or into a senior debt instrument.

6.2 Calculation of the fair value of the different financial instruments subject to burden sharing will be based on the net present value ("NPV") of the instruments according to the methodology set out below.

6.3 Consequently, as a result of the burden sharing there will be no cash outflow from the aide bank to the holders of these securities with the sole exception of the holders of dated subordinated debt instrument who decide to convert into new debt securities with the maturity matching that of the subordinated debt being exchanged.

(A) **Methodology for the conversion into capital**

6.4 For each financial instrument the NPV will be calculated by way of discounting the cash flows of the instrument ("DCM") according to the terms and conditions upon which the instrument was issued, including coupon suspension, deferrals, etc.

6.5 The discount factors to be applied to the DCM will be: a) [10 - 20]% for preference shares and other instruments of the same rank, b) [10 - 20]% for perpetual subordinated instruments and c) [10 - 20]% for dated subordinated instruments.

6.6 Should coupon payments be discretionary or linked to the profitability of the issuing bank, it will be assumed, for the purpose of the NPV calculation, that no coupon payment will take place for the years that the bank is not profit-making, according to the restructuring plan submitted by the Spanish authorities.

6.7 The NPV will be augmented by a take-up premium of [10 - 20]% and a further [10 - 20]% premium for those securities for which conversion into equity or equity-like instruments of the issuing institution is envisaged.

6.8 The conversion rate will be maximum [90 – 100]% of the face value.

(B) **Specific provision for dated subordinated debt**

6.9 The holders of this type of security will be offered the choice between:

(i) *Conversion into a new senior debt instrument with a maturity matching that of the subordinated debt being exchanged. The conversion rate will be equal to the nominal value of the subordinated debt instrument, minus a haircut that will be equal to [0 - 5]% multiplied by the number of months to maturity. The starting date for the calculation of the number of months will be 1 December 2012. The new senior debt instrument will have a zero-coupon until maturity; and*

(ii) *Conversion into core capital of the issuing bank. The conversion rate to be applied will be the higher of: i) the amount resulting from the methodology for the conversion into core capital and ii) the amount resulting from the calculation in point i) above.*

(C) **Equity stake for the holders of securities subject to burden sharing**

6.10 The holders of securities subject to burden sharing will receive an equity stake in the bank in the form of new ordinary shares or other equity-equivalent instruments which shall be proportional to value of the bank resulting from the restructuring plans, as determined by a due diligence and three economic valuations carried out in accordance with RDL 24/2012 and the methodology put forward by the FROB in liaison with the Commission.

7. BEHAVIOURAL MEASURES AND CORPORATE GOVERNANCE

7.1 Ban on acquisitions.

CX Banc will not acquire any stake in any undertaking. This covers both undertaking which have the legal form of a company and package of assets which form a business.

That commitment will apply for a period of […] starting from the date of the Commission decision. Acquisitions that take place in the ordinary course of the banking business in the management of existing claims towards ailing firms do not fall under the ban on acquisition.

CX Banc may acquire stakes in undertakings provided that the purchase price paid by CX Banc for any acquisition is less than [0 - 5]% of the balance sheet size of EUR [80

- 90] billion at the cut-off date (30 June 2012) and that the cumulative purchase prices paid by CX Banc for all such acquisitions over the whole restructuring period is less than [0 – 5]% of the balance sheet size of EUR [80 - 90]billion at the cut-off date (30 June 2012).

7.2 **Advertising.** CX Banc must not use the granting of the aid measures or any advantages arising therefrom for advertising purposes.

7.3 **Remuneration of bodies, employees and essential agents.**

The Spanish Government undertakes to ensure that CX Banc meets the legislation applicable at the time in all salary and compensation matters, especially regulation related to remuneration limits applicable to credit institutions (primarily regulated currently by Spanish law through Royal Decrees Law 2-2012 of February 3rd and 3-2012 of February 11th; RD 771/2011 of June 3rd; Orden ECC/1762/2012 of August 3rd and Bank of Spain Circular 4/2011 of November 30th), as well as those restrictions that may arise from being an entity and/or group controlled by the Government. Likewise, it commits to ensure that CX Banc complies scrupulously with the conditions specifically imposed by the European Commission in this subject, within the Community framework for State aid.

