



**Merrill Lynch & Co., Inc.**  
**U.S.\$50,000,000,000**  
**Euro Medium-Term Note Program**  
 for the issue of Notes  
 with a minimum maturity of one week

On October 5, 1992, Merrill Lynch & Co., Inc. (the "Company" or the "Issuer") established a U.S.\$1,000,000,000 Euro Medium-Term Note Program (the "Program") and issued an offering circular on that date describing the Program. The Program has been increased in size and updated from time to time and several offering circulars have been issued in connection therewith. This Base Prospectus supersedes all offering circulars issued prior to the date hereof. Notes to be issued under the Program on or after the date of this Base Prospectus are issued subject to the provisions described herein. This does not affect Notes already in issue. The Company has also prepared a registration document (the "Registration Document") for use in connection with the issue of Notes under the Program. Notes issuable under the Program by way of Registration Document shall be documented in a securities note (the "Securities Note"). The Registration Document and any Securities Note prepared in connection therewith do not form part of this Base Prospectus.

Under this U.S.\$50,000,000,000 Euro Medium-Term Note Program, the Company may from time to time issue debt securities (the "Notes") denominated in any currency agreed by the Company and the relevant Purchaser(s) (as defined below). The Notes will have maturities of one week or longer (or such other minimum or maximum maturity as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant currency) and, subject as set out herein, the maximum aggregate principal amount of all Notes from time to time outstanding will not exceed U.S.\$50,000,000,000 (or its equivalent in other currencies), calculated as described herein. The Company may issue Notes that bear interest at fixed or floating rates or no interest at all. The Company also may issue Notes the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other property. The terms of each particular issue of the Notes will be set forth in the applicable Final Terms (as defined below).

The Notes will be issued to one or more of the dealers specified under "Summary of Terms and Conditions of the Program and the Notes" (each a "Dealer" and, together the "Dealers") on a continuing basis. Notes may also be issued to other dealers and to third parties other than dealers. The Dealers and such other dealers and third parties are referred to as "Purchasers".

The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the "Securities Act"), and will be issued in bearer or registered form and are subject to U.S. tax law requirements. The Notes may not at any time be reoffered, resold, pledged, exchanged or otherwise transferred, directly or indirectly, in the United States or to, or for the account of, any U.S. person. (see "Subscription and Sale").

In relation to each separate issue of Notes, the final offer price and amount of such Notes will be determined by the Company and the relevant Dealers in accordance with prevailing market conditions at the time of the issue of the Notes and will be set out in the applicable Final Terms.

Application has been made to the Financial Services Authority (the "FSA") in its capacity as competent authority under the Financial Services and Markets Act 2000 ("FSMA") (the "UK Listing Authority") for this Base Prospectus to be approved for use in connection with Notes issued by means of this Base Prospectus under the Program during the period of twelve months from the date of this Base Prospectus to be admitted to the Official List of the UK Listing Authority (the "Official List") and application will be made to the London Stock Exchange plc (the "London Stock Exchange") for such Notes to be admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market. References in this Base Prospectus to Notes being "listed" (and all related references) shall mean that such Notes have been admitted to the Official List and have been admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market. The London Stock Exchange's Gilt Edged and Fixed Interest Market is a regulated market for the purposes of Directive 93/22/EC (the "Investment Services Directive"). The UK Listing Authority has been requested to provide the Luxembourg Commission de Surveillance de Secteur Financier (the "CSSF") with a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with Directive 2003/71/EC (the "Prospectus Directive") for Notes to be admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange. The Company may issue Notes (i) that bear interest, at fixed rates or floating rates or no interest at all, (ii) whose principal, interest or other consideration (which may include cash, securities and/or other property) payable thereon or deliverable pursuant thereto (such other consideration, "Specified Amounts") are linked to the level of an index, portfolio or formula based on one or more currencies, equity or debt securities or commodities, or the credit of one or more specified entities or any combination thereof, and (iii) the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of cash, shares, securities and/or other property or any combination of cash, shares, securities and/or other property. Notice of the aggregate principal amount of, interest (if any) payable with respect to, the Issue Price (as defined in the applicable Final Terms) of, and any other terms and conditions not contained herein which are applicable to, each Tranche (as defined under "Terms and Conditions of the Notes") of Notes together with certain other information required by the Prospectus Directive will be set forth in the applicable final terms (the "Final Terms") or which, with respect to Notes admitted to the Official List and to be admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market, will be delivered to the UK Listing Authority and the London Stock Exchange on or before the date of issue of such Notes. Copies of each Final Terms will be available from the specified office of each of the Paying Agents (as defined under "Form of the Notes"), subject to conditions set forth herein (see "Terms and Conditions of the Notes"). The relevant Final Terms will indicate the stock exchange or market, if any, on or by which each Tranche of Notes will be listed, and/or admitted to trading.

See "Risk Factors" on page 8 for a discussion of certain risks that should be considered in connection with an investment in certain types of Notes which may be offered hereby.

The Notes of each Tranche issued in bearer form ("Bearer Notes") will initially be represented by one or more temporary global Notes which will be deposited on the issue date thereof with (i) if the temporary global Note is intended to be issued in new global note ("NGN") form as specified in the applicable Final Terms, a common safekeeper (the "Common Safekeeper") for Euroclear Bank S.A./N.V. ("Euroclear"), and Clearstream Banking, société anonyme ("Clearstream, Luxembourg") and (ii) if the temporary global Note is intended to be issued in classic global note ("CGN") form as specified in the applicable Final Terms, a common depositary on behalf of Euroclear and Clearstream, Luxembourg and/or such other clearing system as otherwise agreed, as further described under "Form of the Notes" herein. Beneficial interests in a temporary global Note will be exchangeable for beneficial interests in a permanent global Note or, in certain circumstances described herein, for definitive Notes and beneficial interests in a permanent global Note will be exchangeable for definitive Notes. Beneficial interests in temporary and permanent global Notes will be exchangeable only in the manner and upon compliance with the procedures described under "Form of the Notes" herein. Temporary and permanent global Notes and definitive Notes will be issued in bearer or registered form, as applicable, and in such denominations as may be agreed between the Company and the relevant Purchaser(s). Notwithstanding the foregoing, Notes with maturities of seven days or more but less than 184 days from (but not including) the issue date which have denominations of less than U.S.\$500,000 (or the equivalent in other currencies) (the "Registered Short-term Notes") will be issued in registered form only, and such Registered Short-term Notes and the Notes of each Tranche issued in registered form (such registered notes together with Registered Short-term Notes, the "Registered Notes") will be represented by one or more global Notes registered in the name of a nominee for the common depositary for Euroclear and Clearstream, Luxembourg and/or such other clearing system as otherwise agreed. Payments of principal and interest with respect to the Registered Notes will be made only upon compliance with certain certification requirements as described under "Terms and Conditions of the Notes".

The Program has been rated by Fitch Ratings ("Fitch"), Moody's Investors Service, Inc. ("Moody's"), and by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"). The Notes of each Tranche issued under the Program may be rated or unrated. Where the Notes of a Tranche are rated, such rating will not necessarily be the same as the rating(s) assigned to the Program. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

Notes issued under the Program are, unless otherwise specified in the applicable Final Terms, expected to be rated AA- by Fitch, Aa3 by Moody's and A+/A-1 by S&P. See "Ratings" in "Form of Retail Final Terms" on page 37 for a brief explanation of the meaning of the ratings.

The Company may agree with any Purchaser(s) that the Notes may be issued in a form other than that contemplated under "Terms and Conditions of the Notes" herein, in which event a supplementary prospectus, if appropriate, will be made available which will describe the effect of the agreement reached in relation to such Notes.

**Arranger**  
**Merrill Lynch International**  
**Dealers**

**Merrill Lynch International**

**Merrill Lynch Capital Markets AG**

**Merrill Lynch (Singapore) Pte. Ltd.**

This prospectus comprises a base prospectus for the purposes of Article 5.4 of the Prospectus Directive (the “Base Prospectus”). This Base Prospectus has been approved by the UK Listing Authority as a Base Prospectus for the purposes of Article 5.4 of the Prospectus Directive and Part VI of the FSMA. This Base Prospectus is not a prospectus for purposes of Section 12(a)(2) or any other provision of or rule under the Securities Act.

The Company accepts responsibility for the information contained in this Base Prospectus. To the best of the knowledge and belief of the Company (which has taken all reasonable care to ensure that such is the case) the information contained in this Base Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

Deloitte & Touche LLP accepts responsibility for its 2004 Auditors’ Report and 2005 Auditors’ Report (as each is defined in the section entitled “Documents Incorporated by Reference” herein). To the best of the knowledge and belief of Deloitte & Touche LLP (which has taken all reasonable care to ensure that such is the case) the information contained in the 2004 Auditors’ Report and 2005 Auditors’ Report is in accordance with the facts and does not omit anything likely to affect the import of such information.

None of the Dealers has separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by the Dealers as to the accuracy or completeness of the information contained in this Base Prospectus or any other information provided by the Company in connection with the Notes. No Dealer accepts liability in relation to the information contained in this Base Prospectus or any other information provided by the Company in connection with the Notes.

No person has been authorized to give any information or to make any representation not contained in or not consistent with this Base Prospectus or any other information supplied by the Company in connection with the Notes and, if given or made, such information or representation must not be relied upon as having been authorized by the Company or the Dealers.

Neither this Base Prospectus nor any other information supplied in connection with the Notes is intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation by the Company or any of the Dealers that any recipient of this Base Prospectus or any other information supplied in connection with the Notes should purchase any of the Notes. Each investor contemplating purchasing any of the Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Company. Neither this Base Prospectus nor any other information supplied in connection with the Notes constitutes an offer or invitation by or on behalf of the Company or any of the Dealers to any person to purchase any Notes other than the Notes described in the relevant Final Terms relating thereto.

The delivery of this Base Prospectus does not at any time imply that the information contained herein concerning the Company is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Notes is correct as of any time subsequent to the date indicated in the document containing the same. None of the Dealers undertakes to review the financial condition or affairs of the Company and its subsidiaries during the life of the Program. Investors should review, inter alia, the most recent financial statements of the Company when deciding whether or not to purchase any of the Notes.

The distribution of this Base Prospectus and the offer or sale of the Notes may be restricted by law in certain jurisdictions. Persons into whose possession this Base Prospectus or any Notes come must inform themselves about, and observe, any such restrictions. In particular, there are restrictions on the distribution of this Base Prospectus and the offer or sale of the Notes in the United States of America, the United Kingdom, Japan and Singapore (see “Subscription and Sale”).

In this Base Prospectus, references to “U.S.\$” and “U.S. Dollars” are to United States dollars, references to “EUR”, “Euro”, “€” and “euro” are to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Communities, as amended by the Treaty on European Union and the Treaty of Amsterdam (such first mentioned Treaty as so amended, the “Treaty”), references to “Yen” and “¥” are to Japanese Yen and references to “Sterling” and “£” are to United Kingdom Pounds Sterling.

**In connection with the issue of any Tranche of Notes, the Relevant Dealer (if any) named as the stabilizing manager (or persons acting on behalf of any Stabilizing Manager(s)) in the applicable Final Terms or Prospectus (as the case may be) (the “Stabilizing Manager”) may over-allot Notes (provided that, in the case of any Tranche of Notes to be admitted to trading on the London Stock Exchange’s Gilt Edged and Fixed Interest Market and/or the regulated market of the Luxembourg Stock Exchange and/or any other regulated market (within the meaning of the Investment Services Directive) in the European Economic Area, the aggregate principal amount of Notes allotted does not exceed 105 per cent. of the aggregate principal amount of the Tranche of Notes) or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilizing Manager (or persons acting on behalf of the Stabilizing Manager) will undertake stabilization action. Any stabilization action may begin on or after the date on which adequate public disclosure of the final terms of the offer of the Tranche of Notes is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Tranche of Notes and 60 days after the date of the allotment of the Tranche of Notes.**

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## DOCUMENTS INCORPORATED BY REFERENCE

The following documents which have been previously published or are published simultaneously with the Base Prospectus and which, in each case, have been approved by the Financial Services Authority or filed with it, shall be deemed to be incorporated in, and to form part of, this Base Prospectus:

- (a) the Company's 2005 Annual Report on Form 10-K for the year ended December 30, 2005 (the "**2005 Annual Report**") (excluding the documents listed as Exhibits on pages 137 to 140 (*Exhibits and Financial Statement Schedules*)), which includes the audited consolidated balance sheets of the Company and its subsidiaries as of December 30, 2005 and December 31, 2004, and the related consolidated statements of earnings, changes in stockholders' equity, comprehensive income and cash flows for each of the three years in the period ended December 30, 2005, and the auditors' report dated February 27, 2006 thereon (the "**2005 Auditors' Report**");
- (b) the Company's 2004 Annual Report on Form 10-K for the year ended December 31, 2004 (the "**2004 Annual Report**") (excluding the documents listed as Exhibits in Part IV, Item 15, on pages 32 to 35 (*Exhibits and Financial Statement Schedules*)), which includes the audited consolidated balance sheets of the Company and its subsidiaries as of December 31, 2004 and December 26, 2003, and the related consolidated statements of earnings, changes in stockholders' equity, comprehensive income and cash flows for each of the three years in the period ended December 31, 2004, and the auditors' report dated March 2, 2005 thereon (the "**2004 Auditors' Report**");
- (c) the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2006 (the "**March 2006 10-Q**"); and
- (d) the Company's 2006 Proxy Statement dated March 10, 2006 in connection with its Annual Meeting of Shareholders (the "**Proxy Statement**"),

save that any statement contained in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this Base Prospectus to the extent that a statement contained herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Base Prospectus.

The following documents, which documents may be produced or issued from time to time after the date hereof, shall be deemed to be incorporated in, and to form part of, this Base Prospectus, upon publication (although all such documents will not form part of this base prospectus for the purposes of Article 5.4 of the Prospectus Directive):

- (i) the most recent annual report on Form 10-K and proxy statement of the Company filed with the United States Securities and Exchange Commission (the "**Commission**"); and
- (ii) any other reports filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the United States Securities Exchange Act of 1934, as amended (the "**Exchange Act**") and the rules and regulations thereunder subsequent to the date of the financial statements included in the annual report on Form 10-K referred to in sub-paragraph (a) above including, without limitation, any quarterly report on Form 10-Q.

This Base Prospectus should be read and construed with any amendment or supplement hereto and with any other document incorporated by reference herein and, in relation to any Series (as defined under "**Terms and Conditions of the Notes**" below), should be read and construed together with the relevant Final Terms.

Any supplements to this Base Prospectus and all Final Terms circulated by the Company from time to time will incorporate by reference this Base Prospectus. Supplements to this Base Prospectus may also incorporate by reference other documents as specified therein.

The Company will provide, without charge, to each person to whom a copy of this Base Prospectus has been delivered, upon the oral or written request of such person, a copy of any or all of the documents which or portions of which are incorporated by reference herein. Written or oral requests for such documents should be directed to the principal office of Deutsche Bank AG, London Branch, the issuing and principal paying agent for the Notes. Copies of documents incorporated by reference in this Base Prospectus can also be obtained from the Company's corporate secretary's office at 222 Broadway, 17th Floor New York, New York 10038-2510, USA.

## SUMMARY

*This summary must be read as an introduction to this Base Prospectus. Any decision to invest in any Notes should be based on a consideration of this Base Prospectus as a whole, including the documents incorporated by reference, by any investor. No civil liability attaches to the Company in respect of this summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of this Base Prospectus. Where a claim relating to information contained in this Base Prospectus is brought before a Court in an European Economic Area member state (each, an “EEA State”), the plaintiff may, under the national legislation of the EEA State where the claim is brought, be required to bear the costs of translating the Base Prospectus before the legal proceedings are initiated.*

*The following summary does not purport to be complete and is taken from, and is qualified in its entirety by the remainder of this Base Prospectus and, in relation to the terms and conditions and risk factors of any particular Series of Notes, the applicable Final Terms. Words and expressions defined under “Form of the Notes” and “Terms and Conditions of the Notes” below shall have the same meanings in this summary.*

<b>Issuer:</b>	Merrill Lynch & Co., Inc. (the “ <b>Company</b> ”), a Delaware corporation, is a holding company that, through its subsidiaries and affiliates, provides broker-dealer, investment banking, financing, wealth management, advisory, asset management, insurance, lending and related products and services on a global basis. The Company provides these products and services to a wide array of clients, including individual investors, small and large businesses, public companies, financial institutions, governments and government agencies. The Company conducts business from various locations throughout the world.
<b>Arranger:</b>	Merrill Lynch International.
<b>Dealers:</b>	Merrill Lynch International. Merrill Lynch Capital Markets AG. Merrill Lynch (Singapore) Pte. Ltd.  Notes may also be issued to other dealers and to third parties other than dealers.
<b>Issuing and Principal Paying Agent:</b>	Deutsche Bank AG, London Branch.
<b>Amount:</b>	Up to U.S.\$50,000,000,000 (or its equivalent in other currencies calculated as described herein) at any time. The Company will have the option at any time to increase the aggregate principal amount of the Program in accordance with the terms of the Program Agreement.
<b>Distribution:</b>	Notes may be distributed outside the United States to persons other than U.S. persons (as such terms are defined in Regulation S under the Securities Act) by way of private or public placement, in each case on a syndicated or non-syndicated basis, subject to the selling restrictions described under “Subscription and Sale”.
<b>Currencies:</b>	Subject to any applicable legal or regulatory restrictions, such currencies as may be agreed between the Company and the relevant Purchaser(s) (as indicated in the applicable Final Terms).
<b>Maturity Consideration:</b>	The Company may issue Notes the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other

property. The terms of such Notes and the conditions upon which such payment and/or discharge may be effected will be set forth in the applicable Final Terms.

**Maturities:**

Any maturity of one week or longer, as indicated in the applicable Final Terms (or such other minimum or maximum maturity as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Specified Currency). Notwithstanding the foregoing, Registered Short-term Notes will have maturities of seven days or more but less than 184 days from (but not including) their issue date.

**Issue Price:**

Notes may be issued on a fully paid or a partly paid basis and at an issue price which is equal to, less than or more than their principal amount.

**Form of Notes:**

Notes may be issued in either bearer form ("**Bearer Notes**"), and if in bearer form either in new global note form or classic global note form, or registered form ("**Registered Notes**") as specified in the applicable Final Terms and as more fully described in "Form of the Notes".

**Types of Notes:**

Notes, including, but not limited to, the following may be issued under the Program:

- Fixed Rate Notes;
- Floating Rate Notes;
- Dual Currency Notes;
- Indexed Notes;
- Equity Linked Notes;
- Credit Linked Notes; and
- Zero Coupon Notes

**Interest payable on the Notes:**

Interest payable on the Notes shall be on the terms as the Company and the relevant Purchaser(s) may agree as indicated in the applicable Final Terms.

**Other Notes:**

Notes with respect to which payment of principal and/or interest is linked to any other source not referred to above will be issued on terms agreed between the Company and the relevant Purchaser(s) and set out in the applicable Final Terms.

**Redemption:**

The Final Terms relating to each Tranche of Notes will indicate either that the Notes of that series cannot be redeemed prior to their stated maturity (other than for taxation reasons or upon the other circumstances described in Condition 8 or upon acceleration of the Notes pursuant to Condition 12) or that such Notes will be redeemable at the option of the Company and/or the Noteholders upon giving not more than 60 nor less than 30 days irrevocable notice (or such lesser notice period (if any) as is specified in the applicable Final Terms) to the Noteholders or the Company, as the case may be, on a date or dates specified prior to such stated maturity and at a price or prices and on such other terms as are indicated in the applicable Final Terms.

Unless permitted by then current laws, regulations and directives, Notes (including Notes denominated in Sterling) in respect of which the issue proceeds are received by the Company in the



United Kingdom and which have a maturity of less than one year will only be issued if (a) the redemption value of each such Note is not less than £100,000 as determined at the time of issuance or an amount of equivalent value denominated wholly or partly in a currency other than Sterling, (b) no part of any Note may be transferred unless the redemption value of that part is not less than £100,000, or such an equivalent amount, and (c) they are issued to a limited class of professional investors, unless the relevant Note(s) can be issued and sold without contravention of section 19 of the FSMA.

**Denomination of Notes:**

Such denominations as may be agreed between the Company and the relevant Purchaser(s) and indicated in the applicable Final Terms, subject to such other minimum denomination as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Specified Currency.

Notes with maturities of 183 days or less (other than Registered Short-term Notes) will have a minimum denomination of U.S.\$500,000 (or its equivalent in other currencies).

**Taxation:**

All payments with respect to the Notes will be made without withholding or deduction for or on account of any taxes or other charges imposed by any governmental authority or agency in the United States, except as provided in Condition 8.

**Status of the Notes:**

The Notes will constitute direct, unsecured, unsubordinated and general obligations of the Company and will rank *pari passu* with all other unsecured and unsubordinated indebtedness of the Company.

**Rating:**

The Program has been rated by Fitch, Moody's and S&P. The Notes of each Tranche issued under the Program may be rated or unrated. Where the Notes of a Tranche are rated, such rating will not necessarily be the same as the rating(s) assigned to the Program. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

**Listing:**

Each Series of Notes may be admitted to the Official List and admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market or listed and/or admitted to trading on or by such other or additional stock exchange(s), and/or markets as may be agreed between the Company and the relevant Purchaser(s) or may be unlisted, in each case as specified in the applicable Final Terms.

**Governing Law:**

The Notes will be governed by, and construed in accordance with, the laws of the State of New York, United States.

**Selling Restrictions:**

The Notes have not been and will not be registered under the Securities Act and may not at any time be offered, sold, resold or delivered, directly or indirectly, in the United States or to, or for the account or benefit of, any U.S. person. In addition, the Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or to United States Persons, as that term is defined below in "United States Income

and Estate Taxes”. For a description of certain restrictions on offers, sales and deliveries of Notes in the United States, European Economic Area, United Kingdom, Japan and Singapore, see “Subscription and Sale”.

**Risk Factors:**

*Prospective investors should consult their own financial and legal advisors about risks associated with an investment in such Notes and the suitability of investing in such Notes in light of their particular circumstances. The following summary does not purport to be complete and is taken from, and is qualified in its entirety by the “Risk Factors” section of this Base Prospectus and, in relation to any particular Series of Notes, the risk factors included in the applicable Final Terms.*

**Risks Relating to Merrill Lynch’s\* Business**

*Market Risk.* The financial services industry is influenced by unpredictable factors including economic conditions, availability and cost of capital, international and regional political events, acts of war or terrorism and investor sentiment which may result in volatility in interest rates, exchange rates, equity and commodity prices, and credit spreads. Merrill Lynch may incur losses as a result of increased market volatility. Conversely, a decline in volatility may adversely affect the results in Merrill Lynch’s trading businesses.

*Credit Risk.* Merrill Lynch is exposed to potential credit-related losses as a result of counterparties failing to honor their contractual obligations, which could have an adverse effect on Merrill Lynch’s business and profitability. These exposures may arise from, a decline in the financial condition of a counterparty, a decrease in the value of securities of third parties held by Merrill Lynch as collateral, entering into swap or other derivative contracts under which counterparties have long-term obligations to make payments to Merrill Lynch, and extending credit to clients through loans or other arrangements.

*Operational Risk.* Merrill Lynch may incur losses arising from its exposure to operational risk resulting from inadequate or failed internal processes, people and systems or from external events, including, exposure to natural or man-made disasters, mistakes made in the confirmation or settlement of transactions, evaluating or accounting for transactions. Merrill Lynch could suffer financial loss, disruption of its business, liability to clients, regulatory intervention or reputational damage, which would affect its business and financial condition.

*Liquidity Risk.* Merrill Lynch’s liquidity may be impaired due to circumstances beyond its control that affect its trading clients, third parties or itself. Sales of assets may also be impaired if other market participants are seeking to sell similar assets at the same time. The inability of Merrill Lynch to borrow funds or sell assets to meet maturing obligations, a negative change in its credit ratings or regulatory capital restrictions imposed on the free flows of funds between Merrill Lynch and its affiliates may have a negative effect on its business and financial condition.

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\* Unless the context otherwise requires, the term “**Merrill Lynch**” means the Company and its consolidated subsidiaries.

*Litigation Risk.* Legal proceedings could adversely affect Merrill Lynch's operating results and financial condition for a particular period and impact its credit ratings. Merrill Lynch has been named as a defendant in various legal actions, including investigations and/or proceedings by governmental and self-regulatory agencies. Some of the legal actions include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages and some are likely to result in adverse judgments, penalties, injunctions, fines or other relief.

*Regulatory and Legislative Risk.* Merrill Lynch's businesses may be adversely affected by regulatory and legislative initiatives imposed by various regulatory and exchange authorities, self-regulatory organizations and industry participants that continue to review and, in many cases, adopt changes to their established rules and policies.

*Competitive Environment.* Competitive pressures could adversely affect Merrill Lynch's business. Merrill Lynch competes globally for clients on the basis of price, product ranges, service quality, financial resources, and product and service innovation, and competes with commercial banks and other broker-dealers in brokerage (where it has experienced intense price competition), underwriting, trading, financing and advisory businesses. Merrill Lynch competes for investment funds with a range of financial institutions. Many of Merrill Lynch's non-U.S. competitors may have competitive advantages in their home markets.

## **Risks Relating to the Notes**

*Structure Risks.* An investment in Notes where any payment or maturity consideration is determined by reference to any equities or debt securities, indices, baskets, formulas or other assets or basis of reference will entail significant risks which include, without limitation, changes in the level or value of the relevant underlying asset or other basis of reference and the possibility that an investor will receive a lower (or no) amount of principal, premium, interest or other consideration than expected. The Company has no control over a number of matters that are important in determining the existence, magnitude and longevity of such risks and their results, including, but not limited to, economic, financial and political events.