The Government also undertakes to ensure the most efficient use of public resources, regarding compensation and salaries issues, as inspiring principle of RDL 24/2012 of August 31st, on restructuring and resolution of banks. Therefore, it will oversee that the restructuring process is very demanding, seeking that severance pays approach to the legal minimum, but with some flexibility to avoid delaying the process; it will also assess, if appropriate, to propose general and personnel expenses reductions in the Group if: the actual net margin at the end of each year is [20 - 30]% below the projected target; or the actual pre-provision profit at the end of each year is [20 - 30]% below the projected target; and always when losses are reported in the income statements at the end of each year or the entity do not comply with minimum solvency regulatory requirements on the same date. The former will apply to the CX Banc consolidated financial statements

7.4 Capital repayment:

1. Based on the audited year end accounts CX Banc will pay in form of dividend disbursement the following amounts to its shareholders:

    - For the fiscal year […]: [50 - 60]% of the excess capital above the applicable minimum capital requirement under European and Spanish law (including pillar 1 and 2) plus a capital buffer of […] bps.

    - For the fiscal years […]: [90 - 100]% of the excess capital above the applicable minimum capital requirement under European and Spanish law (including pillar 1 and 2) plus a capital buffer of […] bps.

2. Without prejudice to the competences of Bank of Spain as banking supervisor of CX Banc, the dividend disbursement shall be, totally or partially, suspended if, on the basis of a reasoned request by CX Banc endorsed by the Monotoring Trustee, it is considered that it would endanger the solvency position of the bank in the following years

3. Until […], no dividend will be paid.

7.5 **Coupon ban.** Until the burden sharing measures provided for in section 6 of this Term Sheet will have been implemented , CX Banc will not make any payments to holders of preference shares and subordinated debt, in so far as those payments are not owed on the basis of a contract or the law.

7.6 **Ban on commercial aggressive practices.** CX Banc shall avoid engaging in aggressive commercial practices throughout the duration of the Restructuring Plan. To that end, CX Banc shall make sure that the nominal interest rate offered to clients on its products must less attractive than the average of the most competitive rates offered on analogous products by the five main non-aided competitors within the geographical area where CX Banc operates as defined in the Restructuring Plan. To this end, CX Banc will operate in conformity with the restrictions approved by the Board of the FROB on 22 December 2010. The Monitoring Trustee will verify compliance with such restrictions.

8. SALE OF CX BANC

8.1 Spain shall dispose or procure the disposal either of CX Banc or the core bank as described below.

8.2 The sale of CX Banc will be conducted through a competitive tender process, with the objective to minimize the cost to tax-payers.

8.3 To carry out the said disposal, Spain shall start approaching potentially interested buyers for CX Banc by […] at the latest. It shall use its best efforts to sign a sale and purchase agreement with a prospective purchaser by no later than […].

8.4 If Spain has not entered into such an agreement by […], Spain shall appoint a Divestiture Trustee with the exclusive mandate to sell the core bank and any other CX Banc's non-core commercial activity considered relevant by the potential buyer, […].

8.5 By […], the Divesture Trustee shall propose the selected buyer or communicate the impossibility of selling the core bank, […].

8.6 Spain is entitled to reject the buyer proposed by the Divesture Trustee. In this case, or in the event that is not possible to sell the bank […], Spain shall present a resolution plan for the core bank within the three months following the announcement by the Divestiture Trustee of the results of its mandate.

8.7 Conditions on potential buyers

The buyers of CX Banc, the equity holdings and/or subsidiaries mentioned above must be entities that are legally and economically independent of the Kingdom of Spain and CX Banc.

9. MONITORING TRUSTEE

9.1 Spain is to ensure that the full and correct implementation of the Restructuring Plan and the full and correct implementation of all Commitments within this Term Sheet are continuously monitored by an independent, sufficiently qualified monitoring trustee (who is obliged to maintain confidentiality).

9.2 The appointment, duties, obligations and discharge of the monitoring trustee must follow the procedures set out in the "Monitoring Trustee" Appendix (Appendix 9).

9.3 Spain and CX Banc are to ensure that, during the implementation of the Decision, the Commission or the Monitoring Trustee have unrestricted access to all information needed to monitor the implementation of this Decision. The Commission or the trustee may ask CX Banc for explanations and clarifications. Spain and CX Banc are to cooperate fully with the Commission and the monitoring trustee with regard to all enquiries associated with monitoring of the implementation of this Decision.

9.4 CX Banc will report annually to the Commission on the evolution of the Legacy Unit after the dismissal of the monitoring trustee at the end of the restructuring period.