For *further* risks relating to the Notes, including the risks associated with Indexed Notes (including Equity Linked Notes), Credit Linked Notes, Reverse Floating Rate Notes, Zero Coupon Notes and Foreign Currency Notes, see "Risk Factors—Risks Relating to the Notes" below.

*Redemption.* If the Notes are subject to early redemption (whether optional or mandatory), the Notes may be redeemed at times when prevailing interest rates may be relatively low. Accordingly, an investor generally may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the Notes redeemed.

*Uncertain Trading Markets.* The Company cannot assure investors that any trading market will develop or be maintained for the



Notes. Factors that affect the trading market of the Notes include the complexity and volatility of the index or other basis of reference applicable; the method of calculating the principal, premium and interest, or other considerations; the time remaining to the maturity; the outstanding principal amount; the redemption features; the amount of other debt securities linked to the index or other basis of reference; and the level, direction and volatility of market interest rates generally. Investors may not be able to sell such Notes readily or at prices that will enable them to realize their anticipated yield.

*Exchange Listing.* When the Notes are listed on an EU Exchange, the Company expects, but is not obligated, to maintain such listing. Changed circumstances could result in a suspension or removal of any such listing or cause the Company to conclude that continued listing of the Notes is unduly burdensome. De-listing may have a material affect on secondary market trading.

*Credit Ratings.* The credit ratings assigned to the Program are a reflection of the rating agencies' respective assessment of the Company's ability to pay its obligations and may not reflect the potential impact of all risks related to structure, market or other factors on the value of the Notes. Real or anticipated changes in credit ratings will generally affect the market value of the Notes.

*Potential conflicts.* The Company and its affiliates may from time to time buy or sell obligations or have positions in securities economically related to a series of Notes for their own account for business reasons or in connection with hedging of the obligations under the particular series of Notes. They have not considered, and are not required to consider, the interests of investors as holders of the Notes in connection with entering into any of the above mentioned transactions.

## RISK FACTORS

*Prospective investors should consult their own financial and legal advisors about risks associated with an investment in such Notes and the suitability of investing in such Notes in light of their particular circumstances. In particular, Notes where the amount payable or deliverable in respect thereof is determined by reference to one or more equity or debt securities, indices or other assets or basis of reference or is dependent on the credit performance of one or more specified entities, are not an appropriate investment for investors who are unsophisticated with respect to such transactions.*

### **Risks Relating to Merrill Lynch's<sup>1</sup> Business**

In the course of conducting its business operations, Merrill Lynch could be exposed to a variety of risks that are inherent to the financial services business. A summary of some of the significant risks that could affect Merrill Lynch's financial condition and results of operations is included below. Some of these risks are managed in accordance with established risk management policies and procedures, most of which are described in the Risk Management section under the heading "Management's Discussion and Analysis" included in the 2005 Annual Report.

#### *Market Risk*

***Merrill Lynch's various businesses may be adversely impacted by global market and economic conditions that may cause fluctuations in interest rates, exchange rates, equity and commodity prices and credit spreads.***

The financial services industry and the global financial markets are influenced by numerous unpredictable factors including economic conditions, monetary and fiscal policies, the liquidity of global markets, availability and cost of capital, international and regional political events, acts of war or terrorism and investor sentiment. Changes in these factors may result in volatility in interest rates, exchange rates, equity and commodity prices, and credit spreads. Merrill Lynch has a large and increasing amount of trading and investment positions, which include proprietary trading positions in fixed income, currency, commodities and equity securities, as well as in real estate, private equity and other investments. Merrill Lynch may incur losses as a result of increased market volatility, as these fluctuations may adversely impact the valuation of its trading and investment positions. Conversely, a decline in volatility may adversely affect the results in Merrill Lynch's trading businesses, which depend on market volatility to create client and proprietary trading opportunities.

#### *Credit Risk*

***Merrill Lynch may incur losses from its credit exposure related to trading, lending, and other business activities.***

Merrill Lynch is exposed to the potential for credit-related losses that can occur as a result of an individual, counterparty or issuer being unable or unwilling to honor its contractual obligations. These credit exposures exist within lending relationships, commitments, letters of credit, derivatives, foreign exchange and other transactions. These exposures may arise, for example, from a decline in the financial condition of a counterparty, from a decrease in the value of securities of third parties held by Merrill Lynch as collateral, from entering into swap or other derivative contracts under which counterparties have long-term obligations to make payments to Merrill Lynch, and from extending credit to clients through loans or other arrangements. An increase in Merrill Lynch's credit exposure could have an adverse effect on its business and profitability if credit losses exceed credit provisions.

#### *Operational Risk*

***Merrill Lynch may incur losses from inadequate or failed internal processes, people and systems or from external events.***

Merrill Lynch may incur losses arising from its exposure to operational risk. Financial services firms, including Merrill Lynch, are exposed to the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. Such operational risks may include, for example, exposure to natural

<sup>1</sup> Unless the context otherwise requires, the term "Merrill Lynch" means the Company and its consolidated subsidiaries.

or man-made disasters, mistakes made in the confirmation or settlement of transactions or from improper recording, evaluating or accounting for transactions. Merrill Lynch could suffer financial loss, disruption of its business, liability to clients, regulatory intervention or reputational damage, which would affect its business and financial condition.

#### *Liquidity Risk*

***Merrill Lynch's business and financial condition may be adversely impacted by an inability to borrow funds or sell assets to meet maturing obligations.***

Financial services firms, including Merrill Lynch, are exposed to liquidity risk, which is the potential inability to repay short-term borrowings with new borrowings or assets that can be quickly converted into cash while meeting other obligations and continuing to operate as a going concern. Merrill Lynch's liquidity may be impaired due to circumstances that it may be unable to control, such as general market disruptions or an operational problem that affects its trading clients, third parties or itself. Merrill Lynch's ability to sell assets may also be impaired if other market participants are seeking to sell similar assets at the same time. The inability of Merrill Lynch to borrow funds or sell assets to meet maturing obligations, a negative change in its credit ratings, which would have an adverse effect on its ability to borrow funds, or regulatory capital restrictions imposed on the free flows of funds between Merrill Lynch and its affiliates may have a negative effect on its business and financial condition.

#### *Litigation Risk*

***Legal proceedings could adversely affect Merrill Lynch's operating results and financial condition for a particular period and impact its credit ratings.***

Merrill Lynch has been named as a defendant in various legal actions, including arbitrations, class actions, and other litigation arising in connection with its activities as a global diversified financial services institution. Some of the legal actions against Merrill Lynch include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. In some cases, the issuers who would otherwise be the primary defendants are bankrupt or otherwise in financial distress. Given the number of these matters, some are likely to result in adverse judgments, penalties, injunctions, fines, or other relief. Merrill Lynch is also involved in investigations and/or proceedings by governmental and self-regulatory agencies. The number of these investigations has also increased in recent years with regard to many firms, including Merrill Lynch.

Merrill Lynch may explore potential settlements before a case is taken through trial because of uncertainty and risks inherent in the litigation process. In accordance with Statement of Financial Accounting Standards ("SFAS") No. 5, Accounting for Contingencies, Merrill Lynch will accrue a liability when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In many lawsuits and arbitrations, including almost all of the class action lawsuits, it is not possible to determine whether a liability has been incurred or to estimate the ultimate or minimum amount of that liability until the case is close to resolution, in which case no accrual is made until that time. In view of the inherent difficulty of predicting the outcome of such matters, particularly in cases in which claimants seek substantial or indeterminate damages, Merrill Lynch cannot predict what the eventual loss or range of loss related to such matters will be, which may be material to its operating results or cash flows for any particular period and may impact its credit ratings. For further information about Merrill Lynch's legal and regulatory investigations and proceedings, see "General Information—Litigation".

#### *Regulatory and Legislative Risks*

***Many of Merrill Lynch's businesses are highly regulated and could be adversely impacted by regulatory and legislative initiatives around the world.***

Merrill Lynch's businesses may be adversely affected by regulatory and legislative initiatives imposed by various U.S. and non-U.S. regulatory and exchange authorities, such as federal and state securities regulators including the SEC, the FSA, self-regulatory organizations including The New York Stock Exchange, Inc. ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"), and industry participants that continue to review and, in many cases, adopt changes to their established rules and policies. Such changes have occurred in areas such as corporate governance, anti-money laundering, privacy, research analyst conflicts of interest and qualifications, practices related to the issuance of securities, mutual fund trading, disclosure practices and auditor independence.

## *Competitive Environment*

***Competitive pressures in the financial services industry in which Merrill Lynch operates could adversely affect its business and results of operations.***

Merrill Lynch competes globally for individual and institutional clients on the basis of price, the range of products that it offers, the quality of its services, its financial resources, and product and service innovation. The financial services industry continues to be affected by an intensifying competitive environment, as demonstrated by the introduction of new technology platforms, consolidation through mergers, increased competition from new and established industry participants and diminishing margins in many mature products and services. Merrill Lynch competes with U.S. and non-U.S. commercial banks and other broker-dealers in brokerage, underwriting, trading, financing and advisory businesses. For example, the financial services industry in general, including Merrill Lynch, has experienced intense price competition in brokerage, as the ability to execute trades electronically, through the internet and through other alternative trading systems has pressured trading commissions and spreads. Merrill Lynch competes for investment funds with mutual fund management companies, insurance companies, finance and investment advisory companies, banks, trust companies and other institutions. Many of Merrill Lynch's non-U.S. competitors may have competitive advantages in their home markets. In addition, Merrill Lynch's business is substantially dependent on its continuing ability to compete effectively to attract and retain qualified employees, including successful financial advisors, investment bankers, trading professionals and other revenue-producing or support personnel.

## **Risks Relating to the Notes**

### *Credit Ratings*

The credit ratings assigned to the Program are a reflection of the rating agencies' respective assessment of the Company's ability to pay its obligations and may not reflect the potential impact of all risks related to structure, market or other factors discussed above on the value of the Notes. In addition, real or anticipated changes in the credit ratings will generally affect the market value of the Notes.

### *Structure Risks*

An investment in Notes where the payment of principal, premium (if any), and/or interest and/or other consideration (if any) payable or deliverable thereon is determined by reference to one or more equity or debt securities, indices, baskets, formulas or other assets or basis of reference will entail significant risks not associated with a conventional fixed rate or floating rate debt security. Such risks include, without limitation, changes in the level or value of the relevant underlying equity or debt securities or basket or index or indices of equity or debt securities or other underlying asset or basis of reference and the possibility that a holder of the Notes will receive a lower (or no) amount of principal, premium, interest or other consideration than the holder expected.

The Company has no control over a number of matters that are important in determining the existence, magnitude and longevity of such risks and their results, including, but not limited to, economic, financial and political events and, in the case of Credit Linked Notes, the likelihood of a default by the underlying reference entity or entities, as discussed further below. In addition, if an index or formula used to determine any amounts payable or deliverable in respect of the Notes contains a multiplier or leverage factor, the effect of any change in such index or formula will be magnified. In recent years, the values of certain indices, baskets and formulas have been volatile and volatility in those and other indices, baskets and formulas may occur in the future. In the case of Credit Linked Notes, payment in respect of such Notes will be subject to a variety of risk factors and conditions, including the risk that the underlying reference entities or entity fail to perform their obligations and/or become insolvent. In the event of such non-performance, a holder of the Notes will not have any rights to proceed directly against such entities and may suffer the loss of the holder's entire investment.

Since the Company is a holding company, the right of the Company, and hence the right of creditors of the Company (including the Noteholders), to participate in any distribution of the assets of any subsidiary upon its liquidation or reorganization or otherwise is necessarily subject to the prior claims of creditors of the subsidiary, except to the extent that claims of the Company itself as a creditor of the subsidiary may be recognized. In addition, dividends, loans and advances from certain subsidiaries to the Company are restricted by net capital requirements under the Exchange Act and under the rules of certain exchanges and other regulatory bodies.

### *Early Redemption*

If the Notes are redeemable early at the Company's option or are otherwise subject to mandatory redemption, the Company may choose to (in the case of optional redemption) or must (in the case of mandatory redemption) redeem such Notes at times when prevailing interest rates may be relatively low. Accordingly, the holder generally may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the Notes redeemed.

### *Uncertain Trading Markets*

The Company cannot assure holders of the Notes that a trading market for their Notes will ever develop or be maintained. Many factors independent of the creditworthiness of the Company affect the trading market of the Notes. These factors include:

- (a) the complexity and volatility of the index or formula or other basis of reference applicable to the Notes,
- (b) the method of calculating the principal, premium and interest, if any, or other consideration, if any, in respect of the Notes,
- (c) the time remaining to the maturity of the Notes,
- (d) the outstanding amount of the Notes,
- (e) the redemption features of the Notes,
- (f) the amount of other debt securities linked to the index or formula or other basis of reference applicable to the Notes, and
- (g) the level, direction and volatility of market interest rates generally (and, in the case of the Credit Linked Notes, the credit quality of the specified entity or entities to which payments on any such Notes are linked).

In addition, certain Notes may be designed for specific investment objectives or strategies and, therefore, may have a more limited secondary market and experience more price volatility than conventional debt securities. Holders may not be able to sell such Notes readily or at prices that will enable them to realize their anticipated yield. No investor should purchase Notes unless such investor understands and is able to bear the risk that such Notes may not be readily saleable, that the value of such Notes will fluctuate over time, that such fluctuations may be significant and that such investor may lose all or a substantial portion of its investment in the Notes.

### *Limited Trading Market*

In the case of Notes issued in Specified Denominations of EUR50,000 (or the equivalent in other currencies) and integral multiples of EUR1,000, or in another integral multiple that is less than EUR50,000 (or the equivalent in other currencies), and, for so long as the Notes are represented by a global Note and Euroclear and Clearstream, Luxembourg so permit, the Notes shall be tradable in minimum nominal amounts of the designated Specified Denominations. However, if definitive Notes are required to be issued at any time and are later made available for clearance and settlement through Euroclear or Clearstream, Luxembourg to facilitate secondary market trades, there will be no such trading market for any definitive Notes that are not in a Specified Denomination of EUR50,000 (or the equivalent in other currencies) and integral multiples thereof. It is unlikely that definitive Notes will be issued at any time and, if issued, it is even more unlikely that an active trading market for such Notes will exist or develop, whether through Euroclear, Clearstream, Luxembourg or otherwise. Nevertheless, a limited trading market for the Notes may affect the price that an investor receives for its Notes if such investor does not wish to hold its investment until the maturity date.

### *Exchange Listing*

When the Company specifies in the applicable Final Terms that a Series of Notes is to be admitted to the Official List and admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market and/or listed on or admitted to trading by any other relevant stock exchange or market within the European Union ("EU"), which qualifies as a regulated market within the meaning of Article 1(13) of Directive 93/22/EEC, (each, for the purposes of the following, an "EU Exchange"), the Company expects, but is not obligated to



Noteholders, to maintain such listing of the Notes on such EU Exchange(s). Changed circumstances, including changes in listing requirements, could result in a suspension or removal of any such listing, or cause the Company to conclude that continued listing of the Notes on such EU Exchange(s) is unduly burdensome. For example, Directive 2004/109/EC (the “**Transparency Directive**”) was adopted in December 2004 and relates to information about issuers whose securities are admitted to trading on a regulated market in the EU. The Transparency Directive is required to be implemented in EU member states by 20 January, 2007. It will have the effect of requiring U.S. companies (such as the Company) preparing their financial statements in accordance with United States Generally Accepted Accounting Principles (“**US GAAP**”) to prepare financial statements in respect of any financial year starting on or after January 1, 2007 in accordance with International Financial Reporting Standards as adopted by the EU (“**IFRS**”), in order for Notes issued by such entities to remain listed on such EU Exchange(s), unless it is determined that U.S. law imposes “equivalent” requirements. It is unknown as of the date of this Base Prospectus whether the requirement to prepare financial statements in accordance with US GAAP will be determined to be “equivalent” in all respects to the requirements of the Transparency Directive or whether individual states will impose additional requirements.

Because, the proposed Transparency Directive may be implemented in a manner which could be unduly burdensome for the Company, the Company is under no obligation to maintain any listing or admission of the Notes. Accordingly, Noteholders (as defined under “**Terms and Condition of the Notes**” below) should be aware that, in circumstances where a listing or admission to trading on any EU Exchange(s), would require preparation of financial statements in accordance with standards other than US GAAP or require the Company to provide additional information and/or a report from its auditors as a result of differences between US GAAP and IFRS, or in any other circumstances where the EU Financial Services Action Plan is implemented in a manner that, in the opinion of the Company, is unduly burdensome, Notes issued under the Program may be de-listed. The Company may, but is not obliged to, seek an alternative listing for such Notes. However, if such an alternative listing is not available to the Company or is, in the opinion of the Company, unduly burdensome, an alternative listing for such Notes may not be obtained. Although no assurance is made as to the liquidity of such Notes as a result of a listing on any EU Exchange(s), de-listing of Notes from any EU Exchange(s) may have a material affect on the ability of Noteholders to resell such Notes in the secondary market.

#### *State Law Limits on Interest Paid*

The Notes will be governed by and construed in accordance with the laws of the State of New York. The State of New York has usury laws that limit the amount of interest that can be charged and paid on loans, which include debt securities like the Notes. Under present New York law, the maximum rate of interest is 25 per cent. per annum on a simple interest basis. This limit may not apply to Notes in which U.S.\$2,500,000 or more has been invested. While the Company believes that New York law would be given effect by a state or federal court sitting outside of New York, state laws frequently regulate the amount of interest that may be charged to and paid by a borrower (including, in some cases, corporate borrowers). It is suggested that prospective investors consult their personal advisors with respect to the applicability of such laws. The Company has covenanted for the benefit of the beneficial owners of the Notes, to the extent permitted by law, not to claim voluntarily the benefits of any laws concerning usurious rates of interest against a beneficial owner of the Notes.

#### *Reverse Floating Rate Notes are subject to sharp price fluctuations*

The interest income of Reverse Floating Rate Notes is calculated in reverse proportion to the reference rate: if the reference rate increases, interest income decreases whereas it increases if the reference rate decreases. Unlike the price of ordinary Floating Rate Notes, the price of Reverse Floating Rate Notes is highly dependent on the yield of Fixed Rate Notes having a similar maturity. Price fluctuations of Reverse Floating Rate Notes are parallel but are substantially sharper than those of Fixed Rate Notes having a similar maturity. Investors are exposed to the risk that long-term market interest rates will increase even if short-term interest rates decrease. In this case, increasing interest income cannot adequately offset the decrease in the reverse floater’s price because such decrease is disproportionate.

#### *Zero Coupon Notes are subject to higher price fluctuations than non-discounted notes*

Changes in market interest rates have a substantially stronger impact on the prices of zero coupon notes than on the prices of ordinary notes because the discounted issue prices are substantially below par. If market interest rates increase, Zero Coupon Notes can suffer higher price losses than other securities having the same maturity and credit rating. Due to their leverage effect, Zero Coupon Notes are a type of investment associated with a particularly high price risk.

*Foreign Currency Notes expose investors to foreign-exchange risk as well as to issuer risk*

As purchasers of Foreign Currency Bonds, investors are exposed to the risk of changing foreign exchange rates. This risk is in addition to any performance risk that relates to the issuer or the type of Note being issued.

*Risks relating to Indexed Notes (including Equity Linked Notes)*

An investment in any series of Notes that has payments of principal, interest or both, indexed to the value of any commodity, fund, equity share, foreign exchange rate, index or any other rate, asset or index, or a basket including one or more of the foregoing (each of the foregoing, a “**Reference Value**”) (each such series, a series of “**Indexed Notes**”) will entail significant risks not associated with a conventional fixed rate or floating rate debt security. Such risks include, without limitation, changes in the applicable Reference Value and how such changes will impact the amount of any principal or interest payments linked to the applicable Reference Value. The Company has no control over a number of matters that are important in determining the existence, magnitude and longevity of such risks and their results, including economic, financial and political events.

Past performance of any Reference Value to which any principal or interest payments may be linked is not necessarily indicative of future performance. Investors should be aware that a Reference Value may go down as well as up and the resulting impact such changes will have on the amount of any principal or interest payments will depend on the applicable index formula.

If so specified in the applicable Final Terms, the early redemption amount, if any, may in certain circumstances be determined by the Calculation Agent based upon the market value of the Notes less any costs associated with unwinding any hedge positions relating to the particular series of Indexed Notes. In the event the terms and conditions do not provide for a minimum redemption amount, in the event of an early redemption a holder may receive less than 100 per cent. of the principal amount of the Specified Denomination.

Indexed Notes are likely to be less liquid than conventional fixed or floating rate debt instruments. No representation will be made as to the existence of a market for a series of Indexed Notes. While Merrill Lynch International intends under ordinary market conditions to indicate prices for any such Indexed Notes there can be no assurance as to the prices that would be indicated or that Merrill Lynch International will offer to purchase any Indexed Notes. The price given, if any, will be affected by many factors including, but not limited to, the remaining term and outstanding principal amount of the particular series of Indexed Notes, the level of the Reference Value, interest rates, fluctuations in exchange rates, volatility in the Reference Value used to calculate the amount of any interest or principal payments, and credit spreads. Consequently, prospective investors must be prepared to hold any series of Indexed Notes for an indefinite period of time or until the redemption or maturity of the Notes.

Trading levels of any Index Notes will be influenced by, among other things, the relative level and performance of the applicable Reference Value and the factors described above.

The Company and its affiliates may buy or sell obligations or have positions in securities economically related to a series of Indexed Notes for their own account for business reasons or in connection with hedging of the obligations under the particular series of Indexed Notes. The Company and its affiliates have not and are not required to consider the interests of investors as holders of the Indexed Notes in connection with entering into any of the above mentioned transactions.

*Risks relating to Credit Linked Notes*

An investment in any series of Notes that has payments of principal, interest or both linked to the credit of a particular reference entity or basket of reference entities (each, a “**Credit Linked Note**”) will entail significant risks not associated with a conventional fixed rate or floating rate debt security. Such risks include exposure to the credit risk of the particular reference entity or basket of reference entities in addition to that of Merrill Lynch. Depending on the manner in which the particular series of Credit Linked Notes is linked to the credit of a reference entity or basket of reference entities, a fall in the creditworthiness of a particular reference entity (or perceptions worsen regarding the creditworthiness of a particular reference entity), may greatly reduce the market value of the related Credit Linked Notes and any payments of principal or interest then due. If a series of Credit Linked Notes is linked to a basket of reference entities, a credit deterioration in one reference entity may

be strongly correlated with credit deterioration of other reference entities included in the basket, resulting in substantial decreases over a relatively short period of time in the market value of the related Credit Linked Notes and any payments of principal or interest then due.

*Purchases and sales by the Company and its affiliates may affect the holders' return*

The Company and its affiliates may from time to time buy or sell obligations or have positions in securities economically related to a series of Notes for their own account for business reasons or in connection with hedging of the obligations under the particular series of Notes. These transactions could affect the price of such obligations or securities in a manner that would be adverse to the holder's investment in the Notes. The Company and its affiliates have not considered, and are not required to consider, the interests of investors as holders of the Notes in connection with entering into any of the above mentioned transactions.

*Potential conflicts*

The Company may appoint a subsidiary as its calculation agent for the purposes of calculating amounts payable or deliverable to holders under a series of Notes. Under certain circumstances, the agent as a subsidiary and its responsibilities as Calculation Agent for the Notes could give rise to conflicts of interest. The Calculation Agent is required to carry out its duties in good faith and using its reasonable judgment. However, because the Company controls the subsidiary, potential conflicts of interest could arise. The Company also may enter into an arrangement with a subsidiary to hedge market risks associated with its obligations under the Notes. This subsidiary expects to make a profit in connection with this arrangement. The Company did not seek competitive bids for this arrangement from unaffiliated parties.

## GENERAL DESCRIPTION OF THE PROGRAM

Under the Program, the Company may from time to time issue the Notes denominated in any currency agreed by the Company and the relevant Purchaser(s) having maturities of one week or longer (or such other minimum or maximum maturity as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant currency). The Company may issue Notes (i) that bear interest at fixed rates or floating rates or no interest at all, (ii) whose Specified Amounts (as defined above) are linked to the level of an index, portfolio or formula based on one or more currencies, equity or debt securities or commodities, or the credit of one or more specified entities or any combination thereof, and (iii) the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of cash, shares, securities and/or other property or any combination of cash, shares, securities and/or other property. A summary of the terms and conditions of the Program and the Notes appears on pages 2 to 7. The applicable terms of any Notes will be agreed between the Company and the relevant Purchaser(s) prior to the issue of the Notes and will be set out in the Terms and Conditions of the Notes attached to, incorporated by reference into, or endorsed on the Notes, as modified and supplemented by the applicable Final Terms attached to, or endorsed on, such Notes, as more fully described under “Form of the Notes”.

Subject as set out herein, this Base Prospectus and any supplement hereto may only be used for admitting Notes to the Official List and for the admission of Notes to trading on the London Stock Exchange’s Gilt Edged and Fixed Interest Market and/or obtaining the listing and/or admission to trading of Notes on or by any other relevant stock exchange and/or market in an aggregate principal amount which, when added to the aggregate principal amount then outstanding of all Notes previously or simultaneously issued under this Program (including unlisted Notes), does not exceed U.S.\$50,000,000,000 or its equivalent in other currencies. For the purpose of calculating the U.S. Dollar equivalent of the aggregate principal amount of Notes issued under the Program from time to time:

- (a) the U.S. Dollar equivalent of Notes denominated in another Specified Currency (as defined in the applicable Final Terms) shall be determined by the Agent (as defined under “Form of the Notes”) as at 2:30 p.m. London time on the Issue Date (as defined under “Form of the Notes”) for such Notes by reference to the spot rate displayed on a page on the Reuter Monitor Money Rates Service, or Moneyline Telerate, or any successor service or such other service as is agreed between the Agent and the Company from time to time;
- (b) the U.S. Dollar equivalent of Dual Currency Notes and Indexed Notes (each as defined under “Terms and Conditions of the Notes”) shall be determined in the manner specified above by reference to the original principal amount of such Notes; and
- (c) the principal amount of Zero Coupon Notes (as defined under “Terms and Conditions of the Notes”) and other Notes issued at a discount shall be deemed to be the aggregate issue price for the relevant issue.

The aggregate principal amount of Notes outstanding at any time under the Program is subject to, and will be limited by, the then existing grant of authority by the Board of Directors of the Company. The grant of authority existing from time to time may permit the Company to issue and have outstanding more or less than U.S.\$50,000,000,000 aggregate principal amount of Notes. This Base Prospectus will be amended or supplemented to indicate any such increase which may result in Notes outstanding in an aggregate principal amount in excess of U.S.\$50,000,000,000.

## FORM OF THE NOTES

Notes can be issued in bearer form (“**Bearer Notes**”) or registered form (“**Registered Notes**”). References to permanent global notes are to permanent global notes in bearer form unless the context indicates otherwise. Each Tranche (as defined under “Terms and Conditions of the Notes”) of Bearer Notes will initially be represented by one or more temporary global Notes, without Receipts, Coupons or Talons, which (i) if the temporary global Notes are intended to be issued in new global note (“**NGN**”) form as specified in the applicable Final Terms, will be delivered on or prior to the Issue Date of the Tranche to a common safekeeper (the “**Common Safekeeper**”) for Euroclear and Clearstream, Luxembourg; and (ii) if the temporary global Notes are intended to be issued in classic global note (“**CGN**”) form as specified in the applicable Final Terms, will be delivered on or prior to the Issue Date of the Tranche to a common depositary for Euroclear and Clearstream, Luxembourg. Each Tranche of Registered Notes will be issued without Receipts, Coupons or Talons, and will be registered in the name of a nominee for, and deposited with, a common depositary for Euroclear and Clearstream, Luxembourg. Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Company and the Agent (as defined below) and set forth in the applicable Final Terms.

If a Fixed Interest Date or an Interest Payment Date (each as defined under “Terms and Conditions of the Notes”) for any Bearer Notes occurs while such Bearer Notes are represented by a temporary global Note, the related interest payment will be made (against presentation of the temporary global Note if the temporary global Note is issued in CGN form) only to the extent that appropriate certification of non-U.S. beneficial ownership that, in the sole judgment of the Agent, satisfies the requirements of the applicable Treasury regulations has been received by Euroclear or Clearstream, Luxembourg. On or after the date (the “**Exchange Date**”) which is 40 days after the date on which the temporary global Note is issued, provided that appropriate certification of non-U.S. beneficial ownership has been received, interests in the temporary global Note will be exchangeable for interests in a permanent global Note; provided, however, that if so stated in the applicable Final Terms, a temporary global Note will be exchangeable only for definitive Bearer Notes on and after the Exchange Date, in which event no permanent global Note will be issued. No payments will be made on a temporary global Note after the Exchange Date. Payments of principal or interest (if any) with respect to a permanent global Note will be made through Euroclear and Clearstream, Luxembourg (against presentation or surrender, as the case may be, of the permanent global Note if the permanent global Note is issued in CGN form) without any requirement for further certification.

*Payments of principal and interest on Registered Notes will be made on any Fixed Interest Date, Interest Payment Date or Maturity Date, as applicable, through Euroclear and Clearstream, Luxembourg only against presentation, in the case of interest, or surrender, in the case of principal, of such permanent global Note and only to the extent that appropriate certification with respect to non-U.S. beneficial ownership of the Registered Note satisfies the applicable Treasury regulations, and which certificate shall be in form acceptable to the Paying Agent and is received from the beneficial owner of the Registered Note by the Paying Agent at least five London Business Days (as defined below) prior to the date of such payment.*

Payments of principal and interest on Registered Short-term Notes will be made through Euroclear and Clearstream, Luxembourg only against surrender of such Notes and only to the extent that appropriate certification of non-U.S. beneficial ownership of such Registered Short-term Notes which satisfies the requirements of the applicable Treasury regulations has been received by Euroclear or Clearstream, Luxembourg at least five London Business Days (as defined below) prior to the date of such payment.

If a permanent global Note is issued, upon 60 days written notice expiring at least 30 days after the Exchange Date from Euroclear or Clearstream, Luxembourg (as the case may be) acting on instructions from any holder of an interest in the permanent global Note, security printed definitive Notes with, where applicable, Receipts, Coupons and Talons attached will be issued and delivered, in full exchange for the permanent global Note, to Euroclear and Clearstream, Luxembourg for the accounts of the holders of interests in the permanent global Note. All definitive Notes will be security-printed and, where applicable, will have attached Receipts with respect to installments of principal (if any) and (unless they are Zero Coupon Notes) Coupons and Talons (if any). No definitive Note delivered in exchange for a permanent global Note will be mailed or otherwise delivered to any location in the United States in connection with such exchange. An exchange for definitive Notes will be made at no charge to the holders of the interests in the permanent global Note being exchanged. Notwithstanding the foregoing, from and after such time as definitive Notes are issued in exchange for a permanent global Note, any remaining interest in the temporary global Note will be exchangeable only for definitive Notes.



Notwithstanding the foregoing, Registered Notes will be exchangeable for definitive Registered Notes only under the limited circumstances described in Condition 18. Temporary and permanent global Notes and definitive Notes will be issued by Deutsche Bank AG, London Branch, as issuing and principal paying agent (the “**Agent**”, which expression includes any successor to Deutsche Bank AG, London Branch, in its capacities as such) pursuant to an Amended and Restated Agency Agreement, dated May 10, 2006 (as the same may be amended or supplemented from time to time in accordance with the terms thereof, the “**Agency Agreement**”), among the Company, the Agent and the other paying agents named therein (together with the Agent, the “**Paying Agents**”, which expression includes any additional or successor paying agents). Until exchanged in full, the holder of an interest in any global Note shall in all respects be entitled to the same benefits as the holder of Notes, Receipts and Coupons, except as set out in the terms and conditions applicable thereto.

Unless otherwise specified in the applicable Final Terms, temporary and permanent global Notes and definitive Notes (other than Registered Notes) will be issued in bearer form. The following legend will appear on all such Notes, Receipts, Coupons and Talons where such Notes have maturities that exceed 183 days:

“Any United States person (as defined in the Internal Revenue Code of the United States) who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code.”

The sections of the Internal Revenue Code of 1986, as amended (the “**Code**”), referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Notes, Receipts or Coupons and will not be entitled to capital gains treatment of any gain on any sale, disposition or payment of principal with respect to Notes, Receipts or Coupons.

The following legend will appear on all such global Notes, definitive Notes, Receipts and Coupons where such Notes have maturities of 183 days or less and have denominations of U.S.\$500,000 or more (or its equivalent in other currencies):

“By accepting this obligation, the holder represents and warrants that it is not a United States person (other than an exempt recipient described in section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder) and that it is not acting for or on behalf of a United States person (other than an exempt recipient described in section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder).”

## FORM OF WHOLESALE FINAL TERMS

The Final Terms applicable to each Tranche of Notes with a denomination of at least €50,000 (or its equivalent in other currencies) to be admitted to trading on an EU regulated market, will be in the following form and will contain such information as is applicable in respect of such Notes (all references to numbered Conditions being to the Terms and Conditions of the relevant Notes):

Final Terms dated [                      ]

**MERRILL LYNCH & CO., INC.**  
**(Incorporated under the laws of the State of Delaware, U.S.A.)**

**Issue of [Aggregate Principal Amount of Tranche] [Bearer/Registered] [Title of Notes]  
under the U.S.\$50,000,000,000 Euro-Medium Term Note Program**

### PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated May 10, 2006 [and the supplemental prospectus dated [                      ] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospectus Directive**”). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with such Base Prospectus [as so supplemented]. Full information on the Company and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus [as supplemented]. The Base Prospectus [and the supplemental prospectus] and these Final Terms are available for viewing during normal office hours at the office of the Agent in London and copies may be obtained from the principal office of the Company.

*The following alternative language applies if the first tranche of an issue which is being increased was issued under a Prospectus with an earlier date.*

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated [                      ] [and the supplemental prospectus dated [                      ]]. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospectus Directive**”) and must be read in conjunction with the Base Prospectus dated May 10, 2006 [and the supplemental prospectus dated [                      ]], which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive save in respect of the Terms and Conditions which are extracted from the Base Prospectus dated [                      ] [and the supplemental prospectus dated [                      ]] and are attached hereto. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus dated [                      ] and May 10, 2006 [and the supplemental prospectuses dated [                      ] and [                      ]]. The Base Prospectuses [and the supplemental prospectuses] are available for viewing during normal office hours at the office of the Agent in London and copies may be obtained from the principal office of the Company.

*[If the Notes have a maturity of less than one year from their date of issue, the minimum denomination may need to be £100,000 or its equivalent in any other Specified Currency.]*

*[Include whichever of the following apply or specify as “Not Applicable” (N/A). Note that the numbering should remain as set out below, even if “Not Applicable” is indicated for individual paragraphs or sub-paragraphs. Italics denote guidance for completing the Final Terms]*

*[When completing Final Terms or adding any other Final Terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note.]*

1. Issuer: Merrill Lynch & Co., Inc. (the “**Company**”)
2. [(i)] Series Number: [ ]  
[(ii)] Tranche Number: [ ]  
*(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible and the Aggregate Principal Amount of the Series)*
3. Specified Currency or Currencies (in the case of Dual Currency Notes): [ ]
4. Aggregate Principal Amount: [ ]  
[(i)] Series: [ ]  
[(ii)] Tranche: [ ]
5. Issue Price: [ ] per cent. of the Aggregate Principal Amount [plus accrued interest from *[insert date]*](if applicable)]
6. Specified Denominations: [For so long as the Notes are represented by a Global Note, and Euroclear Bank S.A./N.V. (“**Euroclear**”), and Clearstream Banking, *société anonyme*, (“**Clearstream, Luxembourg**”) so permit, the Notes shall be tradable in minimum Specified Denominations of *[insert Specified Currency]* *[insert denomination above EUR50,000, or its equivalent in other currencies]* and integral multiples of *[insert Specified Currency]* *[insert integral multiple below EUR1,000, or its equivalent in other currencies]* in excess thereof, subject to the provisions in item 26 below]  
  
*(N.B. Only applicable when the Company issues Bearer Notes in Specified Denominations of EUR50,000 plus EUR1,000, or its equivalent in other currencies)*  
  
*(Notes (including Notes denominated in Sterling) in respect of which the issue proceeds are to be accepted by the Company in the United Kingdom, or whose issue otherwise constitutes a contravention of section 19 FSMA and which have a maturity of less than one year must have a minimum denomination of £100,000 (or its equivalent in other Specified Currencies))*
7. (i) Issue Date: [ ]  
(ii) Interest Commencement Date: [ ]
8. Maturity Date [or Redemption Month]: [ ]  
  
*(Specify date or (for Floating Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year. Redemption Month should only be used where the term of the Notes is an even number of years from the Issue Date.)*

9. Interest Basis: [[            ] per cent. Fixed Rate]  
[[    ] Month LIBOR/EURIBOR[    ] per cent.]  
[Floating Rate]  
[Zero Coupon]  
[Index Linked]  
[Dual Currency]  
[Equity Linked]  
[Credit Linked]  
[Other (specify)]  
(further particulars specified below)
10. Redemption/Payment Basis: [Redemption at Par]  
[Index Linked Redemption]  
[Dual Currency]  
[Equity Linked Redemption]  
[Credit Linked Redemption]  
[Partly Paid]  
[Installment]  
[Other (specify)]
11. Change of Interest or Redemption/Payment Basis: [Not Applicable/ Applicable] *(If applicable, specify details of any provision for convertibility of Notes into another Interest or Redemption/Payment Basis)*
12. Put/Call Options: [Redemption at the Option of the Company]  
[Redemption at the Option of the Noteholders]  
(further particulars specified below)
13. [(i)] Status of the Notes: The Notes will constitute direct, unsecured, unsubordinated and general obligations of the Company and will, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with all other unsecured and unsubordinated indebtedness of the Company
- [(ii)] Date of corporate authorization for issuance of Notes: [            ]  
*(N.B. Only relevant where Board (or similar) authorization is required for the particular Tranche of Notes).*
14. Method of distribution: [Syndicated/Non-syndicated]

#### PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE

15. Fixed Rate Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Fixed Rate(s) of Interest: [            ] per cent. per annum [payable [annually/semi-annually/quarterly/monthly] in arrear] *(If payable other than annually, consider amending Condition 3(a))*
- (ii) Fixed Interest Date(s): [[            ] in each year, up to and including the Maturity Date]/[specify other]
- (iii) Fixed Coupon Amount(s): [Not Applicable]/[If applicable, specify [            ] per [            ] in Principal Amount]

- (iv) Initial/Final Broken Amount(s): *[Insert particulars of any Initial or Final Broken Interest Amount(s) which do not correspond with the Fixed Coupon Amount(s)]*
- (v) Fixed Day Count Fraction: [30/360]  
[30E/360 or Eurobond Basis]  
[Actual/Actual (ICMA)]  
[Actual/Actual (ISDA)]  
*[or specify other]*
- (vi) Determination Date(s): [ ] in each year  
*[Insert regular interest payment dates, ignoring the issue date or the maturity date in the case of a long or short first or last Coupon. In these cases, insert regular interest payment dates]*  
*(NB: only relevant where Day Count Fraction is Actual/Actual (ICMA))*
- (vii) Other items relating to the method of calculating interest for Fixed Rate Notes: [Not Applicable/(give details)]
- (viii) Additional Business Centre(s)/Interest Payment Dates: [None/specify]
16. Floating Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Interest Period(s)/Interest Payment Dates: [ ]
- (ii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (iii) Additional Business Centre(s): [ ]
- (iv) Manner in which the Rate(s) of Interest and Interest Amount is/are to be determined: [Screen Rate Determination/ISDA Determination/other (give details)]  
[Applicable/Not Applicable]
- (v) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
[Applicable/Not Applicable]
- (vi) Reference Banks (if any): [Not Applicable/specify]
- (vii) Screen Rate Determination: [Condition 3(b)(iii)(B) applies/Not Applicable]  
—Reference Rate(s): [ ]  
[Applicable/Not Applicable]  
*(Either LIBOR, EURIBOR or other, although additional information is required if other—including fallback provisions)*  
—Interest Determination Date(s): [ ]  
[Applicable/Not Applicable]



*(Second London Business Day prior to the start of each Interest Period if LIBOR (other than Sterling or euro LIBOR), first day of each Interest Period if Sterling LIBOR and the second day on which the TARGET System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*

- Relevant Screen Page: [ ]  
[Applicable/Not Applicable]  
*(In the case of EURIBOR, if not Telerate 248 ensure it is a page which shows a composite rate or amend the fallback provisions appropriately)*
- (viii) ISDA Determination: [Condition 3(b)(iii)(A) applies/Not Applicable]  
—Floating Rate Option: [ ]  
—Designated Maturity: [ ]  
—Reset Date: [ ]
- (ix) —Margin(s): [+/-][ ] per cent. per annum  
[Applicable/Not Applicable]
- (x) Minimum Rate of Interest: [ ] per cent. per annum
- (xi) Maximum Rate of Interest: [ ] per cent. per annum
- (xii) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (specify)]  
*(See Condition 3 for alternatives)*
- (xiii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [ ]
17. Zero Coupon Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) [Amortization/Accrual] Yield: [ ] per cent. per annum
- (ii) Reference Price: [ ]
- (iii) Any other formula/basis of determining amount payable: [ ]  
*(Consider applicable day count fraction if euro denominated)*
18. Indexed Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Index/Formula [Give or annex details]

- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (*give details*)]
- (vi) Additional Business Centre(s) [ ]
- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
[Applicable/Not Applicable]
- (viii) Minimum Rate of Interest: [ ] per cent. per annum
- (ix) Maximum Rate of Interest: [ ] per cent. per annum
- (x) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (*specify*)]  
(*See Condition 3 for alternatives*)
19. Dual Currency Note provisions: [Applicable/Not Applicable]  
(*If not applicable, delete the remaining sub-paragraphs of this paragraph*)
- (i) Rate(s) of Exchange/method of calculating Rate(s) of Exchange: [Give details]
- (ii) Calculation Agent, if any, responsible for calculating the principal and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to Rate(s) of Exchange is impossible or impracticable: [*Need to include a description of market disruption or settlement disruption events and adjustment provisions*]

- (iv) If redeemable in part:
- (a) Minimum Redemption Amount: [ ]
- (b) Maximum Redemption Amount: [ ]
- (v) Notice period (if other than as set out in the Conditions): [ ]  
*[If applicable, specify any change in the notice period]*
- (vi) Person at whose option any Specified Currency or Currencies is or are to be or may be payable: [ ]
20. Credit Linked Note provisions: [Applicable/Not Applicable]  
*[If applicable, insert all relevant additional provisions for such Notes or set out in full in an annex to this Final Terms]*
- (i) Index/Formula [Give or annex details]
- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (vi) Additional Business Centre(s) [ ]
- (vii) Manner in which the Rate(s) of Interest and Interest Amount is/are to be determined: [Screen Rate Determination/ISDA Determination/other (give details)]  
 [Applicable/Not Applicable]
- (viii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
 [Applicable/Not Applicable]
- (ix) Reference Banks (if any): [Not Applicable/specify]
- (x) Margin(s): [+/-][ ] per cent. per annum  
 [Applicable/Not Applicable]
- (xi) Minimum Rate of Interest: [ ] per cent, per annum
- (xii) Maximum Rate of Interest: [ ] per cent, per annum
- (xiii) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
 [Actual/365 (Fixed)]  
 [Actual/365 (Sterling)]  
 [Actual/360]  
 [30/360 or 360/360 or Bond Basis]  
 [30E/360 or Eurobond Basis]  
 [Other (specify)]  
*(See Condition 3 for alternatives)*

21. Equity Linked Note provisions: [Applicable/Not Applicable]
- [If applicable, insert all relevant additional provisions for such Notes or set out in full in an annex to this Final Terms]*
- (i) Index/Formula [Give or annex details]
- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (vi) Additional Business Centre(s) [ ]
- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]
- [Applicable/Not Applicable]
- (viii) Minimum Rate of Interest: [ ] per cent, per annum
- (ix) Maximum Rate of Interest: [ ] per cent, per annum
- (x) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (specify)]  
(See Condition 3 for alternatives)

## PROVISIONS RELATING TO REDEMPTION

22. Company's Optional Redemption: [Applicable/Not Applicable]
- (If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] Specified Denomination

- (iii) If redeemable in part: [ ]
- (a) Minimum Redemption Amount: [ ]
- (b) Maximum Redemption Amount: [ ]
- (iv) Notice period (if other than as set out in the Conditions): *[If applicable, specify any change in the notice period]*
23. Redemption at the option of the Noteholders: [Applicable/Not Applicable]
- (If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] Specified Denomination
- (iii) Notice period (if other than as set out in the Conditions): [ ]
- [If applicable, specify any change in the notice period]*
24. Final Redemption Amount:
- [(i) Fixed Rate Notes: *[Specify or annex details]*]
- [(ii) Floating Rate Notes: *[Specify or annex details]*]
- [(iii) Dual Currency Notes: *[Specify or annex details]*]
- (a) Rate(s) of Exchange: [ ]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (d) Determination Date(s): [ ]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]
- [(iv) Indexed Notes: *[Specify or annex details]*]
- (a) Index/Formula/variable: [ ]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]



- (d) Determination Date(s): [ ]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]]
- [(v) Equity Linked Notes: *[Specify or annex details]*
- (a) Index/Formula/variable:
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (d) Determination Date(s): [ ]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]]
- [(vi) Credit Linked Notes: *[Specify or annex details]*
- (a) Reference Entity/Credit/Formula/variable: [ ]]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Reference Entity/Credit and/or Formula and/or other variable: [ ]]
- (d) Determination Date(s): [ ]]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Reference Entity/Credit and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]]
- (f) Payment Date: [ ]]
- (g) Minimum Final Redemption Amount: [ ]]
- (h) Maximum Final Redemption Amount: [ ]]
- [(vii) Zero Coupon Notes: *[Specify or annex details]*

25. Early Redemption Amount(s) of each Note payable on redemption for taxation reasons or, upon the other circumstances described in Condition 8 or upon acceleration of the Notes pursuant to Condition 12 and/or the method of calculating the same (if required or if different from that set out in Condition 4(f)): [ ] per Note of [ ] Specified Denomination
26. Cash Settlement Amount: [Applicable][Not Applicable]
- [The Cash Settlement Amount (as defined in Condition 4(n)(iii) is calculated in the following manner: *[specify calculation method]*]
- (N.B. This item must be completed in every case the terms of the Notes include any option to deliver non-cash consideration to Holders)*

## GENERAL PROVISIONS APPLICABLE TO THE NOTES

27. Form of Notes:
- (i) Bearer Notes: [Not Applicable/The Notes will be Bearer Notes and will initially be represented by a temporary global Note in bearer form, without interest coupons attached, which will be deposited with a common [safekeeper] [depository] (*delete as applicable*) for Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”) on or about the Issue Date. Interests in the temporary global Note will be exchangeable for interests in a permanent global Note, without interest coupons attached, on a date (the “Exchange Date”) not earlier than 40 days after the closing date upon appropriate certification as to non-U.S. beneficial ownership. The permanent global Note will be exchangeable in whole, but not in part, for definitive Notes in bearer form in denominations of *[specify denominations of Notes]* each with interest coupons attached upon 60 days’ written notice expiring at least 30 days after the Exchange Date. Interests in the permanent global Note will not be exchangeable for Notes in registered form. ]
- [(N.B. Only applicable when the Company issues Bearer Notes in Specified Denominations of EUR50,000 plus EUR1,000 or other integrals below EUR50,000, or its equivalent in other currencies) The Notes will be Bearer Notes and will initially be represented by a temporary global Note in bearer form, without interest coupons attached, which will be deposited with a common [safekeeper] [depository] (*delete as applicable*) for Euroclear and Clearstream, Luxembourg on or about the Issue Date. Interests in the temporary global Note will be exchangeable for interests in a permanent global Note, without interest coupons attached, on a*

date (the “**Exchange Date**”) not earlier than 40 days after the closing date upon appropriate certification as to non-U.S. beneficial ownership. In the limited circumstances specified in the terms and conditions of the Notes and upon 60 days’ written notice expiring at least 30 days after the Exchange Date, interests in the permanent global Note will (subject as provided below) be exchangeable in whole, but not in part, for definitive Notes in bearer form in denominations of *[insert Specified Currency][insert Specified Denomination in excess of EUR50,000]* and integral multiples of *[insert Specified Currency][insert Specified Denomination below EUR50,000]* each with interest coupons attached. Interests in the permanent global Note will not be exchangeable for Notes in registered form.

If definitive Notes are required to be issued, (a) notwithstanding that some definitive Notes may be in permitted Specified Denominations, which are not integral multiples of *[insert Specified Denomination in excess of EUR50,000]*, Euroclear and Clearstream, Luxembourg will recognize only minimum Specified Denominations of *[insert Specified Denomination in excess of EUR50,000]* and integral multiples thereof, each with interest coupons attached; (b) trading in the Notes will be limited to definitive Notes in denominations of *[insert Specified Denomination in excess of EUR50,000]* or integral multiples thereof; and (c) payments of principal and interest on the portion of any definitive Note that is not an integral multiple of *[insert Specified Denomination in excess of EUR50,000]* will not be made through Euroclear or Clearstream, Luxembourg. In such circumstance, there may not be any trading market for definitive Notes that are in Specified Denominations that are not *[insert Specified Denomination in excess of EUR50,000]* or integral multiples thereof, and payments of principal and interest on the portion of any definitive Note that is not an integral multiple of *[insert Specified Denomination in excess of EUR50,000]* will be available only from the Company or the Agent.]

(ii) Registered Notes:

[Not Applicable/The Notes will be Registered Notes and will initially be represented by a permanent global Note registered in the name of a nominee for, and deposited with, a common depositary for [Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, *société anonyme* (“**Clearstream, Luxembourg**”)] *[specify other clearing system agreed]* on or about the Issue Date. Interests in

the permanent global Note will not be exchangeable for Notes in bearer form. Interests in the permanent global Note will be exchangeable for definitive Notes in registered form in the limited circumstances specified in Condition 18. See Annex [ ] hereto for further particulars. *(Include all relevant additional provisions to apply to each Series of Registered Notes in addition to the relevant provisions relating to Registered Notes generally (Condition 18))*

(iii) Registered Short-term Notes:

[Not Applicable/The Notes will be Registered Short-term Notes and will initially be represented by a permanent global Note registered in the name of a nominee for and deposited with a common depositary for Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, *société anonyme* (“**Clearstream, Luxembourg**”) on or about the Issue Date. Interests in the permanent global Note will not be exchangeable for Notes in bearer form. Interests in the permanent global Note will be exchangeable for definitive Notes in registered form in the limited circumstances specified in Condition 18. *(Include all additional relevant provisions relating to Registered Short-term Notes (Condition 18))*]

28. New Global Note

[Yes/No].