10. DIVESTITURE TRUSTEE

10.1 The following provisions apply to the appointment of a Divestiture Trustee:

(A) the Kingdom of Spain must propose to the European Commission for approval, no later than one month before the deadlines specified in 8.4 a list of one or more persons whom it proposes to appoint as Divestiture Trustee;

(B) the Divestiture Trustee must be appointed within one week of the European Commission's approval in accordance with the mandate approved by the European Commission;

(C) the FROB must grant comprehensive powers of attorney to the Divestiture Trustee:

(a) to effect the disposal of CX Banc (including the necessary powers to ensure the proper execution of all the documents required for effecting the disposal), notwithstanding the arrangement established in the 8.6 clause; and

(b) to take all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the disposal, including the appointment of advisors to assist with the disposal;

(D) CX must provide the Divestiture Trustee with all such co-operation, assistance and information as the Divestiture Trustee may reasonably require to perform its tasks; and

(E) the Divestiture Trustee shall be remunerated by CX Banc and in a way that does not impede the independent and effective fulfilment of the Divestiture Trustee's mandate.

Appendix 1

Balance Sheet - Core unit (bn€) -

	30/06/2012
Deposits to banks	[…]
ALM portfolio	[…]
AMC bond	[…]
FROB bond	[…]
Other fixed-income portfolio	[…]
Multi-seller covered bonds	[…]
Net loans to costumers	[…]
Gross value	[…]
Loan loss reserve	[…]
Net real estate assets	[…]
Tax assets	[…]
Others	[…]
TOTAL ASSETS	**[50 – 60]**
European Central Bank	[…]
Repos and interbank borrowing	[…]
Wholesale market funding	[…]
Multi-seller covered bonds	[…]
Retail deposits	[…]
Current acounts	[…]
Term diposits	[…]
Subordinated debt and pref. Shares	[…]
Subordinated debt (FROB)	[…]
Other liabilities	[…]
Equity (including FROB)	[…]
TOTAL LIABILITIES AND EQUITY	**[50 – 60]**

Appendix 2

Subsidiaries and others equity holdings at the core unit (June 2012)

	Activity
[…]	Gestoría de instituciones de inversión
[…]	Prestación de servicios
[…]	Correduría de seguros
[…]	Gestora de fondos de titulización
[…]	Prestaciones de servicios informáticos
[…]	Intermediación financiera
[…]	Intermediación financiera
[…]	Intermediación financiera
[…]	Seguros y gestora de fondos de pensiones
[…]	Seguros no vida
[…]	Agencia de valores
[…]	Intermediación financiera
[…]	Servicios financieros
[…]	Servicios financieros
[…]	Servicios financieros
[…]	Servicios financieros

Appendix 3

Balance Sheet – Legacy Unit (bn€) –

	30/06/2012
Deposits to banks	[…]
ALM portfolio	[…]
AMC bond	[…]
FROB bond	[…]
Other fixed-income portfolio	[…]
Multi-seller covered bonds	[…]
Net loans to costumers	[…]
Gross value	[…]
Loan loss reserve	[…]
Net real estate assets	[…]
Tax assets	[…]
Others	[…]
TOTAL ASSETS	**[30 - 40]**
European Central Bank	[…]
Repos and interbank borrowing	
Wholesale market funding	[…]
Multi-seller covered bonds	[…]
Retail deposits	[…]
Current acounts	[…]
Term diposits	[…]
Subordinated debt and pref. Shares	[…]
Subordinated debt (FROB)	[…]
Other liabilities	[…]
Equity (including FROB)	[…]
TOTAL LIABILITIES AND EQUITY	**[30 – 40]**

Appendix 4

Subsidiaries at the Legacy Unit (June 2012)

	Activity
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Inversión mobiliaria
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
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[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Arrendamiento viviendas
[…]	Producción de energía
[…]	Producción de energía
[…]	Promociones inmobiliarias
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Promociones inmobiliarias

[…]	Alquiler de inmuebles
[…]	Inversión mobiliaria
[…]	Alquiler de inmuebles
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Tenedoras de activos
[…]	Intermediación financiera
[…]	Intermediación financiera
[…]	Alquiler de inmuebles
[…]	Intermediación financiera
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Gestora de fondos
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Producción de energía
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Gestión de hoteles
[…]	Producción de energía
[…]	Prest. servicios industria plástico
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Gestión de hoteles
[…]	Promociones inmobiliarias
[…]	Producción de energía
[…]	Producción de energía
[…]	Producción de energía
[…]	Producción de energía
[…]	Inversión mobiliaria
[…]	Residencias tercera edad
[…]	Residencias tercera edad
[…]	Residencias tercera edad
[…]	Residencias tercera edad
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Producción de energía
[…]	Producción de energía
[…]	Producción de energía