29. Additional Financial Centre(s) or other special provisions relating to Payment Business Day:

Condition 5(c)[(i)][(ii)] applies *(delete as applicable)*/Not Applicable/give details. *Note that this item relates to the date and place of payment, and not the Additional Business Centre to which items 15(viii) and 16(iii) relate*

30. Talons for future Coupons or Receipts to be attached to definitive Notes in bearer form (and dates on which such Talons mature):

[Yes/No. *If yes, give details*]

31. Details relating to Partly Paid Notes amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Company to forfeit the Notes and interest due on late payment:

[Not Applicable/give details] *(NB: a new form of temporary Global Note and/or permanent Global Note may be required for Partly Paid issues)*

32. Details relating to Installment Notes:

(i) Installment Amount(s):

[Not Applicable/give details]

(ii) Installment Date(s):

[Not Applicable/give details]

33. Redenomination, renominatisation and reconventioning provisions:

[Not Applicable/The provisions annexed to this Final Terms apply]

34. Other terms or specified conditions:

[Not Applicable/give details]

*(When adding any other final terms, consideration should be given as to whether such terms constitute “significant new factors” and consequently trigger the need for a*

*supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note.)*

35. Further provision:

[Not Applicable/Condition 16 applies. If the Company issues further Notes of the same Series during the initial 40-day restricted period applicable to the outstanding Notes of such Series, then such 40-day period will be extended until 40 days after the later of the commencement of the offering and the Issue Date of such further issue of Notes. In addition, if the Company issues further Notes of the same Series after the expiration of the 40-day restricted period, a new 40-day restricted period will be applied to such further issue of Notes without applying to the outstanding Notes. After the expiration of the new 40-day restricted period, all such Notes will be consolidated with and form a single Series with the outstanding Notes.]

36. Details relating to Notes that are payable and/or for which the obligations of the Company may be discharged by the delivery of securities and/or other property or any combination of cash, securities and/or other property:

[Not Applicable/*give details*]

## **DISTRIBUTION**

37. (i) If syndicated, names of Managers:

[Not Applicable/*give names*]

(ii) Stabilizing Manager (if any):

[Not Applicable/[ In connection with the issue of any Tranche of Notes, the Relevant Dealer (if any) named as the stabilizing manager (or persons acting on behalf of any Stabilizing Manager(s)) in the applicable Final Terms or Prospectus (as the case may be) (the “Stabilizing Manager”) may over-allot Notes (provided that, in the case of any Tranche of Notes to be admitted to trading on the London Stock Exchange’s Gilt Edged and Fixed Interest Market and/or the regulated market of the Luxembourg Stock Exchange and/or any other regulated market (within the meaning of the Investment Services Directive) in the European Economic Area, the aggregate principal amount of Notes allotted does not exceed 105 per cent. of the aggregate principal amount of the Tranche of Notes) or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilizing Manager (or persons acting on behalf of the Stabilizing Manager) will undertake stabilization action. Any stabilization action may begin on or after the date on which adequate public disclosure of the final terms of the offer of the Tranche of

**Notes is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Tranche of Notes and 60 days after the date of the allotment of the Tranche of Notes.]**

38. Name of Relevant Dealer:

[Merrill Lynch International/Merrill Lynch Capital Markets AG/ Merrill Lynch (Singapore) Pte. Ltd./, *other*]

39. Additional selling restrictions:

[Not Applicable/*give details*]

[Under the Income Tax Act, Chapter 134 of Singapore (the “**Income Tax Act**”), all foreign-sourced income received in Singapore on or after January 1, 2004 by resident individuals will be exempted from tax, provided such foreign-sourced income is not received through a partnership in Singapore. Income which is considered to be gains or profits from any trade, business or profession carried on in Singapore may be considered as Singapore-sourced income and may not be covered by this exemption.

As Merrill Lynch (Singapore) Pte. Ltd., which is a Financial Sector Incentive (Bond Market) Company (as defined in the Income Tax Act), is the dealer for more than half of the Notes and the Notes will be issued during the period from February 17, 2006 to December 31, 2008, the Notes are “qualifying debt securities” for the purposes of the Income Tax Act. Accordingly, subject to certain conditions having been fulfilled (including the submission of a return on debt securities to the Comptroller of Income Tax in Singapore and the Monetary Authority of Singapore within one month from the date of issue of the Notes), interest on the Notes, and discount income on the Notes received by a person not resident in Singapore is exempt from tax (provided the non-resident person does not have a permanent establishment in Singapore or if he does, does not acquire the Notes using funds from the Singapore operations), and any company or body of persons (as defined in the Income Tax Act) in Singapore is subject to tax at a concessionary rate of 10 per cent.

However, notwithstanding the foregoing:

(i) if during the primary launch of the Notes, the Notes are issued to less than four persons and 50 per cent. or more of the principal amount of the Notes is beneficially held or funded, directly or indirectly, by related parties of the Company, the Notes would not qualify as “qualifying debt securities”; and

(ii) even though the Notes are “qualifying debt securities”, if at any time during the tenure of the Notes, 50 per cent. or more of the principal amount of the Notes is held beneficially or funded, directly or indirectly, by any related party(ies) of the Company, interest or discount income derived from the Notes held by (1) any related party of the Company, or (2) any other person where the funds used by such person to acquire the Notes are obtained, directly or indirectly, from any related party of the Company, shall not be eligible for the concessionary tax rate of 10 per cent.

“Related party”, in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that person, or where he and that other person, directly or indirectly, are under the control of a common person. Any person whose interest and discount income derived from the Notes is not exempt from tax is required to include such interest and discount income in a return of income made under the Income Tax Act.]<sup>2</sup>

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<sup>2</sup> Insert where Merrill Lynch (Singapore) Pte. Ltd. is the dealer for more than half of the Notes and the Notes are issued on or before December 31, 2008.



## [LISTING AND ADMISSION TO TRADING APPLICATION]

These Final Terms comprise the final terms required to list and have admitted to trading the issue of Notes described herein pursuant to the Company's U.S.\$50,000,000,000 Euro-Medium Term Note Program.]

### RESPONSIBILITY

The Company accepts responsibility for the information contained in these Final Terms. [[ ] has been extracted from [ ]]. The Company confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from the information published by [ ], no facts have been omitted which would render the reproduced inaccurate or misleading.]

Signed on behalf of the Company:

By: \_\_\_\_\_

Name:

Title:

*If the applicable Final Terms specifies any modification to the Terms and Conditions of the Notes as described herein, it is envisaged that, to the extent that such modification relates only to Conditions 1, 3, 4 (except Condition 4(b)) and 5, they may not necessitate the use of a Securities Note. If the Terms and Conditions of the Notes are to be modified in any other respect that constitutes the addition of "significant new factors" (as would be the case, for example, for an issue Credit Linked Notes, Equity Linked Notes or Indexed Notes which are to be issued in circumstances where they are to be listed and/or admitted to trading), a supplement to this Base Prospectuses required under Article 16 of the Prospectus Directive will be prepared or the form of Securities Note will be used, as appropriate.*

## PART B – OTHER INFORMATION

### 1. LISTINGS:

- (i) Listing: [London/Luxembourg/other (*specify*)/None]
- (ii) Admission to trading: [Application has been made for the Notes to be admitted to the Official List of the UK Listing Authority and to be admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market with effect [on or about the Issue Date][from [ ]].]
- [Application has been made to the Luxembourg Stock Exchange for the Notes to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the official list of the Luxembourg Stock Exchange with effect [on or about the Issue Date][from [ ]].]
- [Application has been made for the Notes to be admitted to trading on [ ] with effect [on or about the Issue Date][from [ ]].]
- [Not Applicable.]
- (Where documenting a fungible issue need to indicate that original securities are already admitted to trading.)*
- (ii) Estimate of total expenses related to admission to trading: [ ]

### 2. RATINGS

- Ratings: [The Notes issued under the Program have been rated:]
- [Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.: [A+/A-1]]
- [Moody's Investors Service, Inc.: [Aa3]]
- [Fitch Ratings: [AA-]]
- [Other]: [ ]]
- (The above disclosure should reflect the rating allocated to Notes of the type being issued under the Program generally or, where the issue has been specifically rated, that rating.)*

### 3. NOTIFICATION

[N/A] / [The [include name of competent authority in home Member State] [has been requested to provide/has provided – include first alternative for an issue which is contemporaneous with the establishment or update of the Program and the second alternative for subsequent issues] the [include names of competent authorities of host Member States] with a certificate of approval attesting that the Prospectus has been drawn up in accordance with the Prospectus Directive.]]

**4. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE [ISSUE/OFFER]**

*[N/A] / [Need to include a description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest. May be satisfied by the inclusion of the following statement:*

*“Save as discussed in [“Subscription and Sale”], so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer.”]*

**5. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES**

[(i) Reasons for the offer:

[ ]

*(See [“Use of Proceeds”] wording in Prospectus – if reasons for offer differ from general corporate purposes and/or making profit and/or hedging certain risks will need to include those reasons here.)]*

[(i)/(ii)] Estimated net proceeds:

[ ]

*(If proceeds are intended for more than one use will need to split out and present in order of priority. If proceeds insufficient to fund all proposed uses state amount and sources of other funding.)*

[(ii)/(iii)] [Estimated total expenses:

[ ] [include breakdown of expenses.]

*(Only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above.)]*

**6. [Fixed Rate Notes only – YIELD**

Indication of yield:

[ ]

*The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]*

**7. [Index-Linked or other variable-linked Notes only – PERFORMANCE OF INDEX/FORMULA/ OTHER VARIABLE AND OTHER INFORMATION CONCERNING THE UNDERLYING**

*Need to include details of where past and future performance and volatility of the index/formula/other variable can be obtained. Need to include any adjustment rules in relation to events concerning the underlying (if applicable). Where the underlying is an index need to include the name of the index and description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained. Where the underlying is not an index need to include equivalent information.]*

**8. [Dual Currency Notes only – PERFORMANCE OF RATE[S] OF EXCHANGE**

*Need to include details of where past and future performance and volatility of relevant rate[s] can be obtained.]*

## 9. OPERATIONAL INFORMATION

ISIN Code: [ ]

Common Code: [ ]

Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking, *société anonyme*, and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]

Delivery: Delivery [against/free of] payment

Intended to be held in a manner which would allow [Yes/No]

Eurosystem eligibility:

[Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositories (“**ICSDs**”) as common safekeeper and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.]

*(include this text if “yes” selected in which case the Notes must be issued in New Global Note form)*

Names and addresses of additional Paying Agent(s) if any: [Not Applicable/give name(s) and number(s)]

Governing Law: New York

Additional investment considerations: [Applicable. See Annex [ ] hereto/Not Applicable]

*(If applicable, set out in an annex all additional risk factors or other investment considerations applicable to the particular Tranche of Notes to be issued.)*

## FORM OF RETAIL FINAL TERMS

The Final Terms applicable to each Tranche of Notes, with a denomination of below €50,000 (or its equivalent in other currencies) to be admitted to trading on an EU regulated market, will be in the following form and will contain such information as is applicable in respect of such Notes (all references to numbered Conditions being to the Terms and Conditions of the relevant Notes):

Final Terms dated [            ]

**MERRILL LYNCH & CO., INC.**  
**(Incorporated under the laws of the State of Delaware, U.S.A.)**

**Issue of [Aggregate Principal Amount of Tranche] [Bearer/Registered] [Title of Notes]  
under the U.S.\$50,000,000,000 Euro-Medium Term Note Program**

### PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated May 10, 2006 [and the supplemental prospectus dated [            ]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospectus Directive**”). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with such Base Prospectus [as so supplemented]. Full information on the Company and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus [as supplemented]. The Base Prospectus [and the supplemental prospectuses] and these Final Terms are available for viewing during normal office hours at the office of the Agent in London and copies may be obtained from the principal office of the Company.

*The following alternative language applies if the first tranche of an issue which is being increased was issued under a Prospectus with an earlier date.*

Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions (the “**Conditions**”) set forth in the Base Prospectus dated [            ] [and the supplemental prospectus dated [            ]]. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive (Directive 2003/71/EC) (the “**Prospectus Directive**”) and must be read in conjunction with the Base Prospectus dated May 10, 2006 [and the supplemental prospectus dated [            ]], which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive save in respect of the Terms and Conditions which are extracted from the Base Prospectus dated [            ] [and the supplemental prospectus dated [            ]] and are attached hereto. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus dated [            ] and May 10, 2006 [and the supplemental prospectuses dated [            ]] and [            ]. The Base Prospectuses [and the supplemental prospectuses] are available for viewing during normal office hours at the office of the Agent in London and copies may be obtained from the principal office of the Company.

*[If the Notes have a maturity of less than one year from their date of issue, the minimum denomination may need to be £100,000 or its equivalent in any other Specified Currency.]*

*[Include whichever of the following apply or specify as “Not Applicable” (N/A). Note that the numbering should remain as set out below, even if “Not Applicable” is indicated for individual paragraphs or sub-paragraphs. Italics denote guidance for completing the Final Terms]*

*[When completing Final Terms or adding any other Final Terms or information consideration should be given as to whether such terms or information constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note.]*

1. Issuer: Merrill Lynch & Co., Inc. (the “Company”)
2. [(i)] Series Number: [ ]  
[(ii)] Tranche Number: [ ]  
*(If fungible with an existing Series, details of that Series, including the date on which the Notes become fungible and the Aggregate Principal Amount of the Series)*
3. Specified Currency or Currencies (in the case of Dual Currency Notes): [ ]
4. Aggregate Principal Amount: [ ]  
[(i)] Series: [ ]  
[(ii)] Tranche: [ ]
5. Issue Price: [ ] per cent. of the Aggregate Principal Amount [plus accrued interest from *[insert date]*](if applicable)]
6. Specified Denominations: [ ]  
*(Notes (including Notes denominated in Sterling) in respect of which the issue proceeds are to be accepted by the Company in the United Kingdom, or whose issue otherwise constitutes a contravention of section 19 FSMA and which have a maturity of less than one year must have a minimum denomination of £100,000 (or its equivalent in other Specified Currencies))*
7. (i) Issue Date: [ ]  
(ii) Interest Commencement Date: [ ]
8. Maturity Date [or Redemption Month]: [ ]  
*(Specify date or (for Floating Rate Notes) Interest Payment Date falling in or nearest to the relevant month and year. Redemption Month should only be used where the term of the Notes is an even number of years from the Issue Date.)*
9. Interest Basis: [[ ] per cent. Fixed Rate]  
[[ ] Month LIBOR/EURIBOR[ ] per cent.]  
[Floating Rate]  
[Zero Coupon]  
[Index Linked]  
[Dual Currency]  
[Equity Linked]  
[Credit Linked]  
[Other (specify)]  
(further particulars specified below)
10. Redemption/Payment Basis: [Redemption at Par]  
[Index Linked Redemption]  
[Dual Currency]



- [Equity Linked Redemption]  
 [Credit Linked Redemption]  
 [Partly Paid]  
 [Installment]  
 [Other (specify)]
11. Change of Interest or Redemption/Payment Basis: [Not Applicable/ Applicable] *(If applicable, specify details of any provision for convertibility of Notes into another Interest or Redemption/Payment Basis)*
12. Put/Call Options: [Redemption at the Option of the Company]  
 [Redemption at the Option of the Noteholders]  
 (further particulars specified below)
13. [(i)] Status of the Notes: The Notes will constitute direct, unsecured, unsubordinated and general obligations of the Company and will, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with all other unsecured and unsubordinated indebtedness of the Company
- [(ii)] Date of corporate authorization for issuance of Notes: [ ]  
*(N.B. Only relevant where Board (or similar) authorization is required for the particular Tranche of Notes).*
14. Method of distribution: [Syndicated/Non-syndicated]

#### **PROVISIONS RELATING TO INTEREST (IF ANY) PAYABLE**

15. Fixed Rate Note Provisions: [Applicable/Not Applicable] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Fixed Rate(s) of Interest: [ ] per cent. per annum [payable [annually/semi-annually/quarterly/monthly] in arrear] *(If payable other than annually, consider amending Condition 3(a))*
- (ii) Fixed Interest Date(s): [[ ] in each year, up to and including the Maturity Date]/[specify other]
- (iii) Fixed Coupon Amount(s): [Not Applicable][If applicable, specify [ ] per [ ] in Principal Amount]
- (iv) Initial/Final Broken Amount(s): *[Insert particulars of any Initial or Final Broken Interest Amount(s) which do not correspond with the Fixed Coupon Amount(s)]*
- (v) Fixed Day Count Fraction: [30/360]  
 [30E/360 or Eurobond Basis]  
 [Actual/Actual (ICMA)]  
 [Actual/Actual (ISDA)]  
 [or specify other]
- (vi) Determination Date(s): [ ] in each year  
*[Insert regular interest payment dates, ignoring the issue date or the maturity date in the case of a long or short first or last Coupon. In these cases, insert regular interest payment dates]  
 (NB: only relevant where Day Count Fraction is Actual/Actual (ICMA))*

- (vii) Other items relating to the method of calculating interest for Fixed Rate Notes: [Not Applicable/(give details)]
- (viii) Additional Business Centre(s)/Interest Payment Dates: [None/specify]
16. Floating Rate Note Provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Interest Period(s)/Interest Payment Dates: [ ]
- (ii) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (iii) Additional Business Centre(s): [ ]
- (iv) Manner in which the Rate(s) of Interest and Interest Amount is/are to be determined: [Screen Rate Determination/ISDA Determination/other (give details)]  
 [Applicable/Not Applicable]
- (v) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
 [Applicable/Not Applicable]
- (vi) Reference Banks (if any): [Not Applicable/specify]
- (vii) Screen Rate Determination: [Condition 3(b)(iii)(B) applies/Not Applicable]  
 —Reference Rate(s): [ ]  
 [Applicable/Not Applicable]  
*(Either LIBOR, EURIBOR or other, although additional information is required if other—including fallback provisions)*  
 —Interest Determination Date(s): [ ]  
 [Applicable/Not Applicable]  
*(Second London Business Day prior to the start of each Interest Period if LIBOR (other than Sterling or euro LIBOR), first day of each Interest Period if Sterling LIBOR and the second day on which the TARGET System is open prior to the start of each Interest Period if EURIBOR or euro LIBOR)*  
 —Relevant Screen Page: [ ]  
 [Applicable/Not Applicable]  
*(In the case of EURIBOR, if not Telerate 248 ensure it is a page which shows a composite rate or amend the fallback provisions appropriately)*
- (viii) ISDA Determination: [Condition 3(b)(iii)(A) applies/Not Applicable]  
 —Floating Rate Option: [ ]  
 —Designated Maturity: [ ]  
 —Reset Date: [ ]

- (ix) —Margin(s): [ +/- ] per cent. per annum  
[Applicable/Not Applicable]
- (x) Minimum Rate of Interest: [ ] per cent. per annum
- (xi) Maximum Rate of Interest: [ ] per cent. per annum
- (xii) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30E/360 or Eurobond Basis]  
[30/360 or 360/360 or Bond Basis]  
[Other (specify)]  
(See Condition 3 for alternatives)
- (xiii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest on Floating Rate Notes, if different from those set out in the Conditions: [ ]
17. Zero Coupon Note Provisions: [Applicable/Not Applicable]  
(If not applicable, delete the remaining subparagraphs of this paragraph)
- (i) [Amortization/Accrual] Yield: [ ] per cent. per annum
- (ii) Reference Price: [ ]
- (iii) Any other formula/basis of determining amount payable: [ ]  
(Consider applicable day count fraction if euro denominated)
18. Indexed Note Provisions: [Applicable/Not Applicable]  
(If not applicable, delete the remaining subparagraphs of this paragraph)
- (i) Index/Formula [Give or annex details]
- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention/other (give details)]
- (vi) Additional Business Centre(s) [ ]

- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
[Applicable/Not Applicable]
- (viii) Minimum Rate of Interest: [ ] per cent, per annum
- (ix) Maximum Rate of Interest: [ ] per cent, per annum
- (x) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (*specify*)]  
(*See Condition 3 for alternatives*)
19. Dual Currency Note provisions: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining subparagraphs of this paragraph)*
- (i) Rate(s) of Exchange/method of calculating Rate(s) of Exchange: [Give details]
- (ii) Calculation Agent, if any, responsible for calculating the principal and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to Rate(s) of Exchange is impossible or impracticable: [*Need to include a description of market disruption or settlement disruption events and adjustment provisions*]
- (iv) If redeemable in part:
- (a) Minimum Redemption Amount: [ ]
- (b) Maximum Redemption Amount: [ ]
- (v) Notice period (if other than as set out in the Conditions): [ ]  
*[If applicable, specify any change in the notice period]*
- (vi) Person at whose option any Specified Currency or Currencies is or are to be or may be payable: [ ]
20. Credit Linked Note provisions: [Applicable/Not Applicable]  
*[If applicable, insert all relevant additional provisions for such Notes or set out in full in an annex to this Final Terms]*
- (i) Index/Formula [*Give or annex details*]

- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]
- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention other (*give details*)]
- (vi) Additional Business Centre(s) [ ]
- (vii) Manner in which the Rate(s) of Interest and Interest Amount is/are to be determined: [Screen Rate Determination/ISDA Determination/other (*give details*)]  
[Applicable/Not Applicable]
- (viii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
[Applicable/Not Applicable]
- (ix) Reference Banks (if any): [Not Applicable/*specify*]
- (x) Margin(s): [+/-][ ] per cent. per annum  
[Applicable/Not Applicable]
- (xi) Minimum Rate of Interest: [ ] per cent, per annum
- (xii) Maximum Rate of Interest: [ ] per cent, per annum
- (xiii) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (*specify*)]  
(*See Condition 3 for alternatives*)
21. Equity Linked Note provisions: [Applicable/Not Applicable]  
*[If applicable, insert all relevant additional provisions for such Notes or set out in full in an annex to this Final Terms]*
- (i) Index/Formula [Give or annex details]
- (ii) Calculation Agent, if any, responsible for calculating the principle and/or interest payable: [ ]
- (iii) Fallback provisions, rounding provisions, denominator and any other terms relating to the method of calculating interest payable where calculation by reference to the Index/Formula is impossible or impractical: [ ]
- (iv) Interest Period(s)/Interest Payment Dates: [ ]

- (v) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/Preceding Business Day Convention other (*give details*)]
- (vi) Additional Business Centre(s) [ ]
- (vii) Party responsible for calculating the Rate(s) of Interest and Interest Amount(s) (if not the Agent): [ ]  
[Applicable/Not Applicable]
- (viii) Minimum Rate of Interest: [ ] per cent, per annum
- (ix) Maximum Rate of Interest: [ ] per cent, per annum
- (x) Day Count Fraction: [Actual/365 or Actual/Actual (ISDA)]  
[Actual/365 (Fixed)]  
[Actual/365 (Sterling)]  
[Actual/360]  
[30/360 or 360/360 or Bond Basis]  
[30E/360 or Eurobond Basis]  
[Other (*specify*)]  
(*See Condition 3 for alternatives*)

## PROVISIONS RELATING TO REDEMPTION

22. Company's Optional Redemption: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] Specified Denomination
- (iii) If redeemable in part: [ ]
- (a) Minimum Redemption Amount: [ ]
- (b) Maximum Redemption Amount: [ ]
- (iv) Notice period (if other than as set out in the Conditions): [*If applicable, specify any change in the notice period*]
23. Redemption at the option of the Noteholders: [Applicable/Not Applicable]  
*(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- (i) Optional Redemption Date(s): [ ]
- (ii) Optional Redemption Amount(s) of each Note and method, if any, of calculation of such amount(s): [ ] per Note of [ ] Specified Denomination
- (iii) Notice period (if other than as set out in the Conditions): [ ]  
*[If applicable, specify any change in the notice period]*



24. Final Redemption Amount:

- [(i) Fixed Rate Notes: *[Specify or annex details]*]
- [(ii) Floating Rate Notes: *[Specify or annex details]*]
- [(iii) Dual Currency Notes: *[Specify or annex details]*]
- (a) Rate(s) of Exchange: [ ]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (d) Determination Date(s): [ ]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]
- [(iv) Indexed Notes: *[Specify or annex details]*]
- (a) Index/Formula/variable: [ ]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (d) Determination Date(s): [ ]
- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]
- [(v) Equity Linked Notes: *[Specify or annex details]*]
- (a) Index/Formula/variable: [ ]
- (b) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (c) Provisions for determining Final Redemption Amount where calculated by reference to Index and/or Formula and/or other variable: [ ]
- (d) Determination Date(s): [ ]

- (e) Provisions for determining Final Redemption Amount where calculation by reference to Index and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (f) Payment Date: [ ]
- (g) Minimum Final Redemption Amount: [ ]
- (h) Maximum Final Redemption Amount: [ ]
- [(vi) Credit Linked Notes: *[Specify or annex details]*
- (i) Reference Entity/Credit/Formula/variable: [ ]
- (ii) Calculation Agent responsible for calculating the Final Redemption Amount: [ ]
- (iii) Provisions for determining Final Redemption Amount where calculated by reference to Reference Entity/Credit and/or Formula and/or other variable: [ ]
- (iv) Determination Date(s): [ ]
- (v) Provisions for determining Final Redemption Amount where calculation by reference to Reference Entity/Credit and/or Formula and/or other variable is impossible or impracticable or otherwise disrupted: [ ]
- (vi) Payment Date: [ ]
- (vii) Minimum Final Redemption Amount: [ ]
- (viii) Maximum Final Redemption Amount: [ ]
- [(vii) Zero Coupon Notes: *[Specify or annex details]*
25. Early Redemption Amount(s) of each Note payable on redemption for taxation reasons or, upon the other circumstances described in Condition 8 or upon acceleration of the Notes pursuant to Condition 12 and/or the method of calculating the same (if required or if different from that set out in Condition 4(f)): [ ] per Note of [ ] Specified Denomination
26. Cash Settlement Amount: [Applicable][Not Applicable]
- [The Cash Settlement Amount (as defined in Condition 4(n)(iii) is calculated in the following manner: *[specify calculation method]*
- (N.B. This item must be completed in every case the terms of the Notes include any option to deliver non-cash consideration to Holders)*

#### GENERAL PROVISIONS APPLICABLE TO THE NOTES

27. Form of Notes:
- (i) Bearer Notes: [Not Applicable/The Notes will be Bearer Notes and will initially be represented by a temporary global Note in bearer form, without interest coupons attached, which will be deposited with a common [safekeeper] [depository] *(delete as applicable)* for Euroclear Bank S.A./N.V.