[…]	Producción de energía
[…]	Inversión mobiliaria
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Explotaciones de fincas rústicas
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
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[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Gestora de capital riesgo
[…]	Producción de energía
[…]	Promociones inmobiliarias
[…]	Inversión mobiliaria
[…]	Inversión mobiliaria
[…]	Obras de ingeniería civil
[…]	Producción de energía
[…]	Mantenimiento industrial
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Promociones inmobiliarias
[…]	Intermediación financiera

Appendix 5

(i) Equity holdings at the Legacy Unit (June 2012).
Book value, in 000 Eur

Society	Amount
GAS NATURAL SDG	150,537
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
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[…]	[…]
[…]	[…]
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[…]	[…]
[…]	[…]
[…]	[…]
TOTAL EQUITY HOLDINGS	**[200 000 – 300 000]**

(ii) Subsidiaries at the Legacy Unit to be divested (June 2012).
Book value, in 000 Eur

Society	Amount	Activity
[…]	[…]	Explotaciones de fincas rústicas
[…]	[…]	Inversión mobiliaria
[…]	[…]	Servicios informáticos
[…]	[…]	Inversión mobiliaria
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía
[…]	[…]	Inversión mobiliaria
[…]	[…]	Producción de energía
[…]	[…]	Mantenimiento industrial
[…]	[…]	Inversión mobiliaria
[…]	[…]	Intermediación financiera
[…]	[…]	Gestora de fondos
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía
[…]	[…]	Gestora de capital riesgo
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía
[…]	[…]	Servicios financieros
[…]	[…]	Producción de energía
[…]	[…]	Inversión mobiliaria
[…]	[…]	Inversión mobiliaria
[…]	[…]	Inversión mobiliaria
[…]	[…]	Prest. servicios industria plástico
[…]	[…]	Inversión mobiliaria
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía
[…]	[…]	Producción de energía

[…]	[…]	Inversión mobiliaria
[…]	[…]	Obras de ingeniería civil
[…]	[…]	Gestión de hoteles
[…]	[…]	Gestión de hoteles
TOTAL SUBSIDIARIES	**[80 000 – 90 000]**	
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
[…]	--	Holding
HOLDINGS OF PREVIOUS EQUITY STAKES AND SUBSIDIARIES	**--**	

	Amount
Equity holding	[200 000 - 300 000]
Subsidiaries	[80 000 – 90 000]
TOTAL	**[280 000 – 390 000]**

Appendix 6

List of branches in Core Unit proposed to close in […]
[…]

List of branches in Core Unit proposed to close in […]
[…]

Listed of branches in Core Unit proposed to close in […]
[…]

Appendix 7

Listed of branches in Legacy Unit to be closed in […] **(**[100 - 200] **branches)**
[…]

List of branches in Legacy Unit to be sold/closed in […] **(**[200 - 300] **branches)**
[…]

List of headquarters be sold in […]
[…]

Appendix 8

ISIN CODE	ISSUER	NAME	ISSUE DATE	MATURITY DATE	OUTSTANDING AMOUNT (000)	DENOM.	COUPON YIELD
ES0214840052	CATALUNYA BANK	3ª Emisión DS (CC)	01/01/98	01/01/2013	90.152	EUR 1.502,53	PCA 12M + 0,75%
ES0214850044	CATALUNYA BANK	4ª Emisión DS (CM)	27/11/02	28/02/2013	19.787	EUR 500	EUR12M-0,25%
ES0214840201	CATALUNYA BANK	6ª Emisión DS (CC)	20/10/03	19/05/2015	200.000	EUR 1.500	EUR6M+0,10% (Min 3%; Max 6%)
ES0215346000	CATALUNYA BANK	1ª Emisión DS (CT)	01/06/00	27/05/2015	9.000	EUR 600	85% IRPH Cajas
ES0215346018	CATALUNYA BANK	2ª Emisión DS (CT)	02/11/00	27/10/2015	15.024	EUR 600	85% IRPH Cajas
ES0215346026	CATALUNYA BANK	3ª Emisión DS (CT)	17/05/01	27/04/2016	21.035	EUR 600	85% IRPH Cajas
ES0214850051	CATALUNYA BANK	5ª Emisión DS (CM)	05/05/06	05/05/2016	100.000	EUR 100.000	EUR 3M + 0,85%
ES0215346034	CATALUNYA BANK	4ª Emisión DS (CT)	02/11/01	27/10/2016	12.020	EUR 600	85% IRPH Cajas
ES0215346042	CATALUNYA BANK	5ª Emisión DS (CT)	01/02/02	27/01/2017	15.000	EUR 500	85% IRPH
ES0215346059	CATALUNYA BANK	6ª Emisión DS (CT)	25/11/02	27/11/2017	25.000	EUR 500	80% IRPH Cajas
ES0215346067	CATALUNYA BANK	7ª Emisión DS (CT)	15/07/03	27/07/2018	20.000	EUR 500	70% IRPH Cajas
ES0214840342	CATALUNYA BANK	8ª Emisión DS (CC)	28/10/08	18/12/2018	500.000	EUR 500	EUR3M+2% (Min 4%); EUR3M+2,75% (Min 4%) (17/12/13)
ES0214840235	CATALUNYA BANK	7ª Emisión DS (CC)	22/11/04	20/02/2020	300.000	EUR 1.500	4,50%; 5,25% (19/11/12)
ES0214850010	CATALUNYA BANK	1ª Emisión DS (CM)	30/09/88	Perpetual	12.020	EUR 601,01	Mibor 12M -0,50%
ES0214840011	CATALUNYA BANK	1ª Emisión DS (CC)	25/06/92	Perpetual	90.152	EUR 601,01	PCA 12M + 2,00%
KYG175431025	C.C. PREFERENTIAL ISSUANCE LIMITED	PP Serie A (CC)	02/11/99	Perpetual	300.000	EUR 1.000	EUR 3M + 0,10%
KYG175431108	C.C. PREFERENTIAL ISSUANCE LIMITED	PP Serie B (CC)	02/04/01	Perpetual	180.000	EUR 1.000	EUR 3M + 0,10%
ES0115211007	C. MANRESA PREFERENTS	1ª Emisión PP (CM)	31/03/05	Perpetual	30.000	EUR 300	EUR12M + 0,50%

Appendix 9 – The Monitoring Trustee

A Appointment of the monitoring trustee

(i) Spain undertakes to ensure that CX Banc appoints a monitoring trustee to carry out the duties of a monitoring trustee ("**Trustee**") as set out in paragraph C(x) of this Appendix. The mandate applies to the entire duration of the Restructuring Plan. At the end of the mandate, the Trustee must submit a final report.

(ii) The Trustee must be independent of CX Banc. The Trustee must possess, for example as an investment bank, consultant or auditor, the specialised knowledge that is required in order to carry out its mandate, and must at no time be exposed to any conflict of interest. The Trustee is to be remunerated by CX Banc in a way that must not impede the independent and effective fulfilment of its mandate.

(iii) Spain undertakes to ensure that CX Banc submits the names of two or more persons to the Commission for approval as monitoring Trustee no later than four weeks after notification of the Decision.

(iv) These proposals must contain sufficient information about those persons to enable the Commission to verify whether the proposed Trustee fulfils the requirements set out in paragraph A(ii), and must in particular include the following:

a) **the full terms of the proposed mandate with all the provisions which are necessary to enable the Trustee to fulfil its duties;**

b) **the draft of a work plan describing how the Trustee intends to carry out its assigned duties.**

(v) The Commission has the discretion to approve or reject the proposed Trustees and to approve the proposed mandate subject to any modifications that it deems necessary in order to enable the Trustee to fulfil its obligations. If only one name is approved, CX Banc will appoint the person or institution concerned as Trustee or cause that person or institution to be appointed, in accordance with the mandate approved by the Commission. If more than one name is approved, CX Banc is free to decide which of the approved persons should be appointed as Trustee. The Trustee will be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

(vi) If all the proposed Trustees are rejected, Spain undertakes to ensure that CX Banc submits the names of at least two further persons or institutions within two weeks of being informed of the rejection, in accordance with the requirements and procedure set out in paragraphs A(i) and A(iv).

(vii) If all further proposed Trustees are also rejected by the Commission, the Commission will nominate a Trustee which CX Banc will appoint or cause to be appointed, in accordance with a Trustee mandate approved by the Commission.