(“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”) on or about the Issue Date. Interests in the temporary global Note will be exchangeable for interests in a permanent global Note, without interest coupons attached, on a date (the “Exchange Date”) not earlier than 40 days after the closing date upon appropriate certification as to non-U.S. beneficial ownership. The permanent global Note will be exchangeable in whole, but not in part, for definitive Notes in bearer form in denominations of [specify denominations of Notes] each with interest coupons attached upon 60 days’ written notice expiring at least 30 days after the Exchange Date. Interests in the permanent global Note will not be exchangeable for Notes in registered form. ]

(ii) Registered Notes:

[Not Applicable/The Notes will be Registered Notes and will initially be represented by a permanent global Note registered in the name of a nominee for, and deposited with, a common depositary for [Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”)] [specify other clearing system agreed] on or about the Issue Date. Interests in the permanent global Note will not be exchangeable for Notes in bearer form. Interests in the permanent global Note will be exchangeable for definitive Notes in registered form in the limited circumstances specified in Condition 18. See Annex [ ] hereto for further particulars. (Include all relevant additional provisions to apply to each Series of Registered Notes in addition to the relevant provisions relating to Registered Notes generally (Condition 18))]

(iii) Registered Short-term Notes:

[Not Applicable/The Notes will be Registered Short-term Notes and will initially be represented by a permanent global Note registered in the name of a nominee for and deposited with a common depositary for Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”) on or about the Issue Date. Interests in the permanent global Note will not be exchangeable for Notes in bearer form. Interests in the permanent global Note will be exchangeable for definitive Notes in registered form in the limited circumstances specified in Condition 18. (Include all additional relevant provisions relating to Registered Short-term Notes (Condition 18))]

28. New Global Note

[Yes/No]

29. Additional Financial Centre(s) or other special provisions relating to Payment Business Day: Condition 5(c) [(i)][(ii)] applies (*delete as applicable*)/Not Applicable/*give details*. *Note that this item relates to the date and place of payment, and not the Additional Business Centre to which items 15(viii) and 16(iii) relate*
30. Talons for future Coupons or Receipts to be attached to definitive Notes in bearer form (and dates on which such Talons mature): [Yes/No. *If yes, give details*]
31. Details relating to Partly Paid Notes amount of each payment comprising the Issue Price and date on which each payment is to be made and consequences (if any) of failure to pay, including any right of the Company to forfeit the Notes and interest due on late payment: [Not Applicable/*give details*] (*NB: a new form of temporary Global Note and/or permanent Global Note may be required for Partly Paid issues*)
32. Details relating to Installment Notes:
- (i) Installment Amount(s): [Not Applicable/*give details*]
- (ii) Installment Date(s): [Not Applicable/*give details*]
33. Redenomination, renominatisation and reconventioning provisions: [Not Applicable/The provisions annexed to this Final Terms apply]
34. Other terms or specified conditions: [Not Applicable/*give details*]
- (*When adding any other final terms, consideration should be given as to whether such terms constitute “significant new factors” and consequently trigger the need for a supplement to the Base Prospectus under Article 16 of the Prospectus Directive or the use of a Securities Note.*)
35. Further provision: [Not Applicable/Condition 16 applies. If the Company issues further Notes of the same Series during the initial 40-day restricted period applicable to the outstanding Notes of such Series, then such 40-day period will be extended until 40 days after the later of the commencement of the offering and the Issue Date of such further issue of Notes. In addition, if the Company issues further Notes of the same Series after the expiration of the 40-day restricted period, a new 40-day restricted period will be applied to such further issue of Notes without applying to the outstanding Notes. After the expiration of the new 40-day restricted period, all such Notes will be consolidated with and form a single Series with the outstanding Notes.]
36. Details relating to Notes that are payable and/or for which the obligations of the Company may be discharged by the delivery of securities and/or other property or any combination of cash, securities and/or other property: [Not Applicable/*give details*]

## DISTRIBUTION

37. (i) If syndicated, names and addresses of Managers and respective underwriting commitments: [Not Applicable/*give names, addresses and underwriting commitments*]  
(*Include names and addresses of entities agreeing to underwrite the issue on a firm commitment basis and names and addresses of the entities agreeing to place the issue without a firm commitment or on a “best efforts” basis if such entities are not the same as the Managers.*)

- (ii) Date of Purchase Agreement: [ ]
- (iii) Stabilizing Manager (if any):
- [Not Applicable/ In connection with the issue of any Tranche of Notes, the Relevant Dealer (if any) named as the stabilizing manager (or persons acting on behalf of any Stabilizing Manager(s)) in the applicable Final Terms or Prospectus (as the case may be) (the “Stabilizing Manager”) may over-allot Notes (provided that, in the case of any Tranche of Notes to be admitted to trading on the London Stock Exchange’s Gilt Edged and Fixed Interest Market and/or the regulated market of the Luxembourg Stock Exchange and/or any other regulated market (within the meaning of the Investment Services Directive) in the European Economic Area, the aggregate principal amount of Notes allotted does not exceed 105 per cent. of the aggregate principal amount of the Tranche of Notes) or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilizing Manager (or persons acting on behalf of the Stabilizing Manager) will undertake stabilization action. Any stabilization action may begin on or after the date on which adequate public disclosure of the final terms of the offer of the Tranche of Notes is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Tranche of Notes and 60 days after the date of the allotment of the Tranche of Notes.]
38. Name and address of Relevant Dealer: [Merrill Lynch International/Merrill Lynch Capital Markets AG/ Merrill Lynch (Singapore) Pte. Ltd./, others, including address]
39. Name and address of Distributors/placers: [Not Applicable] / [give details, as per below instruction]
- (Insert the following details if offer is a public offer: (i) name and address of the Distributors/ placers of the Notes in those jurisdictions in which the offer is made; or (ii) to the extent that details in (i) are unknown prior to the offer period in respect of the Notes, disclosure as to the method of communication of the Distributors/placers prior to or on the Issue Date.)*
40. Total commission and concession: In connection with the distribution of the Notes, [the [Issuer] [Dealer] will pay to [ ] a selling commission equal to [ ] per cent. (%) of the Aggregate Principal Amount of the Notes] [the Dealer will acquire the Notes from the Issuer at [ ] per cent. (%) of their Aggregate Principal Amount and may resell the Notes from time to time in one or more negotiated transactions at varying prices determined at the time of the sale]].
41. Additional selling restrictions: [Not Applicable/give details]

[Under the Income Tax Act, Chapter 134 of Singapore (the “**Income Tax Act**”), all foreign-sourced income received in Singapore on or after January 1, 2004 by resident individuals will be exempted from tax, provided such foreign-sourced income is not received through a partnership in Singapore. Income which is considered to be gains or profits from any trade, business or profession carried on in Singapore may be considered as Singapore-sourced income and may not be covered by this exemption.

As Merrill Lynch (Singapore) Pte. Ltd., which is a Financial Sector Incentive (Bond Market) Company (as defined in the Income Tax Act), is the dealer for more than half of the Notes and the Notes will be issued during the period from February 17, 2006 to December 31, 2008, the Notes are “qualifying debt securities” for the purposes of the Income Tax Act. Accordingly, subject to certain conditions having been fulfilled (including the submission of a return on debt securities to the Comptroller of Income Tax in Singapore and the Monetary Authority of Singapore within one month from the date of issue of the Notes), interest on the Notes, and discount income on the Notes received by a person not resident in Singapore is exempt from tax (provided the non-resident person does not have a permanent establishment in Singapore or if he does, does not acquire the Notes using funds from the Singapore operations), and any company or body of persons (as defined in the Income Tax Act) in Singapore is subject to tax at a concessionary rate of 10 per cent.

However, notwithstanding the foregoing:

(i) if during the primary launch of the Notes, the Notes are issued to less than four persons and 50 per cent. or more of the principal amount of the Notes is beneficially held or funded, directly or indirectly, by related parties of the Company, the Notes would not qualify as “qualifying debt securities”; and

(ii) even though the Notes are “qualifying debt securities”, if at any time during the tenure of the Notes, 50 per cent. or more of the principal amount of the Notes is held beneficially or funded, directly or indirectly, by any related party(ies) of the Company, interest or discount income derived from the Notes held by (1) any related party of the Company, or (2) any other person where the funds used by such person to acquire the Notes are obtained, directly or indirectly, from any related party of the Company, shall not be eligible for the concessionary tax rate of 10 per cent.

“Related party”, in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that person, or where he and that other person, directly or indirectly, are under the control of a common person. Any person whose interest and discount income derived from the Notes is not exempt from tax is required to include such interest and discount income in a return of income made under the Income Tax Act.<sup>3</sup>

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<sup>3</sup> Insert where Merrill Lynch (Singapore) Pte. Ltd. is the dealer for more than half of the Notes and the Notes are issued on or before December 31, 2008.



## **[LISTING AND ADMISSION TO TRADING APPLICATION]**

These Final Terms comprise the final terms required to list and have admitted to trading the issue of Notes described herein pursuant to the Company's U.S.\$50,000,000,000 Euro-Medium Term Note Program.]

## **RESPONSIBILITY**

The Company accepts responsibility for the information contained in these Final Terms. [[ ] has been extracted from [ ]]. The Company confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from the information published by [ ], no facts have been omitted which would render the reproduced inaccurate or misleading.]

Signed on behalf of the Company:

By:\_\_\_\_\_

Name:

Title:

*If the applicable Final Terms specifies any modification to the Terms and Conditions of the Notes as described herein, it is envisaged that, to the extent that such modification relates only to Conditions 1, 3, 4 (except Condition 4(b)) and 5, they may not necessitate the use of a Securities Note. If the Terms and Conditions of the Notes are to be modified in any other respect that constitutes the addition of "significant new factors" (as would be the case, for example, for an issue of Credit Linked Notes, Equity Linked Notes or Indexed Notes, which are to be issued in circumstances where they are to be listed and/or admitted to trading), a supplement to this Base Prospectus as required under Article 16 of the Prospectus Directive will be prepared or the Form of Securities Note will be used, as appropriate.*

## PART B – OTHER INFORMATION

### 1. LISTINGS:

- (i) Listing: [London/Luxembourg/other (*specify*)/None]
- (ii) Admission to trading: [Application has been made for the Notes to be admitted to the Official List of the UK Listing Authority and to be admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market with effect [on or about the Issue Date][from [     ].]
- [Application has been made to the Luxembourg Stock Exchange for the Notes to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the official list of the Luxembourg Stock Exchange with effect [on or about the Issue Date][from [     ].]
- [Application has been made for the Notes to be admitted to trading on [     ] with effect [on or about the Issue Date][from [     ].]
- [Not Applicable.]
- (Where documenting a fungible issue need to indicate that original securities are already admitted to trading.)*

### 2. RATINGS

- Ratings: The Notes will be issued under the Program, which has been rated:
- [S&P: [A+/A-1] An obligation rated "A" is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher-rated categories. However, the obligor's capacity to meet its financial commitment on the obligation is still strong. The ratings from "AA" to "CCC" may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the major rating categories.
- A short-term obligation rated "A-1" is rated in the highest category by S&P. The obligor's capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.]
- [Moody's: [Aa3] Obligations rated "Aa" are judged to be of high quality and are subject to very low credit risk. Moody's appends numerical modifiers 1, 2, and 3 to each generic rating classification from Aa through Caa. The modifier 1 indicates that the obligation ranks in the higher end of its generic rating category; the

[Fitch: [AA-] “AA” ratings denote expectations of very low credit risk. They indicate very strong capacity for payment of financial commitments. This capacity is not significantly vulnerable to foreseeable events. The modifiers “+” or “-” may be appended to a rating to denote relative status within major rating categories.]

[The information regarding ratings above has been extracted from the websites of Fitch Ratings (“**Fitch**”), Moody’s Investors Service, Inc. (“**Moody’s**”) and S&P, a division of The McGraw-Hill Companies, Inc. (“**S&P**”) as applicable. The Company confirms that such information has been accurately reproduced and that, so far as it is aware, and is able to ascertain from information published by Fitch Ratings, Moody’s Investors Service, Inc. and S&P, no facts have been omitted which would render the reproduced inaccurate or misleading.]

### 3. NOTIFICATION

#### 4. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE [ISSUE/OFFER]

“Save as discussed in [“Subscription and Sale”], so far as the Issuer is aware, no person involved in the offer of the Notes has an interest material to the offer.”)]

(i) Reasons for the offer:

*(See [“Use of Proceeds”] wording in Prospectus – if reasons for offer differ from general corporate purposes and/or making profit and/or hedging certain risks will need to include those reasons here.)*

[ ]

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- [(ii)/(iii)] [Estimated total expenses: [ ] [Include breakdown of expenses.]
- (If the Notes are derivative securities to which Annex XII of the Prospectus Directive Regulation applies it is only necessary to include disclosure of net proceeds and total expenses at (ii) and (iii) above where disclosure is included at (i) above.)]*
6. **[Fixed Rate Notes only – YIELD]**
- Indication of yield: [ ]
- Calculated as [include details of method of calculation in summary form] on the Issue Date.
- As set out above, the yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.]
7. **[Floating Rate Notes only – HISTORIC INTEREST RATES]**
- Details of historic [LIBOR/EURIBOR/other] rates can be obtained from [Telerate].]
8. **[Index-Linked or other variable-linked Notes only – PERFORMANCE OF INDEX/FORMULA/ OTHER VARIABLE, EXPLANATION OF EFFECT ON VALUE OF INVESTMENT AND ASSOCIATED RISKS AND OTHER INFORMATION CONCERNING THE UNDERLYING]**
- Need to include details of where past and future performance and volatility of the index/formula/other variable can be obtained and a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident. Need to include any adjustment rules in relation to events concerning the underlying (if applicable). [Where the underlying is an index need to include the name of the index and description if composed by the Issuer and if the index is not composed by the Issuer need to include details of where the information about the index can be obtained. Where the underlying is not an index need to include equivalent information.]*
9. **[Dual Currency Notes only – PERFORMANCE OF RATE[S] OF EXCHANGE AND EXPLANATION OF EFFECT ON VALUE OF INVESTMENT]**
- Need to include details of where past and future performance and volatility of relevant rate[s] can be obtained and a clear and comprehensive explanation of how the value of the investment is affected by the underlying and the circumstances when the risks are most evident.]*
10. **INFORMATION IN RESPECT OF PUBLIC OFFERS OF NOTES**
- [Applicable/Not Applicable.] *(If not applicable, delete the remaining sub-paragraphs of this paragraph)*
- [The Notes will be offered to the public in each of [insert jurisdictions] in accordance with the arrangements listed below].
- (i) Arrangements for publication of final size of issue/offer: [Not Applicable] / [give details, as per below instruction]]
- (If applicable (i) specify date on which the final size of the issue will be made public and (ii) insert specific details in respect of the method of publication (including, where relevant, details of any advertisements to be published)).*
- (ii) Time period, including any possible amendments, during which the offer will be open: [[ ] [a.m.][p.m.] on [ ] to [ ] [a.m.][p.m.] on [ ]]
- (iii) Description of the application process: [Not Applicable] / [give details, as per below instruction]
- (If applicable, insert details of application/ subscription process)*

- (iv) Details of the minimum/maximum amount of application (whether in numbers of securities or aggregate amount to invest): [Not Applicable] / [give details]
- (v) Method and time limits for paying up the securities and for delivery of the securities: [Not Applicable] / [give details]<sup>4</sup>
- (vi) Full description of the manner and date in which results of the offer are to be made to public: [Not Applicable] / [give details, as per below instruction]  
*(If applicable (i) specify date on which the results of the offer will be made public and (ii) insert specific details in respect of the method of publication of such results (including, where relevant, details of any advertisements to be published))*
- (vii) Indication of the expected price at which the securities will be offered or the method of determining the price and the process for its disclosure: [Not Applicable] / [give details]
- (viii) Process for notification to applicants of the amount of Notes allotted and indication whether dealing may begin before notification is made: [Not Applicable] / [give details]
- (ix) Details of any tranche(s) reserved for specific country: [Not Applicable] / [give details]
- (x) Additional information applicable to the terms and conditions of the offer, if any: [Not Applicable] / [give details]

## 11. OPERATIONAL INFORMATION

- ISIN Code: [ ]
- Common Code: [ ]
- Any clearing system(s) other than Euroclear Bank S.A./N.V. and Clearstream Banking, *société anonyme*, and the relevant identification number(s): [Not Applicable/give name(s) and number(s)]
- Delivery: Delivery [against/free of] payment
- Intended to be held in a manner which would allow Eurosystem eligibility: [Yes/No]  
 [Note that the designation “yes” simply means that the Notes are intended upon issue to be deposited with one of the international central securities depositaries (“ICSDs”) as common safekeeper and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.]  
*(include this text if “yes” selected in which case the Notes must be issued in New Global Note form)*

<sup>4</sup> Under normal circumstances, on the Issue Date, allocated Notes will be made available to the [Dealers] [Distributors] in such account as may be held by them directly or indirectly at Euroclear or Clearstream, Luxembourg

Names and addresses of additional Paying Agent(s) if any: [Not Applicable/give name(s) and number(s)]

Governing Law: New York

Additional investment considerations: [Applicable. See Annex [ ] hereto/Not Applicable]

*(If applicable, set out in an annex all additional risk factors or other investment considerations applicable to the particular Tranche of Notes to be issued.)*

## TERMS AND CONDITIONS OF THE NOTES

*The following are the Terms and Conditions of Notes issued in connection with the Base Prospectus and further documented by the applicable Final Terms relating to a particular Tranche of Notes, and which (subject to completion and minor amendment) will be attached to or incorporated by reference into each global Note and which will be endorsed on each definitive Note. Unless otherwise provided in the applicable Final Terms, Condition 18 will be applicable to all Registered Notes, including Registered Short-term Notes. The applicable Final Terms in relation to any Notes may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with such Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. The Registration Document relating to the Program and applicable Securities Note (the “Securities Note”) or Prospectus, relating to a particular Tranche of Notes may also be used in connection with the issue of Notes under the Program and such applicable Securities Note or Prospectus (as the case may be) may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Terms and Conditions, replace or modify the following Terms and Conditions for the purpose of such Notes. To the extent that Notes are issued pursuant to a Securities Note, references in the following Terms and Conditions to the “Final Terms” shall be read as references to the “Securities Note” in respect of such Tranche of Notes, and all such references shall be construed accordingly.*

This Note is one of a Series (as defined below) of notes (the “Notes”, which expression shall mean (i) in relation to any Notes represented by a global Note, units of the lowest Specified Denomination in the specified currency of the relevant Notes, (ii) definitive Notes issued in exchange (or partial exchange) for a permanent global Note, and (iii) any global Note) issued subject to, and with the benefit of, an Amended and Restated Agency Agreement, dated May 10, 2006 (as the same may be amended or supplemented from time to time in accordance with the terms thereof, the “Agency Agreement”), among the Company, Deutsche Bank AG, London Branch, as issuing agent and principal paying agent and, if so specified in the applicable Final Terms, calculation agent (the “Agent”, which expression shall include any successor to Deutsche Bank AG, London Branch, in such capacities) and the other paying agents named therein (together with the Agent, the “Paying Agents”, which expression shall include any additional or successor paying agents).

Interest-bearing definitive Bearer Notes will (unless otherwise indicated in the applicable Final Terms) have interest coupons (“Coupons”) and, if indicated in the applicable Final Terms, talons for further Coupons (“Talons”) attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Definitive Bearer Notes repayable in installments will have receipts (“Receipts”) for the payment of the installments of principal (other than the final installment) attached on issue.

As used herein, “Series” means all Notes which are denominated in the same currency and which have the same Maturity Date or Redemption Month, as the case may be, Interest/Payment Basis and interest payment dates (if any) (all as indicated in the applicable Final Terms) and the terms of which (except for the Issue Date or the Interest Commencement Date (as the case may be) and/or the Issue Price (as indicated as aforesaid)) are otherwise identical (including whether or not the Notes are listed) and the expressions “Notes of the relevant Series” and “holders of Notes of the relevant Series” and related expressions shall be construed accordingly. As used herein, “Tranche” means all Notes of the same Series with the same Issue Date.

The Final Terms applicable to this Note is attached hereto or endorsed hereon. Such Final Terms supplements these Terms and Conditions and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of this Note. References herein to the “applicable Final Terms” shall mean the Wholesale Final Terms and/or the Retail Final Terms (as the case may be) attached hereto or endorsed hereon.

Copies of the Agency Agreement (which contains the forms of the final terms, the temporary global, permanent global and definitive Notes) and the Program Agreement, in each case relating to the Program, will be available for inspection during normal office hours at the office of the Agent in London, England and the principal office of the Company and, for so long as any Notes are admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange, at the office of the Paying Agent in Luxembourg. The Base Prospectus and the Final Terms applicable to this Note are available for collection without charge during normal office hours, at the office of the Paying Agent in Luxembourg, the principal office



of the Agent in London, England and the principal office of the Company, except that, if this Note is an unlisted Note of any Series (neither listed on a stock exchange nor admitted to trading on any market), the applicable Final Terms will only be available for inspection by a holder of the Notes holding one or more unlisted Notes of that Series and such holder of Notes must produce evidence satisfactory to the relevant Paying Agent as to its holding of Notes and to identity. The holders of the Notes (the “Noteholders”), which expression shall, in relation to any Notes represented by a global Note, be construed as provided in Condition 1, the holders of the Coupons (the “Couponholders”) and the holders of Receipts (the “Receiptholders”) are deemed to have notice of, and are entitled to the benefit of, all the provisions of the Agency Agreement and the applicable Final Terms, which are applicable to them.

Words and expressions defined in the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in these Terms and Conditions unless the context otherwise requires or unless otherwise stated.

## **1. Form and Title**

The Notes will be issued in either bearer form (the “Bearer Notes”) or registered form (the “Registered Notes”, which term includes Registered Short-term Notes) as specified in the applicable Final Terms.

Bearer Notes (other than Registered Notes, which term includes Notes with maturities of seven days or more but less than 184 days from (but not including) the Issue Date which have denominations of less than U.S.\$500,000 (or the equivalent in other currencies) (the “Registered Short-term Notes”)) of this Series are deposited on or prior to the relevant Issue Date (i) if the Notes are issued in New Global Note (“NGN”) form as specified in the applicable Final Terms, with a common safe keeper (the “Common Safekeeper”) and (ii) if the Notes are issued in classic global note (“CGN”) form as specified in the applicable Final Terms, with a common depositary for Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”) and, in the case of definitive Notes, are serially numbered in the Specified Currency and in the Specified Denomination(s). Bearer Notes or interests in Bearer Notes shall not be exchangeable for Registered Notes or interests in Registered Notes, as applicable. Unless specified otherwise in the applicable Final Terms, the Notes will be issued in NGN form.

Registered Notes of this Series are registered in the name of a nominee for, and deposited on the relevant Issue Date with, a common depositary for Euroclear and Clearstream, Luxembourg and/or any other agreed clearing system. Registered Short-term Notes are issued in registered form only. Registered Notes or interests in Registered Notes shall not be exchangeable for Bearer Notes or interests in Bearer Notes, as applicable. Deutsche Bank Luxembourg S.A. is the registrar and transfer agent (the “Registrar”) with respect to Registered Notes and is authorized on behalf of the Company to register Registered Notes for each Series and transfers of any definitive Registered Notes in a register (the “Register”). The Company may appoint alternative registrars and transfer agents pursuant to the Agency Agreement and specified in the applicable Final Terms; provided, however, that for so long as any definitive Registered Notes are admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange and the rules so require, a transfer agent will be in Luxembourg.

This Note is a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note, a Dual Currency Note, an Installment Note, a Partly Paid Note, a Credit Linked Note, an Indexed Note or an Equity Linked Note or any appropriate combination thereof, depending upon the Interest/Payment Basis specified in the applicable Final Terms, and the appropriate provisions of these Terms and Conditions will apply accordingly.

Bearer Notes in definitive form are issued with Coupons attached, unless they are Zero Coupon Notes in which case references to interest (other than interest due after the Maturity Date), Coupons and Couponholders in these Terms and Conditions are not applicable.

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

Title to the Registered Notes will pass by registration in the Register (as defined below) which is kept by the Registrar in accordance with the provisions of the Agency Agreement. The Company, the Registrar and any Paying Agent may deem and treat the person in whose name any Registered Note is registered in the Register as the absolute owner thereof for all purposes but, in the case of any global Registered Note, without prejudice to the provisions set out in the next succeeding paragraph.

For so long as any of the Notes are represented by a global Note, each person who is for the time being shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular principal amount of Notes (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the principal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes except in the case of manifest error) shall be treated by the Company, the Agent and any other Paying Agent as the holder of such principal amount of such Notes for all purposes other than with respect to the payment of principal or interest on the Notes, the right to which shall be vested, as against the Company, the Agent and any other Paying Agent solely in (i) the bearer of the relevant global Bearer Note, and (ii) the Person in whose name the global Registered Note is registered in the Register, each in accordance with and subject to the Terms and Conditions (and the expressions “Noteholder” and “holder of Notes” and related expressions shall be construed accordingly). Notes which are represented by a global Note will be transferable only in accordance with the rules and procedures for the time being of Euroclear or of Clearstream, Luxembourg, as the case may be.

Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative clearing system approved by the Company and the Agent and specified in the applicable Final Terms.

## **2. Status of Notes**

The Notes constitute direct, unsecured, unsubordinated and general obligations of the Company and will, save for such exceptions as may be provided by applicable legislation or judicial order, rank *pari passu* with all other unsecured and unsubordinated indebtedness of the Company.

## **3. Interest**

In this Condition 3, “Business Day” means (unless otherwise provided in the applicable Final Terms) a day which is both:

- (A) a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London and any Additional Business Centre specified in the applicable Final Terms; and
- (B) either (1) in relation to Notes denominated or payable in a Specified Currency other than euro, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial center of the country of the relevant Specified Currency (if other than London) or (2) in relation to Notes denominated or payable in euro, a day on which the TARGET System (as defined below) is open (a “TARGET Day”). “TARGET System” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System or any successor thereto. Unless otherwise provided in the applicable Final Terms, the principal financial center of any country for the purpose of these Terms and Conditions shall be as provided in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. and as amended and updated as at the issue date of the first Tranche of the Notes (the “ISDA Definitions”), except that the principal financial center of Australia shall be Melbourne and Sydney, the principal financial center of Canada shall be Toronto and the principal financial center of New Zealand shall be Wellington.

### **(a) Interest on Fixed Rate Notes**

(i) Each Fixed Rate Note bears interest on its principal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date specified in the applicable Final Terms at the rate(s) per annum equal to the Fixed Rate(s) of Interest specified in the applicable Final Terms payable in arrear

on the Fixed Interest Date(s) in each year up to and including the Maturity Date so specified if it does not fall on a Fixed Interest Date. If a Fixed Coupon Amount is specified in the applicable Final Terms, the amount of interest payable on each Fixed Interest Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount as so specified irrespective of any calculation based on the Fixed Rate(s) of Interest and any applicable Fixed Day Count Fraction (if any). The first payment of interest shall be made on the Fixed Interest Date next following the Interest Commencement Date and, if the first anniversary of the Interest Commencement Date is not a Fixed Interest Date, will amount to the Initial Broken Amount specified in the applicable Final Terms. If the Maturity Date is not a Fixed Interest Date, interest from (and including) the preceding Fixed Interest Date (or the Interest Commencement Date, as the case may be) to (but excluding) the Maturity Date will amount to the Final Broken Amount specified in the applicable Final Terms.

(ii) Interest shall be paid, with respect to Fixed Rate Notes in definitive bearer form, against surrender of the appropriate Coupons, subject to and in accordance with the provisions of Condition 5.

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

Unless otherwise indicated in the applicable Final Terms, “Fixed Day Count Fraction” means:

(1) if “Actual/Actual (ICMA)” is specified in the applicable Final Terms:

(a) in the case of Notes where the number of days in the relevant period from (and including) the most recent Fixed Interest Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the “Accrual Period”) is equal to or shorter than the Determination Period (as defined below) during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; or

(b) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:

(1) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year; and

(2) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Dates that would occur in one calendar year, assuming interest was to be payable in respect of the whole of that year;

(2) if “30/360” is specified in the applicable Final Terms, the number of days in the relevant period from (and including) the most recent Fixed Interest Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of 12 30-day months) divided by 360;

(3) if “Actual/Actual (ISDA)” is specified in the applicable Final Terms, the actual number of days in the Accrual Period divided by 365 (or, if any portion of that Accrual Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Accrual Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Accrual Period falling in a non-leap year divided by 365); and

(4) if “30E/360” or “Eurobond Basis” is specified in the applicable Final Terms, the number of days in the Accrual Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Accrual Period unless, in the case of an Accrual Period ending on the Maturity Date, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

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

“Fixed Interest Period” means the period from (and including) a Fixed Interest Date (or, if none, the Interest Commencement Date) to (but excluding) the next (or first) Fixed Interest Date.

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

**(b) Interest on Floating Rate Notes, Indexed Notes, Equity Linked Notes and Credit Linked Notes**

*(i) Interest Payment Dates*

Each Floating Rate Note and, if so specified in the applicable Final Terms, each Indexed Note, Equity Linked Note and Credit Linked Note bears interest on its principal amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date specified in the applicable Final Terms and such interest will be payable in arrear on each interest payment date specified in the applicable Final Terms (each an “Interest Payment Date”) or, if no express Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (an “Interest Payment Date”) which falls the number of months or other period specified as the Interest Period in the applicable Final Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date. Such interest will be payable in respect of each Interest Period (which expression shall, in these Terms and Conditions, mean the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date). If any Interest Payment Date (or other date) which is specified in the applicable Final Terms to be subject to adjustment in accordance with a business day convention (a “Business Day Convention”) would otherwise fall on a day which is not a Business Day, then, if the business day convention specified is:

- (1) the Floating Rate Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date (or other date) shall be brought forward to the immediately preceding Business Day and (B) if the Interest Period is specified as a whole number of months, each subsequent Interest Payment Date (or other date) shall be the last Business Day in the month which falls the number of months specified as the Interest Period in the applicable Final Terms after the preceding applicable Interest Payment Date (or other date) occurred; or
- (2) the Following Business Day Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day; or
- (3) the Modified Following Business Day Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date (or other such date) shall be brought forward to the immediately preceding Business Day; or
- (4) the Preceding Business Day Convention, such Interest Payment Date (or other date) shall be brought forward to the immediately preceding Business Day.

*(ii) Interest payments*

Interest will be paid, with respect to Floating Rate Notes, Indexed Notes, Equity Linked Notes and Credit Linked Notes, as applicable, in definitive bearer form, against surrender of the appropriate Coupons, subject to and in accordance with the provisions of Condition 5.

*(iii) Rate of Interest*

The Rate of Interest payable from time to time with respect to each Series of Floating Rate Notes, Indexed Notes, Equity Linked Notes and Credit Linked Notes, as applicable, shall be determined in the manner specified in the applicable Final Terms:

**(A) ISDA Determination for Floating Rate Notes**

If the applicable Final Terms specifies that this Condition 3(b)(iii)(A) shall apply, the Rate of Interest for each Interest Period shall be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this sub-paragraph (A), “ISDA Rate” for an Interest Period means a rate equal to the Floating Rate that would be determined by the Agent under an interest rate swap transaction if the Agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

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

For the purposes of this sub-paragraph (A), (x) “Euro-zone” means the region comprised of member states of the European Union (“Member States”) that adopt the single currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on European Union and the Treaty of Amsterdam and (y) the definitions of “Floating Rate”, “Calculation Agent”, “Floating Rate Option”, “Designated Maturity” and “Reset Date” have the respective meanings given to those terms in the ISDA Definitions.

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

If the applicable Final Terms specifies that this Condition 3(b)(iii)(B) applies:

- (1) the Rate of Interest for each Interest Period shall, subject as provided below, be either:
  - I. the quotation; or
  - II. the arithmetic mean (rounded, if necessary, to the fourth decimal place, with 0.00005 being rounded upwards) of the offered quotations (expressed as a percentage rate per annum),  
for the Reference Rate or Rates (as specified in the applicable Final Terms) which appears or appear, as the case may be, on the Relevant Screen Page as at 11:00 a.m. (London time) in the case of LIBOR or 11:00 a.m. (Brussels time) in the case of EURIBOR on the Interest Determination Date (as defined below) in question plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Agent. If five or more such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest rate, only one of such rates) and the lowest (or, if there is more than one such lowest rate, only one of such rates) shall be disregarded by the Agent for the purposes of determining the arithmetic mean (rounded as provided above) of such offered quotations;
- (2) if, in the case of (I) above, no such rate appears or, in the case of (II) above, fewer than two of such offered rates appear at such time or if the offered rate or rates which appears or appear, as the case may be, as at such time do not apply to a period of a duration equal to the relevant Interest Period, the Rate of Interest for such Interest Period shall, subject as provided below, be the arithmetic mean (rounded, if necessary, to the fourth decimal place, with 0.00005 being rounded upwards) of the quotations for deposits in the Specified Currency for that Interest Period (expressed as a percentage rate per annum) of which the Agent is advised by, if the Reference Rate is LIBOR, the London offices or, if the Reference Rate is EURIBOR, the principal Euro-zone offices, of four leading banks engaged in the inter-bank market (the “Reference Banks”), if the Reference Rate is LIBOR, as at 11:00 a.m. (London time) or, if the Reference Rate is EURIBOR, as at 11:00 a.m. (Brussels time) on the Interest Determination Date plus or minus (as appropriate) the Margin (if any), all as determined by the Agent;
- (3) if on any Interest Determination Date to which this Condition 3(b)(iii)(B) applies, only two or three of the Reference Banks advise the Agent of such offered quotations, the Rate of Interest for such Interest Period shall, subject as provided below, be determined as in Condition 3(b)(iii)(B) on the basis of the rates of those Reference Banks advising such offered quotations;



- (4) if on any Interest Determination Date to which this Condition 3(b)(iii)(B) applies only one or none of the Reference Banks advises the Agent of such quotations, the Rate of Interest for such Interest Period shall, subject as provided below, be whichever is the higher of:
- I. the Rate of Interest in effect for the last preceding Interest Period to which Condition 3(b)(iii)(B) shall have applied (plus or minus (as appropriate), where a different Margin is to be applied to the next Interest Period to that which applied to the last preceding Interest Period, the Margin relating to that last preceding Interest Period, plus or minus (as appropriate) the Margin for the next Interest Period); and
  - II. the reserve interest rate which shall be the rate per annum which the Agent determines to be either (x) the arithmetic mean (rounded, if necessary, to the fourth decimal place, with 0.00005 being rounded upwards) of the lending rates for the Specified Currency which leading banks selected by the Agent in the principal financial center of the country of the Specified Currency or, in the case of Notes payable in euro, in the Euro-zone, are quoting on the relevant Interest Determination Date for the next Interest Period to the Reference Banks or those of them (being at least two in number) to which such quotations are, in the opinion of the Agent, being so made plus or minus (as appropriate) the Margin (if any), or (y) in the event that the Agent can determine no such arithmetic mean, the lowest lending rate for the Specified Currency which leading banks selected by the Agent in the principal financial center of the country of the Specified Currency or, in the case of Notes payable in euro, in the Euro-zone, are quoting on such Interest Determination Date to leading European banks for the next Interest Period plus or minus (as appropriate) the Margin (if any), provided that if the banks selected as aforesaid by the Agent are not quoting as mentioned above, the Rate of Interest shall be the Rate of Interest specified in (I) above;
- (5) “Relevant Screen Page” means such page, whatever its designation, on the Reuters Monitor Money Rates Service, or Moneyline Telerate, or any successor service or such other service, as specified in the applicable Final Terms, on which, if the Reference Rate is LIBOR, London inter-bank offered rates or, if the Reference Rate is EURIBOR, the Euro-zone inter-bank offered rates, in each case for deposits in the Specified Currency of prime banks, are for the time being displayed;
- (6) “Interest Determination Date” means, unless otherwise specified in the applicable Final Terms, (x) other than in the case of Condition 3(b)(iii)(B)(4), with respect to Notes denominated in any Specified Currency other than Sterling, the second Banking Day in London prior to the commencement of the relevant Interest Period and, in the case of Condition 3(b)(iii)(B)(4), the second Banking Day in the principal financial center of the country of the Specified Currency prior to the commencement of the relevant Interest Period and (y) with respect to Notes denominated in Sterling, the first Banking Day in London of the relevant Interest Period;
- (7) “Banking Day” means, in respect of any place, any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in that place or, as the case may be, as indicated in the applicable Final Terms;
- (8) if the Reference Rate from time to time in respect of Floating Rate Notes, Indexed Notes, Equity Linked Notes or Credit Linked Notes is specified as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Notes will be determined as provided in the applicable Final Terms; and
- (9) “Euro-zone” means the region comprised of Member States of the European Union that adopt the single currency in accordance with the Treaty establishing the European Communities as amended by the Treaty on European Union and the Treaty of Amsterdam.

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

If the applicable Final Terms specifies a “Minimum Rate of Interest” for any Interest Period, then in no event shall the Rate of Interest for such period calculated in accordance with Condition 3(b)(iii) above be less than such Minimum Rate of Interest. If the applicable Final Terms specifies a “Maximum Rate of Interest” for any Interest Period, then in no event shall the Rate of Interest for such Interest Period be greater than such Maximum Rate of Interest. If no other Minimum Rate of Interest for any Interest Period is specified in the applicable Final Terms, then the Minimum Rate of Interest in respect of such Interest Period shall be deemed to be zero and in no event shall the Rate of Interest for such period calculated in accordance with Condition 3(b)(iii) above be less than zero.

(v) *Determination of Rate of Interest and calculation of Interest Amount*

The Agent will, on or as soon as practicable after, if the Reference Rate is LIBOR, 11:00 a.m. (London time) or, if the Reference Rate is EURIBOR, 11:00 a.m. (Brussels time) (or, if appropriate, such other time as is customary in the principal financial center of the country of the Specified Currency) on each Interest Determination Date, determine the Rate of Interest (subject to any Minimum or Maximum Rate of Interest specified in the applicable Final Terms) and calculate the amount of interest (the “Interest Amount”) payable on the Floating Rate Notes with respect to each Specified Denomination for the relevant Interest Period. Each Interest Amount shall be calculated by applying the Rate of Interest to each Specified Denomination, multiplying such sum by the applicable Floating Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention.

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

- (1) if “Actual/365”, “Actual/Actual” or “Actual/Actual (ISDA)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (2) if “Actual/365 (Fixed)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (3) if “Actual/365 (Sterling)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (4) if “Actual/360” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (5) if “30/360”, “360/360” or “Bond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (a) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (b) the last day of the Interest Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and
- (6) if “30E/360” or “Eurobond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of an Interest Period ending on the Maturity Date, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

(vi) *Notification of Rate of Interest and Interest Amount*

The Agent will promptly notify the Company and any stock exchange and/or market on or by which the relevant Floating Rate Notes, Indexed Notes, Equity Linked Notes or Credit Linked Notes are for the time being listed and/or admitted to trading, of the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date, and will cause the same to be published in accordance with Condition 15 as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without publication as aforesaid in the event of an extension or shortening of the Interest Period in accordance with the provisions hereof. Each stock exchange and/or market on or by which the relevant Floating Rate Notes, Indexed Notes, Equity Linked Notes or Credit Linked Notes are for the time being listed and/or admitted to trading shall be promptly notified of any such amendment. For the purposes of this subparagraph (vi), the expression “London Business Day” means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London.



*(vii) Certificates to be final*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 3(b), by the Agent, shall (in the absence of manifest error) be binding on the Company, the Agent, the other Paying Agents and all Noteholders, Receipholders and Couponholders and (in the absence as aforesaid) no liability to the Noteholders, the Receipholders or the Couponholders shall attach to the Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

*(viii) Limitations on Interest*

In addition to any Maximum Rate of Interest which may be applicable to any Floating Rate Note, Indexed Note, Equity Linked Note or Credit Linked Note pursuant to Condition 3(b)(iv) above, the interest rate on Floating Rate Notes, Indexed Notes, Equity Linked Notes or Credit Linked Notes shall in no event be higher than the maximum rate permitted by New York law, as the same may be modified by United States law of general application. Under present New York law, the maximum rate of interest is 25 per cent. per annum on a simple interest basis. This limit may not apply to the Notes in which U.S.\$2,500,000 (or its equivalent in other currencies calculated as described herein) or more has been invested. While the Company believes that New York law would be given effect by a state or federal court sitting outside of New York, state laws frequently regulate the amount of interest that may be charged to and paid by a borrower (including, in some cases, corporate borrowers).

**(c) Interest on Dual Currency Notes**

In the case of Dual Currency Notes, if the Rate of Interest or amount of interest is to be determined by reference to an index and/or a formula or, as the case may be, an exchange rate, such rate or amount of interest payable shall be determined in the manner specified in the applicable Final Terms.

**(d) Zero Coupon Notes**

When a Zero Coupon Note becomes due and repayable prior to the Maturity Date and is not paid when due, the amount due and repayable shall be the Amortized Face Amount of such Note as determined in accordance with Condition 4(f)(iii). As from the Maturity Date, any overdue principal of such Note shall bear interest at a rate per annum equal to the Accrual Yield set forth in the applicable Final Terms.

Where such calculation is to be made for a period which is not a whole number of years, the calculation in respect of the period of less than a full year shall be made on the basis of a 360-day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the number of days elapsed or on such other calculation basis as may be specified in the applicable Final Terms.

**(e) Indexed Notes**

The provisions relating to the terms of any Notes that have the payment of principal, interest or both, indexed to the value of any commodity, fund, equity share, foreign exchange rate, index or any other rate, asset or index, or a basket including one or more or a hybrid of the foregoing (each a "Indexed Note") will be set in the applicable Final Terms. Such provisions may include a description of the formula for determining how payments of principal, interest or both on any Indexed Notes will be calculated and any additional information necessary to provide for determining the amount and timing of any such payments, including, without limitation, such additional definitions and provisions as will be applicable to the particular series of Indexed Notes. The Final Terms relating to any series of Index Notes may include any required description of the particular commodity, fund, equity share, foreign exchange rate, index or any other rate, asset or index as to which such series is indexed, including any required disclosure of historical information. If any source of information for determining how payments of principal, interest or both on any Indexed Notes is not available, then the Calculation Agent shall make such calculations, as may be required from time to time, to determine any amounts to be made in respect of principal, interest or both relating to any series of Index Notes.

**(f) Equity Linked Notes**

The provisions relating to the terms of any Notes that have the payment of principal, interest or both, linked to the value of any equity share or a basket of equity shares (each, an "Equity Linked Note") will be set out in the

applicable Final Terms. Such provisions may include a description of the formula for determining how payments of principal, interest or both on any series of Equity Linked Notes will be calculated and any additional information necessary to provide for determining the amount and timing of any such payments, including, without limitation, such additional definitions and provisions as will be applicable to the particular series of Equity Linked Notes. The Final Terms relating to any series of Equity Linked Notes may include any required description of the particular equity share or basket of equity shares, as the case may be, as to which such series is linked, including any required disclosure of historical information. If any source of information for determining how payments of principal, interest or both on any Equity Linked Notes is not available, then the Calculation Agent shall make such calculations, as may be required from time to time, to determine any amounts to be made in respect of principal, interest or both relating to any series of Equity Linked Notes.

**(g) Credit Linked Notes**

The provisions relating to the terms of any Notes that have the payment of principal, interest or both, linked to the credit of a particular reference entity or basket of reference entities (each, a “Credit Linked Note”) will be set out in the applicable Final Terms. Such provisions may include a description of the formula for determining how payments of principal interest or both on any series of Credit Linked Notes will be calculated and any additional information necessary to provide for determining the amount and timing of any such payments, including, without limitation, such additional definitions and provisions as will be applicable to the particular series of Credit Linked Notes. The Final Terms relating to any series of Credit Linked Notes may include any required description of the particular reference entity or basket of reference entities as to which such series is linked, including any required disclosure of historical information. If any source of information for determining how payments of principal, interest or both on any Credit Linked Notes is not available, then the Calculation Agent shall make such calculations, as may be required from time to time, to determine any amounts to be made in respect of principal, interest or both relating to any series of Credit Linked Notes.

**(h) Interest on Partly Paid Notes**

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

**(i) Accrual of Interest**

Each Note (or in the case of the redemption of only part of a Note, only that part of such Note) will cease to bear interest (if any) from the due date for its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue (as well after as before judgment) until whichever is the earlier of (i) the day on which all sums due with respect to such Note up to that day are received by or on behalf of the holder of such Note; and (ii) the day on which the Agent has notified the holder thereof (either in accordance with Condition 15 or individually) of receipt of all sums due in respect thereof up to that date.

**4. Redemption and Purchase**

**(a) At Maturity**

Unless previously redeemed or purchased and cancelled as specified below, this Note will be redeemed by the Company at its Final Redemption Amount on the Maturity Date specified in, or determined in the manner specified in, the applicable Final Terms (in the case of a Note other than a Floating Rate Note) or on the Interest Payment Date falling in the Redemption Month specified in the applicable Final Terms (in the case of a Floating Rate Note) and, in each case, in the relevant Specified Currency.

**(b) Redemption for Tax Reasons**

The Company may redeem the Notes of this Series in whole, but not in part, at any time at their Early Redemption Amount, together, if appropriate, with accrued interest to (but excluding) the date fixed for redemption, if the Company shall determine, based upon a written opinion of independent counsel selected by the Company that as a result of any change in or amendment to the laws (or any regulations or rulings promulgated thereunder) of the United States or of any political subdivision or taxing authority thereof or therein affecting

taxation, or any change in application or official interpretation of such laws, regulations or rulings, which amendment or change is effective on or after the latest Issue Date of the Notes of this Series, the Company would be required to pay additional amounts, as provided in Condition 8, on the occasion of the next payment due with respect to the Notes of this Series.

The Notes of this Series are also subject to redemption in whole, but not in part, in the other circumstances described in Condition 8.

Notice of intention to redeem Notes will be given at least once in accordance with Condition 15 not less than 30 days nor more than 60 days prior to the date fixed for redemption, provided that no such notice of redemption shall be given earlier than 90 days prior to the effective date of such change or amendment and that at the time notice of such redemption is given, such obligation to pay such additional amounts remains in effect and cannot be avoided by the Company's taking reasonable measures available to it. From and after any redemption date, if monies for the redemption of Notes shall have been made available for redemption on such redemption date, such Notes shall cease to bear interest, if applicable, and the only right of the holders of such Notes and any Receipts or Coupons appertaining thereto shall be to receive payment of the Early Redemption Amount and, if appropriate, all unpaid interest accrued to such redemption date.

**(c) Final Terms**

The Final Terms applicable to the Notes of this Series indicates either:

- (i) that the Notes of this Series cannot be redeemed prior to their Maturity Date or, as the case may be, the Interest Payment Date falling in the relevant Redemption Month (in each case except as otherwise provided in paragraph (b) above and in Condition 12); or
- (ii) that such Notes will be redeemable at the option of the Company and/or the holders of the Notes prior to such Maturity Date or, as the case may be, the Interest Payment Date falling in the relevant Redemption Month in accordance with the provisions of Condition 4(d) and/or (e) below on the date or dates and at the amount or amounts indicated in the applicable Final Terms.

**(d) Redemption at the Option of the Company**

If so specified in the applicable Final Terms, the Company may (unless otherwise specified in the applicable Final Terms), having given not more than 60 nor less than 30 days notice (or such lesser notice period (if any) as is specified in the applicable Final Terms) to the Agent and, in accordance with Condition 15, the holders of the Notes of this Series (which notice shall be irrevocable), repay all or only some of the Notes of this Series then outstanding on the Optional Redemption Date(s) and at the Optional Redemption Amount(s) indicated in the applicable Final Terms together, if appropriate, with accrued interest. In the event of a redemption of only some of such Notes of this Series, such redemption must be for an amount being at least the Minimum Redemption Amount or at most the Maximum Redemption Amount, in each case as indicated in the applicable Final Terms. In the case of a partial redemption of definitive Notes of this Series, the Notes of this Series to be repaid will be selected individually by lot not more than 60 days prior to the date fixed for redemption and a list of the Notes of this Series called for redemption will be published in accordance with Condition 15 not less than 30 days prior to such date. In the case of a partial redemption of Notes which are represented by a global Note, the relevant Notes will be redeemed in accordance with the rules of Euroclear and/or Clearstream, Luxembourg, subject to applicable laws and requirements of any stock exchange and/or market on or by which the relevant Notes are listed and/or admitted to trading.

**(e) Redemption at the Option of the Noteholders**

If and to the extent specified in the applicable Final Terms, upon the holder of any Note of this Series giving to the Company in accordance with Condition 15 not more than 60 nor less than 30 days notice (or such lesser notice period (if any) as is specified in the applicable Final Terms) (which notice shall be irrevocable) the Company shall, upon the expiration of such notice, redeem subject to, and in accordance with, the terms specified in the applicable Final Terms in whole (but not in part) such Note on the Optional Redemption Date and at the Optional Redemption Amount indicated in the applicable Final Terms together, if appropriate, with accrued interest to the Optional Redemption Date.

**(f) Early Redemption Amounts**

For the purposes of Condition 4(b) and Condition 8 and for calculating the amount payable upon acceleration of the Notes pursuant to Condition 12, Notes will be redeemed at an amount (the “Early Redemption Amount”) calculated as follows:

- (i) in the case of Notes (other than Indexed Notes, Equity Linked Notes or Credit Linked Notes) with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof; or
- (ii) in the case of Notes (other than Zero Coupon Notes, but including Indexed Notes, Equity Linked Notes or Credit Linked Notes) with a Final Redemption Amount which is or may be greater or less than the Issue Price or which is payable in a Specified Currency other than that in which the Notes are denominated, at the amount set out in, or determined in the manner set out in, the applicable Final Terms or if no such amount or manner is set out in the Final Terms, at their principal amount; or
- (iii) in the case of Zero Coupon Notes, at an amount (the “Amortized Face Amount”) equal to:
  - (A) the sum of (x) the Reference Price specified in the applicable Final Terms and (y) the product of the Accrual Yield specified in the applicable Final Terms (compounded annually) being applied to the Reference Price from (and including) the Issue Date to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable; or
  - (B) if the amount payable with respect to any Zero Coupon Note upon redemption of such Zero Coupon Note pursuant to Condition 4(b) above or upon its becoming due and repayable as provided in Condition 12 is not paid or available for payment when due, the amount due and repayable with respect to such Zero Coupon Note shall be the Amortized Face Amount of such Zero Coupon Note calculated as provided above as though the references in sub-paragraph (A) to the date fixed for redemption or the date upon which the Zero Coupon Note becomes due and repayable were replaced by references to the date (the “Reference Date”) which is the earlier of:
    - (1) the date on which all amounts due with respect to the Note have been paid; and
    - (2) the date on which the full amount of the monies repayable has been received by the Agent and notice to that effect has been given in accordance with Condition 15.