B General duties and obligations

(viii) The Trustee is to assist the Commission to ensure CX Banc's compliance with the Commitments and to assume the duties of a monitoring Trustee specified in the Commitments document. The Trustee is to carry out the duties under this mandate in accordance with the work plan, as well as revisions of the work plan that have been approved by the Commission. The Commission may, on its own initiative or at the request of the Trustee or CX Banc, issue orders or instructions to the Trustee in order to ensure compliance with the Commitments. CX Banc is not entitled to issue instructions to the Trustee.

C Duties and obligations of the Trustee

(i) The duty of the Trustee is to guarantee full and correct compliance with the obligations set out in the Commitments, and full and correct implementation of CX Banc's Restructuring Plan. The Commission may, on its own initiative or at the request of the Trustee, issue any orders or instructions to the Trustee or CX Banc in order to ensure compliance with the Commitments attached to the Decision.

(ii) The Trustee

a) **is to propose to the Commission in its first report a detailed work plan describing how it intends to monitor compliance with the Commitments attached to the Decision;**

b) **is to monitor the full and correct implementation of CX Banc's Restructuring Plan, in particular:**

(I) the reduction of the balance sheet total and the RWA;

(II) the restriction of business activities;

(III) the discontinuation of predefined business areas;

(IV) The sales process for shares in the predefined business areas;

c) **is to monitor compliance with all other Commitments,**

d) **is to assume the other functions assigned to the Trustee in the Commitments attached to the Decision;**

e) **is to propose measures to CX Banc that it considers necessary to ensure that CX Banc fulfils the Commitments attached to the Decision;**

f) **is to take into account any regulatory changes on solvency and liquidity when verifying the evolution of the actual financials with respect to the projections made in the Restructuring Plan;**

g) **is to submit a draft written report to the Commission, Spain and CX Banc within thirty days after the end of each six-month period. The Commission, Spain and CX Banc can submit comments on the draft within five working days. Within five working days of receipt of the comments, the Trustee is to prepare a final report, incorporating the comments as far as possible and at its discretion, and submit it to the Commission and to the pertinent Spanish authorities. Only afterwards the Trustee is also to send a copy of the final report to CX Banc. If the draft report or the final report contains any information that may not be disclosed to CX Banc, only a non-confidential version of the draft report or the final report is to be sent to CX Banc. Under no circumstances is the**

Trustee to submit any version of the report to Spain and/or CX Banc before submitting it to the Commission.

h) **The report is to focus on the duties set out in the mandate by the Trustee and compliance with the obligations by CX Banc, thus enabling the Commission to assess whether CX Banc is being managed in accordance with the obligations. If necessary, the Commission may specify the scope of the report in more detail. In addition to these reports, the Trustee is to report promptly in writing to the Commission if it has reasons to suppose that CX Banc is failing to comply with these obligations, sending a non-confidential version to CX Banc at the same time.**

D Duties and obligations of CX Banc

(iii) CX Banc is to provide and to require its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks under this mandate. The Trustee is to have unrestricted access to any books, records, documents, management or other personnel, facilities, sites and technical information of CX Banc or of the business to be sold that are necessary to fulfil its duties under the mandate. CX Banc is to make available to the Trustee one or more offices at its business premises and all employees of CX Banc are to be available for meetings with the Trustee in order to provide it with all the information it needs to perform its duties.

(iv) Subject to CX Banc's approval (this approval may not to be unreasonably withheld or delayed) and at its expense, the Trustee may appoint advisors (in particular for corporate finance or legal advice), if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the mandate, provided that any costs and other expenses incurred by the Trustee are reasonable. Should CX Banc refuse to approve the advisors proposed by the Trustee, the Commission may approve their appointment instead, after hearing CX Banc's reasons. Only the Trustee is entitled to issue instructions to the advisors.

E Replacement, discharge and reappointment of the Trustee

(v) If the Trustee terminates its functions under the Commitments or if there are any other significant grounds, such as a conflict of interest on the part of the Trustee,

a) **the Commission can, after hearing the Trustee, require CX Banc to replace it, or**

b) **CX Banc, with the approval of the Commission, can replace the Trustee.**

(vi) If the Trustee is removed in accordance with paragraph E(xiii), it may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full handover of all relevant information. The new Trustee is to be appointed in accordance with the procedure referred to in paragraphs A(i) to A(vi).

Besides removal in accordance with paragraph E(xiii), the Trustee is to cease its activities only after the Commission has discharged it from its duties. This discharge is to take place when all the obligations with which the Trustee has been entrusted have been implemented. However, the

Commission may at any time require the reappointment of the Trustee if it is subsequently found that the relevant remedies have not been fully and properly implemented.