The calculation of the Amortized Face Amount in accordance with this sub-paragraph (B) will continue to be made, after as well as before judgment, until the Reference Date unless the Reference Date falls on or after the Maturity Date, in which case the amount due and repayable shall be the principal amount of such Note together with interest at a rate per annum equal to the Accrual Yield.

Where any such calculation is to be made for a period of less than a full year, it shall be made on the basis of a 360-day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the number of days elapsed.

**(g) Installments**

Any Note which is repayable in installments will be redeemed in the Installment Amounts and on the Installment Dates specified in the applicable Final Terms.

**(h) Partly Paid Notes**

If the Notes of this Series are Partly Paid Notes, they will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition 4 as amended or varied by the applicable Final Terms.

**(i) Indexed Notes**

Provisions relating to the terms of any Indexed Notes, including the redemption thereof, will be set out in the applicable Final Terms.

**(j) Equity Linked Notes**

Provisions relating to the terms of any Equity Linked Notes, including the redemption thereof, will be set out in the applicable Final Terms.

**(k) Credit Linked Notes**

Provision relating to the terms of any Credit Linked Notes, including the redemption thereof, will be set out in the applicable Final Terms.

**(l) Purchases**

The Company or any of its affiliates may at any time purchase Notes of this Series (provided that, in the case of definitive Bearer Notes, all unmatured Receipts, Coupons and Talons appertaining thereto are purchased therewith) in the open market or otherwise at any price. Such Notes may be held, reissued, resold or, at the option of the Company, surrendered, together with all unmatured Receipts, Coupons or Talons attached thereto or purchased therewith, to the Agent for cancellation.

**(m) Cancellation**

All Notes which are redeemed in full will forthwith be cancelled, together with all unmatured Receipts, Coupons or Talons attached thereto or surrendered therewith at the time of redemption. All Notes so cancelled and the Notes purchased and cancelled pursuant to Condition 4(l), together with all unmatured Receipts, Coupons or Talons cancelled therewith, shall be forwarded to the Agent and cannot be reissued or resold. Except as provided in the applicable Final Terms, no Notes shall be authenticated in lieu of or in exchange for any Notes cancelled in accordance with the provisions of Condition 4.

**(n) Other Redemption and Purchase Provisions**

Notwithstanding the foregoing:

- (i) the relevant provisions relating to the redemption and purchase of Notes, the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other property shall be set forth in the applicable Final Terms;
- (ii) any additional redemption events which shall enable the Company to redeem the Notes of any Series shall be set forth in the applicable Final Terms; and
- (iii) the Company shall at all times have the right, at its sole and unfettered discretion, to elect not to deliver or procure delivery of any non-cash consideration when the same shall become due and deliverable under the terms of the Notes, but in lieu thereof to pay the Cash Settlement Amount calculated pursuant to the terms of, or as specified in, the relevant Final Terms (the “**Cash Settlement Amount**”). Any payment of the Cash Settlement Amount in lieu of non-cash consideration deliverable under the Notes shall constitute a complete discharge of the Company’s obligations in respect of such Notes. Payment of the Cash Settlement Amount will be made in such manner as shall be notified to the holders in accordance with Condition 15.

**5. Payments**

**(a) Method of Payment**

Subject as provided below:

- (i) payments in a Specified Currency other than euro or U.S. Dollars will be made by transfer to an account in the Specified Currency (which, in the case of a payment in Yen to a non-resident of Japan, shall be a non-resident account) maintained by the payee with, or by a check in the Specified Currency drawn on, a bank in the principal financial center of the country of such Specified Currency;
- (ii) payments in euro will be made by credit or transfer to a euro account specified by the payee or, at the option of the payee, by a euro check; and
- (iii) payments in U.S. Dollars will be made by transfer to a U.S. Dollar account maintained by the payee with a bank outside of the United States (which expression, as used in this Condition 5, means the United States of America, including the States and the District of Columbia, its territories, its possessions and other areas subject to its jurisdiction), or by check drawn on a United States bank.



In no event will payment be made by a check mailed to an address in the United States. Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 8. References to “Specified Currency” include any successor currency under applicable law.

**(b) Presentation of Notes, Receipts, Coupons and Talons**

This Condition 5(b) is subject, in the case of payments on Registered Notes, to the terms of Condition 18(b).

Payments of principal with respect to definitive Notes will (subject as provided below) be made in the Specified Currency and/or other consideration (which may include securities and/or other property or any combination of cash, securities and/or other property) against surrender of definitive Notes and payments of interest with respect to the definitive Notes will (subject as provided below) be made in the Specified Currency and/or other consideration (which may include securities and/or other property or any combination of cash, securities and/or other property) against surrender of Coupons, in each case at the specified office of any Paying Agent outside the United States.

In the case of definitive Notes, payments of principal with respect to installments (if any), other than the final installment, will (subject as provided below) be made against presentation and surrender of the relevant Receipt. Each Receipt must be presented for payment of the relevant installment together with the relevant definitive Note against which the amount will be payable with respect to that installment. If any definitive Note is redeemed or becomes repayable prior to the stated Maturity Date (in the case of a Note other than a Floating Rate Note) or prior to the Interest Payment Date falling in the Redemption Month (in the case of a Floating Rate Note) in respect thereof, principal will be payable on surrender of such definitive Note together with all unmatured Receipts appertaining thereto. Receipts presented without the definitive Note to which they appertain and unmatured Receipts do not constitute valid obligations of the Company.

Fixed Rate Notes in definitive form (other than Dual Currency Notes, Indexed Notes, Equity Linked Notes or Credit Linked Notes) should be presented for payment together with all unmatured Coupons appertaining thereto failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the aggregate amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiration of five years after the Relevant Date (as defined in Condition 14) with respect to such principal (whether or not such Coupon would otherwise have become void under Condition 14). Upon any Fixed Rate Note becoming due and repayable prior to its Maturity Date, all unmatured Talons (if any) appertaining thereto will become void and no further Coupons will be issued in respect thereof.

Upon the date on which any Floating Rate Note, Dual Currency Note, Indexed Note, Equity Linked Note or Credit Linked Note in definitive form becomes due and repayable, all unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment shall be made in respect thereof.

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

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

The holder of the relevant global Note shall be the only person entitled to receive payments with respect to Notes represented by such global Note and the Company will be discharged by payment to, or to the order of, the holder of such global Note with respect to each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a particular principal amount of Notes must look solely

to Euroclear and/or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Company to, or to the order of, the holder of the relevant global Note. No person other than the holder of the relevant global Note shall have any claim against the Company with respect to payments due on that global Note.

Notwithstanding the foregoing, payments with respect to the Notes will only be made at the specified office of a Paying Agent in the United States if:

- (i) the Company has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment at such specified offices outside the United States of the full amount owing with respect to the Notes in the manner provided above when due;
- (ii) payment of the full amount owing with respect to the Notes at such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions; and
- (iii) such payment is then permitted under United States law without involving, in the opinion of the Company, adverse tax consequences to the Company.

**(c) Payment Business Day**

If the date for payment of any amount with respect to any Note, Receipt or Coupon is not a Payment Business Day, the holder thereof shall not be entitled to payment (i) until the next following Payment Business Day in the relevant place and shall not be entitled to further interest or other payment with respect to such delay; or (ii) until the next following Payment Business Day unless it would thereby fall into the next calendar month, in which event such date for payment shall be brought forward to the immediately preceding Payment Business Day and shall not be entitled to further interest or other payment with respect to such early or delayed payment. For these purposes, unless otherwise specified in the applicable Final Terms, "Payment Business Day" means any day which is a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the relevant place of presentation and a Business Day (as defined in Condition 3) and any Additional Financial Centre specified in the applicable Final Terms.

**(d) Interpretation of Principal and Interest**

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

- (i) any additional amounts which may be payable under Condition 8 with respect to principal;
- (ii) the Final Redemption Amount of the Notes;
- (iii) the Early Redemption Amount of the Notes;
- (iv) in relation to Notes redeemable in installments, the Installment Amounts;
- (v) any premium and any other amounts (including any other consideration which may include cash, securities and/or other property or any combination of cash, securities and/or other property) which may be payable or deliverable under or with respect to the Notes;
- (vi) in relation to Zero Coupon Notes, the Amortized Face Amount; and
- (vii) the Optional Redemption Amount(s) (if any) of the Notes.

Any reference in these Terms and Conditions to interest with respect to the Notes shall be deemed to include, as applicable, any additional amounts which may be payable under Condition 8.

**(e) Other Payment Provisions**

Notwithstanding the foregoing, the relevant provisions relating to the payment of Notes the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other property shall be set forth in the applicable Final Terms.



## **6. Agent and Paying Agents**

The names of the initial Agent and the other initial Paying Agents and their initial specified offices are set out below. In acting under the Agency Agreement, the Agent and the Paying Agents will act solely as agents of the Company and do not assume any obligations or relationships of agency or trust to or with the Noteholders, Receiptholders or Couponholders, except that (without affecting the obligations of the Company to the Noteholders, Receiptholders and Couponholders to repay Notes and pay interest thereon) funds received by the Agent for the payment of the principal of or interest on the Notes shall be held by it for the Noteholders and/or Receiptholders and/or Couponholders until the expiration of the relevant period of prescription under Condition 14. The Company agrees to perform and observe the obligations imposed upon it under the Agency Agreement and to cause the Agent and the Paying Agents to perform and observe the obligations imposed upon them under the Agency Agreement. The Agency Agreement contains provisions for the indemnification of the Paying Agents and for relief from responsibility in certain circumstances, and entitles any of them to enter into business transactions with the Company without being liable to account to the Noteholders, Receiptholders or the Couponholders for any resulting profit. The Company is entitled to vary or terminate the appointment of any paying agent appointed under the terms of the Agency Agreement and/or appoint additional or other paying agents and/or approve any change in the specified office through which any paying agent acts, provided that:

- (i) so long as the Notes of this Series are listed and/or admitted to trading on or by any stock exchange and/or market, there will at all times be a Paying Agent with a specified office in each location required by the rules and regulations of the relevant stock exchange and/or market;
- (ii) there will at all times be a Paying Agent with a specified office in a city in a member state of the European Union;
- (iii) there will at all times be an Agent; and
- (iv) the Company will ensure that it maintains a Paying Agent in a Member State of the European Union that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with or introduced in order to conform to such Directive.

In addition, the Company shall forthwith appoint a Paying Agent having a specified office in The City of New York in the circumstances described in the final paragraph of Condition 5(b). Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days prior notice thereof shall have been given to the Agent and the Noteholders in accordance with Condition 15 provided that no such variation, termination, appointment or change shall take effect (except in the case of insolvency) within 15 days before or after any Fixed Interest Date or Interest Payment Date, as the case may be.

Notwithstanding the foregoing, the Agent, on behalf of itself and the other Paying Agents, shall have the right to decline to act as the Paying Agent with respect to any Notes issued pursuant to the Program that are payable and/or dischargeable by the Company by the payment or delivery of securities and/or other property or any combination of cash, securities and/or property whereupon the Company shall either (i) act as Paying Agent or (ii) engage another financial institution to act as Paying Agent in respect of such Notes. The Final Terms relating to such Notes shall include the relevant details regarding the applicable Paying Agent.

## **7. Exchange of Talons**

On and after the Fixed Interest Date or the Interest Payment Date, as appropriate, on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to, and including, the final date for the payment of interest due with respect to the Note to which it appertains) a further Talon, subject to the provisions of Condition 14. Each Talon shall, for the purposes of these Terms and Conditions, be deemed to mature on the Fixed Interest Date or the Interest Payment Date (as the case may be) on which the final Coupon of the relative Coupon sheet matures.

## **8. Payment of Additional Amounts**

The Company will, subject to certain limitations and exceptions (set forth below), pay to a Noteholder, Receiptholder or Couponholder who is a United States Alien (as defined below) such additional amounts as may be necessary so that every net payment of principal or interest with respect to the Notes, Receipts or Coupons

after deduction or withholding for or on account of any present or future tax, assessment or other governmental charge imposed upon such Noteholder, Receipholder or Couponholder, or by reason of the making of such payment, by the United States or any political subdivision or taxing authority thereof or therein, will not be less than the amount provided for in the Notes, Receipts or Coupons to be then due and payable. However, the Company shall not be required to make any payment of additional amounts for or on account of:

(a) any tax, assessment or other governmental charge which would not have been imposed but for (i) the existence of any present or former connection between such Noteholder, Receipholder or Couponholder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of a power over, such Noteholder, Receipholder or Couponholder, if such Noteholder, Receipholder or Couponholder is an estate, trust, partnership or corporation) and the United States, including, without limitation, such Noteholder, Receipholder or Couponholder (or such fiduciary, settlor, beneficiary, member, shareholder or possessor) being or having been a citizen or resident thereof or being or having been present or engaged in a trade or business therein or having had a permanent establishment therein, or (ii) the presentation of a Note, Receipt or Coupon for payment on a date more than 15 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;

(b) any estate, inheritance, gift, sales, transfer, personal property or similar tax, assessment or other governmental charge;

(c) any tax, assessment or other governmental charge imposed by reason of such Noteholder's, Receipholder's or Couponholder's past or present status as a controlled foreign corporation with respect to the United States or as a corporation which accumulates earnings to avoid United States federal income tax;

(d) any tax, assessment or other governmental charge which is payable otherwise than by withholding from payments of principal or interest with respect to the Notes, Receipts or Coupons;

(e) any tax, assessment or other governmental charge imposed as a result of such Noteholder's, Receipholder's or Couponholder's past or present status as the actual or constructive owner of 10 per cent. or more of the total combined voting power of all classes of stock of the Company entitled to vote;

(f) any tax, assessment or other governmental charge imposed as a result of such Noteholder, Receipholder or Couponholder being a bank receiving payments on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business;

(g) any tax, assessment or other governmental charge required to be withheld by any Paying Agent from any payment of principal or interest with respect to any Note, Receipt or Coupon, if such payment can be made without such withholding by any other Paying Agent with respect to the Notes in a member state of the European Union;

(h) any tax, assessment or other governmental charge required to be withheld or deducted where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive;

(i) any tax, assessment or other governmental charge which would not have been imposed but for the failure to comply with certification, information or other reporting requirements concerning the nationality, residence, identity or connection with the United States of the Noteholder, Receipholder or Couponholder or of the beneficial owner of such Note, Receipt or Coupon, if such compliance is required by statute or by applicable Treasury regulation as a precondition to relief or exemption from such tax, assessment or other governmental charge; or

(j) any combination of items (a), (b), (c), (d), (e), (f), (g), (h) and (i);

nor shall additional amounts be paid to any Noteholder, Receipholder or Couponholder who is a fiduciary or partnership or other than the sole beneficial owner of the Note, Receipt or Coupon to the extent a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner of the Note, Receipt or Coupon would not have been entitled to payment of the additional amounts had such beneficiary, settlor, member or beneficial owner been the holder of the Note, Receipt or Coupon.

The term "United States Alien" means any person that is not (i) a citizen or resident for U.S. tax purposes of the United States who is a natural person, (ii) a corporation or partnership that is created or organized in or under

the laws of the United States or any state thereof (including the District of Columbia) (other than a partnership that is not treated as a United States Person, the term “United States Person” being used herein with the meaning given to such term in the Code and applicable Treasury regulations), (iii) an estate, the income of which is subject to United States federal income taxation regardless of its source or (iv) a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States Persons have authority to control all substantial decisions of the trust (and any other trust that is treated as a United States Person under applicable Treasury regulations).

If the Company shall determine, based upon a written opinion of independent counsel selected by the Company, that any payment made outside the United States by the Company or any of its Paying Agents of the full amount of the next scheduled payment in respect of any Note, Receipt or Coupon of this Series would, under any present or future laws or regulations of the United States affecting taxation or otherwise, be subject to any certification, information or other reporting requirements of any kind, the effect of which requirements is the disclosure to the Company, any of the Paying Agents or any governmental authority of the nationality, residence or identity (as distinguished from status as a United States Alien) of a beneficial owner of such Note, Receipt or Coupon who is a United States Alien (other than such requirements which (i) would not be applicable to a payment made by the Company to a custodian, nominee or other agent of the beneficial owner, or which can be satisfied by such a custodian, nominee or other agent certifying to the effect that such beneficial owner is a United States Alien, provided, however, in each case that payment by such custodian, nominee or agent to such beneficial owner is not otherwise subject to any requirements referred to in this sentence, (ii) are applicable only to payment by a custodian, nominee or other agent of the beneficial owner to or on behalf of such beneficial owner, or (iii) would not be applicable to a payment made by any other Paying Agent), the Company shall redeem the Notes of this Series as a whole but not in part at a redemption price equal to the Early Redemption Amount together, if appropriate, with accrued interest to, but excluding, the date fixed for redemption, such redemption to take place on such date not later than one year after the publication of notice of such determination. If the Company becomes aware of an event that might give rise to such certification, information or other reporting requirements, the Company shall, as soon as practicable, solicit advice of independent counsel selected by the Company to establish whether such certification, information or other reporting requirements will apply and, if such requirements will, in the written opinion of such counsel, apply, the Company shall give prompt notice of such determination (a “Tax Notice”) in accordance with Condition 15 stating in such notice the effective date of such certification, information or other reporting requirements and, if applicable, the date by which the redemption shall take place. Notwithstanding the foregoing, the Company shall not redeem Notes if the Company, based upon the written opinion of independent counsel selected by the Company, shall subsequently determine not less than 30 days prior to the date fixed for redemption that subsequent payments would not be subject to any such requirements, in which case the Company shall give prompt notice of such determination in accordance with Condition 15 and any earlier redemption notice shall thereby be revoked and of no further effect.

Notwithstanding the foregoing, if and so long as the certification, information or other reporting requirements referred to in the preceding paragraph would be fully satisfied by payment of a backup withholding tax or similar charge, the Company may elect prior to publication of the Tax Notice to have the provisions described in this paragraph apply in lieu of the provisions described in the preceding paragraph, in which case the Tax Notice shall state the effective date of such certification, information or reporting requirements and that the Company has elected to pay additional amounts rather than redeem the Notes. In such event, the Company will pay as additional amounts such amounts as may be necessary so that every net payment made following the effective date of such certification, information or reporting requirements outside the United States by the Company or any of the Paying Agents of principal or interest due with respect to a Note, Receipt or Coupon to a holder who certifies to the effect that the beneficial owner of such Note, Receipt or Coupon is a United States Alien (provided that such certification shall not have the effect of communicating to the Company or any of the Paying Agents or any governmental authority the nationality, residence or identity of such beneficial owner) after deduction or withholding for or on account of such backup withholding tax or similar charge (other than a backup withholding tax or similar charge which (i) is imposed as a result of certification, information or other reporting requirements referred to in the second parenthetical clause of the first sentence of the preceding paragraph, or (ii) is imposed as a result of the fact that the Company or any of its Paying Agents has actual knowledge that the holder or beneficial owner of such Note, Receipt or Coupon is not a United States Alien but is within the category of persons, corporations or other entities described in clause (a)(i) of the third preceding paragraph, or (iii) is imposed as a result of presentation of such Note, Receipt or Coupon for payment more than 15 days after the date on which such payment becomes due and payable or on which payment thereof is duly

provided for, whichever occurs later), will not be less than the amount provided for in such Note, such Receipt or such Coupon to be then due and payable. In the event the Company elects to pay such additional amounts, the Company will have the right, at its sole option, at any time, to redeem the Notes of this Series, as a whole but not in part at a redemption price equal to their Early Redemption Amount, together, if appropriate, with accrued interest to the date fixed for redemption including any additional amounts required to be paid under this paragraph. If the Company has made the determination described in the preceding paragraph with respect to certification, information or other reporting requirements applicable to interest only and subsequently makes a determination in the manner and of the nature referred to in such preceding paragraph with respect to such requirements applicable to principal, the Company will redeem the Notes of this Series in the manner and on the terms described in the preceding paragraph (except as provided below), unless the Company elects to have the provisions of this paragraph apply rather than the provisions of the immediately preceding paragraph. If in such circumstances the Notes are to be redeemed, the Company will be obligated to pay additional amounts with respect to interest, if any, accrued to the date of redemption. If the Company has made the determination described in the preceding paragraph and subsequently makes a determination in the manner and of the nature referred to in such preceding paragraph that the level of withholding applicable to principal or interest has been increased, the Company will redeem the Notes of this Series in the manner and on the terms described in the preceding paragraph (except as provided below), unless the Company elects to have the provisions of this paragraph apply rather than the provisions of the immediately preceding paragraph. If in such circumstances the Notes are to be redeemed, the Company will be obligated to pay additional amounts with respect to the original level of withholding on principal and interest, if any, accrued to the date of redemption.

## **9. Negative Pledge and Covenants of the Company**

The Company will not, and it will not permit any Subsidiary at any time directly or indirectly to, create, assume, or incur any indebtedness for borrowed money secured by a pledge of, lien on or security interest in (any pledge, lien or security interest being hereinafter in this paragraph referred to as a “lien”) the Voting Stock of any Significant Subsidiary without making effective provision whereby the Notes and coupons appertaining thereto, if any (and, if the Company so elects, any other indebtedness ranking on a parity with the Notes), shall be secured equally and ratably with such secured indebtedness so long as such other indebtedness shall be so secured; provided, however, that the foregoing covenant shall not be applicable to liens for taxes or assessments or governmental charges or levies not then due and delinquent or the validity of which is being contested in good faith or which are less than U.S.\$5,000,000 in amount, liens created by or resulting from any litigation or legal proceeding which is currently being contested in good faith by appropriate proceedings or which involve claims of less than U.S.\$5,000,000, or deposits to secure (or in lieu of) surety, stay, appeal or customs bonds; provided, further, that the foregoing shall not be applicable to indebtedness for borrowed money secured by a lien on any shares of the Voting Stock of any Person existing at the time such Person becomes a Significant Subsidiary, including extensions, renewals and replacements of such indebtedness without increase in the amount thereof.

As used herein:

“Consolidated Net Worth” means consolidated assets minus consolidated liabilities as calculated in accordance with generally accepted accounting principles.

“Person” means any individual, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“Significant Subsidiary” means any Subsidiary the Consolidated Net Worth of which constituted at least 15 per cent. of the Consolidated Net Worth of the Company as of the end of the most recently completed fiscal year.

“Subsidiary” means any corporation of which at the time of determination the Company and/or one or more subsidiaries owns or controls directly or indirectly more than 50 per cent. of the shares of Voting Stock.

“Voting Stock” means stock of the class or classes having general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of such Person provided that, for purposes hereof, stock which carries only the right to vote conditionally on the happening of an event shall not be considered voting stock whether or not such event shall have happened.



## **10. Consolidation or Merger**

The Company may consolidate with, or sell or convey all or substantially all of its assets to, or merge with or into any other corporation provided that in any such case, (i) either the Company shall be the continuing corporation, or the successor corporation shall be a corporation organized and existing under the laws of the United States of America or a state thereof and such successor corporation shall expressly assume the due and punctual payment of all amounts (including additional amounts as provided in Condition 8) payable with respect to the Notes, Receipts and Coupons, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Note to be performed by the Company by an amendment to the Agency Agreement executed by such successor corporation, the Company and the Agent, and (ii) immediately after giving effect to such transaction, no event of default under Condition 12, and no event which, with notice or lapse of time or both, would become such an event of default shall have happened and be continuing. In case of any such consolidation, merger, sale or conveyance and upon any such assumption by the successor corporation, such successor corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the Company, and the Company, except in the event of a conveyance by way of lease, shall be relieved of any further obligation under this Note and the Agency Agreement.

## **11. Meetings, Modifications and Waivers**

The Agency Agreement contains provisions which, unless otherwise provided in the applicable Final Terms, are binding on the Company, the Noteholders, the Receiptholders and the Couponholders, for convening meetings of holders of Notes, Receipts and Coupons to consider matters affecting their interests, including the modification or waiver of the Terms and Conditions applicable to the Notes.

The Agency Agreement, the Notes and any Receipts and Coupons attached to the Notes may be amended by the Company (and, in the case of the Agency Agreement, the Agent) (i) for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained therein, or to evidence the succession of another corporation to the Company as provided in Condition 10, (ii) to make any further modifications of the terms of the Agency Agreement necessary or desirable to allow for the issuance of any additional Notes (which modifications shall not be materially adverse to holders of outstanding Notes) or (iii) in any manner which the Company (and, in the case of the Agency Agreement, the Agent) may deem necessary or desirable and which shall not materially adversely affect the interests of the holders of the Notes, Receipts and Coupons, to all of which each holder of Notes, Receipts and Coupons shall, by acceptance thereof, consent. In addition, with the written consent of the holders of not less than a majority in aggregate principal amount of the Notes then outstanding affected thereby, or by a resolution adopted by a majority in aggregate principal amount of such outstanding Notes affected thereby present or represented at a meeting of such holders at which a quorum is present, as provided in the Agency Agreement (provided that such resolution shall be approved by the holders of not less than 25 per cent. of the aggregate principal amount of Notes then outstanding), the Company and the Agent may from time to time and at any time enter into agreements modifying or amending the Agency Agreement or the terms and conditions of the Notes, Receipts and Coupons for the purpose of adding any provisions to or changing in any manner or eliminating any provisions of the Agency Agreement or of modifying in any manner the rights of the holders of Notes, Receipts and Coupons; provided, however, that no such agreement shall, without the consent or the affirmative vote of the holder of each Note affected thereby, (i) change the stated Maturity Date or Redemption Month with respect to any Note or reduce or cancel the amount payable at maturity thereof; (ii) reduce the amount payable or modify the payment date for any interest with respect to any Note or vary the method of calculating the rate of interest with respect to any Note; (iii) reduce any Minimum Interest Rate and/or Maximum Interest Rate with respect to any Note; (iv) modify the currency in which payments under any Note and/or the Coupons appertaining thereto are to be made; (v) change the obligation of the Company to pay additional amounts as provided in Condition 8; (vi) reduce the percentage in principal amount of outstanding Notes the consent of the holders of which is necessary to modify or amend the Agency Agreement or the terms and conditions of the Notes or to waive any future compliance or past default; or (vii) reduce the percentage in principal amount of outstanding Notes the consent of the holders of which is required at any meeting of holders of Notes at which a resolution is adopted. The quorum at any meeting called to adopt a resolution will be persons holding or representing a majority in aggregate principal amount of the Notes at the time outstanding affected thereby and at any adjourned meeting will be one or more persons holding or representing 25 per cent. in aggregate principal amount of such Notes at the time outstanding affected thereby. Any instrument given by or on behalf of any holder of a Note in connection with any consent to any such modification, amendment or waiver will be irrevocable once given and will be conclusive and binding on all

subsequent holders of such Note. Any modifications, amendments or waivers to the Agency Agreement or to the terms and conditions of the Notes, Receipts and Coupons will be conclusive and binding on all holders of Notes, Receipts and Coupons, whether or not they have given such consent or were present at any meeting, and whether or not notation of such modifications, amendments or waivers is made upon the Notes, Receipts and Coupons. It shall not be necessary for the consent of the holders of Notes under this Condition 11 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent shall approve the substance thereof.

Bearer Notes authenticated and delivered after the execution of any amendment to the Agency Agreement, Notes, Receipts or Coupons may bear a notation in form approved by the Agent as to any matter provided for in such amendment.

New Notes so modified as to conform, in the opinion of the Agent and the Company, to any modification contained in any such amendment may be prepared by the Company, authenticated by the Agent and delivered in exchange for the Notes then outstanding.

For the purposes of this Condition 11 and Condition 12 below, the term “outstanding” means, in relation to the Notes, all Notes issued under the Agency Agreement other than (i) those which have been redeemed in full in accordance with the Agency Agreement or these Terms and Conditions, (ii) those with respect to which the date for redemption in accordance with these Terms and Conditions has occurred and the redemption monies wherefor (including all interest (if any) accrued thereon to the date for such redemption and any interest (if any) payable under these Terms and Conditions after such date) have been duly paid to the Agent as provided in the Agency Agreement (and, where appropriate, notice has been given to the holders of Notes in accordance with Condition 15) and remain available for payment against presentation of the Notes, (iii) those which have become void under Condition 14, (iv) those which have been purchased and cancelled as provided in Condition 4, (v) those mutilated or defaced notes which have been surrendered in exchange for replacement Notes pursuant to Condition 13, (vi) (for the purposes only of determining how many Notes are outstanding and without prejudice to their status for any other purpose) those Notes alleged to have been lost, stolen or destroyed and with respect to which replacement Notes have been issued pursuant to Condition 13 and (vii) temporary global Notes to the extent that they shall have been duly exchanged for permanent global Notes and permanent global Notes to the extent that they shall have been duly exchanged for definitive Notes, in each case pursuant to their respective provisions.

## **12. Default and Acceleration**

(a) In the event that:

- (i) default shall be made in the payment when due of any amount of interest on any of the Notes continued for a period of 30 days after the date when due; or
- (ii) default shall be made in the payment when due of the principal of any Note (whether at maturity or upon redemption or otherwise); or
- (iii) the Company shall fail to perform or observe any other term, covenant or agreement contained in the Terms and Conditions applicable to any of the Notes or in the Agency Agreement for a period of 60 days after the date on which written notice of such failure, requiring the Company to remedy the same, first shall have been given to the Agent by the holders of at least 25 per cent. in aggregate principal amount of the outstanding Notes; or
- (iv) a court having jurisdiction in the premises shall have entered a decree or order granting relief with respect to the Company in an involuntary proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, trustee, assignee, custodian or sequestrator (or similar official) of the Company or of all or substantially all of its property or for the winding up or liquidation of its affairs, and such decree or order shall have remained in force and unstayed for a period of 60 days; or
- (v) the Company shall institute proceedings for relief under any applicable bankruptcy, insolvency or any other similar law now or hereafter in effect, or shall consent to the institution of any such proceedings against it, or shall consent to the appointment of a receiver, liquidator, trustee, assignee, custodian or sequestrator (or similar official) of it or of all or substantially all of its property, or shall make an assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing;

then the holders of 25 per cent. in aggregate principal amount of the outstanding Notes may, at their option, declare the principal of the Notes and the interest, if any, accrued thereon to be due and payable immediately by

written notice to the Company and the Agent at its main office in London, and unless all such defaults shall have been cured by the Company prior to receipt of such written notice, the principal of this Note and the interest, if any, accrued hereon shall become and be immediately due and payable.

At any time after such a declaration of acceleration with respect to the Notes has been made and before a judgment or decree for payment of the money due with respect to any Note has been obtained by any Noteholder, such declaration and its consequences may be rescinded and annulled upon the written consent of holders of a majority in aggregate principal amount of the Notes then outstanding, or by resolution adopted by a majority in aggregate principal amount of the Notes outstanding present or represented at a meeting of holders of the Notes at which a quorum is present, as provided in the Agency Agreement, if:

(1) the Company has paid or deposited with the Agent a sum sufficient to pay

(A) all overdue amounts of interest on the Notes,

(B) the principal of Notes which has become due otherwise than by such declaration of acceleration; and

(2) all events of default with respect to the Notes, other than the non-payment of the principal of the Notes which has become due solely by such declaration of acceleration, have been cured or waived as provided in paragraph (b) below.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

(b) Any default by the Company, other than the events described in paragraph (a)(i) or (a)(ii) above or with respect to a covenant or provision which cannot be modified and amended without the written consent of the holders of all outstanding Notes, may be waived by the written consent of holders of a majority in aggregate principal amount of the Notes then outstanding affected thereby, or by resolution adopted by a majority in aggregate principal amount of such Notes then outstanding present or represented at a meeting of holders of the Notes affected thereby at which a quorum is present, as provided in the Agency Agreement.

(c) Notwithstanding the foregoing, the relevant provisions relating to default and acceleration with respect to Notes the terms of which permit the Company to pay and/or discharge its obligations with respect to such Notes by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other property shall be set forth in the applicable Final Terms.

### **13. Replacement of Notes, Receipts, Coupons and Talons**

Should any Note, Receipt, Coupon or Talon be mutilated, defaced or destroyed or be lost or stolen, it may be replaced at the specified office of the Agent in London (or such other place as may be notified to the Noteholders), in accordance with all applicable laws and regulations, upon payment by the claimant of the expenses incurred by the Company and the Agent in connection therewith and on such terms as to evidence, indemnity, security or otherwise as the Company and the Agent may require. Mutilated or defaced Notes, Receipts, Coupons or Talons must be surrendered before replacements will be issued.

### **14. Prescription**

To the extent permitted by applicable law, the Notes, Receipts and Coupons will become void unless presented for payment within a period of five years from the Relevant Date (as defined below) relating thereto. Any monies paid by the Company to the Agent for the payment of principal or interest with respect to the Notes and remaining unclaimed when the Notes, Receipts or Coupons become void shall forthwith be repaid to the Company and all liability with respect thereto shall thereupon cease.

As used herein, the "Relevant Date" means:

(A) the date on which such payment first becomes due; or

(B) if the full amount of the monies payable has not been received by the Agent on or prior to such due date, the date on which, the full amount of such monies having been so received, notice to that effect shall have been given to the Noteholders in accordance with Condition 15.



## 15. Notices

All notices regarding the Notes shall be published (i) in respect of any Notes admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange and so long as the rules of such stock exchange so require, in a Luxembourg daily newspaper with general circulation in Luxembourg (which is expected to be *D'Wort*) and (ii) in respect of all Notes in one leading English language daily newspaper with circulation in the United Kingdom (which is expected to be the *Financial Times*). The Company shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any stock exchange and/or market, on or by which the Notes are for the time being listed and/or admitted to trading. Any such notice shall be deemed to have been given on the date of the first publication.

Except in the case of Notes admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange, until such time as any definitive Notes are issued, there may (provided that, in the case of Notes listed on or by and/or admitted to trading on or by a stock exchange, and/or market, the rules of such stock exchange and/or market, or any other relevant authority so permit), so long as the global Notes for this Series are held in their entirety on behalf of Euroclear and Clearstream, Luxembourg, be substituted for such publication in such newspaper the delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by them to the holders of the Notes of this Series. Any such notice shall be deemed to have been given to the holders of the Notes of this Series on the same day on which the said notice was given to Euroclear and Clearstream, Luxembourg.

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

## 16. Further Issues

Unless specified otherwise in the applicable Final Terms, the Company shall be at liberty from time to time without the consent of the Noteholders, Receiptholders or Couponholders to create and issue further Notes having terms and conditions the same as the Notes or the same in all respects except for the amount and date of the first payment of interest thereon and so that the same shall be consolidated and form a single Series with the outstanding Notes.

If the Company issues further Notes of the same Series during the initial 40-day restricted period applicable to the outstanding Notes of such Series, then such 40-day period will be extended until 40 days after the later of the commencement of the offering of such further issue of Notes and the Issue Date of such further issue of Notes. In addition, if the Company issues further Notes of the same Series after the expiration of the 40-day restricted period, a new 40-day restricted period will be applied to such further issue of Notes without applying to the outstanding Notes. After the expiration of the new 40-day restricted period, all such Notes will be consolidated with and form a single Series with the outstanding Notes.

## 17. Governing Law

The Agency Agreement and the Notes, the Receipts and the Coupons are governed by, and shall be construed in accordance with, the laws of the State of New York, United States of America, applicable to agreements made and to be performed wholly within such jurisdiction.

## 18. Registered Notes

*Notwithstanding anything to the contrary in the Terms and Conditions, the following shall, unless otherwise stated in the applicable Final Terms, apply to Registered Notes.*

### (a) General

Registered Notes (which term includes Registered Short-term Notes) shall be issued in registered form and shall be registered in the name of a nominee for, and deposited on the relevant Issue Date with, a common

depository for Euroclear and Clearstream, Luxembourg and/or any other agreed clearing system. Accordingly, each person who owns a beneficial interest in Registered Notes that are represented by a permanent global Note must rely on the rules and procedures of Euroclear or Clearstream, Luxembourg and/or any other agreed clearing system as the case may be, to exercise any rights of a registered holder of such Notes. Unless otherwise provided in the applicable Final Terms, Deutsche Bank Luxembourg S.A. shall be the Registrar with respect to such Registered Notes.

Registered Notes shall be exchangeable for definitive Notes in registered form if, but only if, (i) Euroclear or Clearstream, Luxembourg, as the case may be, is closed for business for a continuous period of 14 days (other than by reason of legal holidays) or announces an intention permanently to cease business, (ii) the Company instructs the Agent that the global Notes be exchangeable or (iii) an event of default has occurred and is continuing with respect to the Registered Notes. Such definitive Registered Notes shall be registered in such name or names as the common depository shall instruct the Agent and shall be in the form agreed to by the Company and the Agent at the time of exchange.

Transfers of definitive Registered Notes will be effected by presentment and surrender of such Note at the office of the Registrar and upon the Registrar being satisfied with the identity of the person making the request. In exchange for any definitive Registered Note properly presented for transfer at the office of the Registrar, the Agent shall promptly authenticate or cause to be authenticated and deliver or cause to be delivered at the office of the Registrar to the transferee or send by mail (at the risk of the transferee) to such address as the transferee may request, a definitive Registered Note(s) of the same Series registered in the name of such transferee, for the same aggregate principal amount being transferred. The Registrar shall not register the transfer of any definitive Registered Note during a period beginning at the opening of business fifteen (15) days before any selection of Notes of that Series to be redeemed and ending on the close of business on the day of the mailing of the relevant notice of early redemption or selected for redemption, except with respect to the unredeemed portion of Notes redeemed in part.

**(b) Payments on Registered Notes (not including Registered Short-Term Notes)**

*Notwithstanding anything to the contrary in Condition 5, the following shall, unless otherwise stated in the applicable Final Terms, apply to Registered Notes.*

Any interest, other than interest payable at the stated Maturity Date or upon earlier redemption, will be payable on any Fixed Interest Date or Interest Payment Date, as applicable, with respect to a Registered Note to the Person in whose name the Registered Note is registered in the relevant Register maintained by the applicable Registrar (“Registered Holder”) at the close of business on the fifteenth calendar day (whether or not a Business Day) preceding such Fixed Interest Date or Interest Payment Date, as applicable, or such other date as may be specified in the applicable Final Terms (the “Record Date”); provided that if the Issue Date is after the Record Date and before the next succeeding Fixed Interest Date or Interest Payment Date, as applicable, the first payment of interest shall be payable on the second Fixed Interest Date or Interest Payment Date, as applicable, following the Issue Date to the Person in whose name the Registered Note is registered at the close of business on the Record Date immediately preceding such second Fixed Interest Date or Interest Payment Date. Any principal (including any premium, the Final Redemption Amount, the Early Redemption Amount or any other amount payable in respect thereof) payable in respect of Registered Notes at the stated Maturity Date or upon earlier redemption shall be payable, upon presentation and surrender thereof at the specified office of the Agent in London, England or at the offices of any of the other Paying Agents.

Payments, if any, on a Registered Note will be made to the Registered Holder hereof on any Fixed Interest Date, Interest Payment Date or Maturity Date, as applicable, or on such earlier date of redemption as the Registered Notes may become due and payable in accordance with the Terms and Conditions, but only to the extent that an appropriate certificate with respect to the non-U.S. beneficial ownership of the Registered Note which satisfies the applicable United States Treasury Department (“Treasury”) regulations, and which certificate shall be in form acceptable to the Paying Agent has been provided and received from the beneficial owner (“Owner”) of the Registered Note. In the event that the certification of non-U.S. beneficial ownership is not received from the Owner of the Registered Note by the Paying Agent at least five London Business Days prior to the date of any such payment of principal and/or interest, if any, due on this Registered Note will not be made on such date of payment. If the aforementioned certification is received by the Paying Agent at any time after the fifth London Business Day prior to the date of such payment, the Paying Agent shall make payment to the

Registered Holder hereof of principal and/or interest, if any, on this Registered Note within five London Business Days after receipt by the Paying Agent of the applicable certification. Interest shall cease to accrue on this Registered Note on any such date of payment, including the Maturity Date, and no additional interest shall be paid for the period from (and including) the date of payment or Maturity Date to the actual date of payment. “London Business Day” means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London.

The Company and each Holder and Owner, by acceptance of a Note (or a beneficial interest therein), agrees to treat the Notes, for purposes of United States federal, state and local income or franchise taxes and any other taxes imposed on or measured by income, as indebtedness of the Company and to report the Registered Notes on all applicable tax returns in a manner consistent with such treatment and each Holder or Owner, as appropriate, further agrees to timely furnish the Issuer or its agents any United States federal income tax form or certification (such as Form W-8BEN, W-8ECI, W-8IMY (with appropriate attachments) or Form W-9) that the Company, the Agent, the Paying Agent, or the Company’s agents may reasonably request and shall update such form or certification in accordance with its terms or its subsequent amendments.

Any additional provisions applicable to such Registered Notes shall be set forth in full in the applicable Final Terms.

**(c) Payments on Registered Short-Term Notes**

Payments of principal and interest on Registered Short-term Notes will be made through Euroclear and Clearstream, Luxembourg only upon surrender of such Notes at the specified office of the Agent in London, England or at the offices of any of the other Paying Agents and only to the extent that appropriate certification of non-U.S. beneficial ownership of the Notes in the manner required by applicable Treasury regulations has been received by Euroclear or Clearstream, Luxembourg at least five London Business Days (as defined below) prior to the date of such payment. Such certification must be received in accordance with the rules and procedures of Euroclear or Clearstream, Luxembourg, as appropriate. In the event that certification from Euroclear or Clearstream, Luxembourg is not received by the Agent at least five London Business Days prior to the Maturity Date with respect to all or a portion of the Notes held by it, payment of principal and interest, if any, on the Registered Short-term Notes with respect to which such certification has not been received will not be made on the Maturity Date. If the certification relating to Registered Short-term Notes is delivered to the Agent after the fifth London Business Day prior to the Maturity Date, the Agent shall make payment of the principal and interest to Euroclear or Clearstream, Luxembourg, as the case may be, on the applicable Registered Short-term Note within five London Business Days after receipt by the Agent of the applicable certification. Interest will cease to accrue on the Registered Short-term Notes on the Maturity Date and no additional interest shall be paid for the period from (and including) the Maturity Date to the actual date of payment.

Any additional provisions applicable to such Registered Short-term Notes shall be set forth in full in the applicable Final Terms.

## **USE OF PROCEEDS**

The Company intends to use the net proceeds from the sale of Notes for general corporate purposes. Such general corporate purposes may include the funding of investments in, or extensions of credit to, its subsidiaries, the funding of assets of the Company and its subsidiaries, the lengthening of the average maturity of the Company's borrowings, and the financing of acquisitions. Pending such applications, the net proceeds will be applied to the reduction of short-term indebtedness or temporarily invested. Management of the Company expects that it will, on a recurrent basis, engage in additional financings as the need arises to finance the growth of the Company, through acquisitions or otherwise, or to lengthen the average maturity of its borrowings. To the extent that Notes being purchased for resale by Merrill Lynch International, or Merrill Lynch Capital Markets AG or Merrill Lynch (Singapore) Pte. Ltd. are not resold, the aggregate proceeds available to the Company and its subsidiaries on a consolidated basis would be reduced.

## BUSINESS OVERVIEW

The Company is a holding company that, through its subsidiaries and affiliates, provides investment, financing, insurance and related services to individuals and institutions on a global basis through its broker dealer, insurance and other financial services subsidiaries. Its principal subsidiaries include Merrill Lynch, Pierce, Fenner & Smith Incorporated, Merrill Lynch International, Merrill Lynch Government Securities, Inc., Merrill Lynch Capital Services, Inc., Merrill Lynch Investment Managers, L.P., Merrill Lynch Investment Managers Limited, Merrill Lynch Bank USA, Merrill Lynch Bank & Trust Co., Merrill Lynch International Bank Limited, Merrill Lynch Capital Markets Bank Limited, Merrill Lynch Mortgage Capital Inc., Merrill Lynch Japan Securities Co., Ltd., Merrill Lynch Life Insurance Company, ML Life Insurance Company of New York, Merrill Lynch Derivative Products AG and ML IBK Positions, Inc. The services, which the company and its principal subsidiaries provide includes<sup>5</sup>:

- Securities brokerage, trading, and underwriting;
- Investment banking, strategic advisory services (including mergers and acquisitions) and other corporate finance activities;
- Wealth management products and services, including financial, retirement and generational planning;
- Asset management and investment advisory and related record keeping services;
- Origination, brokerage, dealer and related activities in swaps, options, forwards, exchange-traded futures, other derivatives, commodities and foreign exchange products;
- Securities clearance, settlement financing services and prime brokerage;
- Private equity and other principal investing activities;
- Proprietary trading of securities, derivatives and loans;
- Banking, trust and lending services, including deposit taking, consumer and commercial lending, including mortgage loans, and related services;
- Insurance and annuities sales; and
- Research across the following disciplines: global equity strategy and economics, global fixed income and equity-linked research, global fundamental equity research, and global wealth management strategy.

The Company's accounting year for 2005 ended on December 30, 2005.

The Company was incorporated under the laws of the State of Delaware, U.S.A., on March 27, 1973 with file number 0790151. The principal executive office of the Company is located at 4 World Financial Center, New York, New York 10080, United States of America, with telephone number +1 212 449 1000. The Company's registered office in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States of America.

Information provided on pages 21-22 (Business Overview) and page 136 (Corporate Governance) of the Company's 2005 Annual Report, is current as at the date of this Base Prospectus.

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<sup>5</sup> The Company's corporate purpose can be found on page 2 of the Restated Certificate of Incorporation dated November 14, 2005.

## SELECTED FINANCIAL DATA

	Three Months Ended		Year Ended Last Friday in December				
	March 31, 2006	April 1, 2005	2005 (52 weeks)	2004 (53 weeks)	2003 (52 weeks)	2002 (52 weeks)	2001 (52 weeks)
<i>(dollars in millions, except per share amounts)</i>							
<b>Results of Operations</b>							
Total Revenues	\$ 15,561	\$ 10,562	\$ 47,783	\$ 32,619	\$ 27,924	\$ 28,361	\$ 39,019
Less Interest Expense	7,599	4,330	21,774	10,560	8,024	9,990	17,471
Net Revenues	7,962	6,232	26,009	22,059	19,900	18,371	21,548
Non-Interest Expenses	7,369	4,563	18,778	16,223	14,680	16,059	21,789
Earnings (Loss) Before Income Taxes	593	1,669	7,231	5,836	5,220	2,312	(241)
Income Tax Expense	118	457	2,115	1,400	1,384	604	99
Net Earnings (Loss)	\$ 475	\$ 1,212	\$ 5,116	\$ 4,436	\$ 3,836	\$ 1,708	\$ (340)
Net Earnings (Loss) Applicable to Common Stockholders <sup>(1)</sup>	\$ 432	\$ 1,205	\$ 5,046	\$ 4,395	\$ 3,797	\$ 1,670	\$ (378)
<b>Financial Position</b>							
Total Assets	\$732,240	\$637,230	\$681,015	\$ 628,098	\$480,233	\$440,252	\$431,173
Short-Term Borrowings <sup>(2)</sup>	\$336,750	\$267,169	\$301,405	\$ 259,804	\$191,184	\$180,213	\$178,154
Long-Term Borrowings	\$134,712	\$115,726	\$132,409	\$ 119,513	\$ 85,178	\$ 79,788	\$ 77,273
Long-Term debt issued to TOPrS <sup>SM</sup> partnerships	\$ 3,092	\$ 3,092	\$ 3,092	\$ 3,092	\$ 3,203	\$ 3,188	\$ 3,181
Total Stockholders' Equity	\$ 37,825	\$ 32,876	\$ 35,600	\$ 31,370	\$ 28,884	\$ 24,081	\$ 20,787
<b>Common Share Data</b>							
<i>(in thousands, except per share amounts)</i>							
Earnings (Loss) Per Share:							
Basic	\$ 0.49	\$ 1.33	\$ 5.66	\$ 4.81	\$ 4.22	\$ 1.94	\$ (0.45)
Diluted	\$ 0.44	\$ 1.21	\$ 5.16	\$ 4.38	\$ 3.87	\$ 1.77	\$ (0.45)
Weighted-Average Shares Outstanding:							
Basic	883,737	907,814	890,744	912,935	900,711	862,318	838,683
Diluted	981,085	993,273	977,736	1,003,779	980,947	947,282	838,683
Shares Outstanding at Period-End <sup>(3)</sup>	929,997	944,979	915,602	928,037	945,911	867,291	843,474
Book Value Per Share	\$ 37.19	\$ 32.91	\$ 35.82	\$ 32.99	\$ 29.96	\$ 27.07	\$ 23.95
Dividends Paid Per Share	\$ 0.25	\$ 0.16	\$ 0.76	\$ 0.64	\$ 0.64	\$ 0.64	\$ 0.64
<b>Financial Ratios</b>							
Pre-Tax Profit Margin	7.4%	26.8%	27.8%	26.5%	26.2%	12.6%	N/M
Common Dividend Payout Ratio	51.0%	12.0%	13.4%	13.3%	15.2%	33.0%	N/M
Return on Average Assets	0.1%	0.2%	0.7%	0.8%	0.8%	0.4%	N/M
Annualized Return on Average Common Stockholders' Equity	5.1%	15.5%	16.0%	14.9%	14.8%	7.5%	N/M
<b>Other Statistics</b>							
Full-Time Employees:							
U.S.	43,400	40,300	43,200	40,200	38,200	40,000	43,400
Non-U.S.	12,100	10,600	11,400	10,400	9,900	10,900	13,700
Total <sup>(4)</sup>	55,500	50,900	54,600	50,600	48,100	50,900	57,100
Private Client Financial Advisors	15,350	14,180	15,160	14,140	13,530	14,010	16,350
Client Assets <i>(dollars in billions)</i>	\$ 1,818	\$ 1,572	\$ 1,749	\$ 1,597	\$ 1,507	\$ 1,311	\$ 1,556

(1) Net earnings (loss) less preferred stock dividends.

(2) Consists of Payables under repurchase agreements and securities loaned transactions, Commercial paper and other short-term borrowings, and Deposits.

(3) Does not include 2,707; 2,776; 2,708; 2,783; 2,900; 3,911; and 4,195 shares exchangeable into common stock at March 31, 2006, April 1, 2005, year-end 2005, 2004, 2003, 2002 and 2001, respectively.

(4) Excludes 200; 100; 200; 100; 200; 1,500 and 3,500 full-time employees on salary continuation severance at March 31, 2006, April 1, 2005, year-end 2005, 2004, 2003, 2002 and 2001, respectively.



## Stockholders' Equity

	December 30, 2005	December 31, 2004
	<i>(dollars in millions, except per share amounts)</i>	
<b>Preferred Stockholders' Equity</b> <i>(liquidation preference of \$30,000 per share; issued: 2005 – 93,000 shares; 2004 – 21,000 shares)</i> . . . . .	\$ 2,773	\$ 630
Less: Treasury stock, at cost (2005 – 3,315 shares; 2004 – 0 shares) . . . . .	100	—
<b>Total Preferred Stockholders' Equity</b> . . . . .	2,673	630
<b>Common Stockholders' Equity</b>		
Shares exchangeable into common stock . . . . .	41	41
Common Stock, <i>(par value U.S.\$1.33 1/3 per share; authorized: 3,000,000,000 shares; issued: 2005 – 1,148,714,008 shares and 2004 – 1,098,991,806 shares)</i> . . . . .	1,531	1,465
Paid-In Capital . . . . .	13,320	11,460
Accumulated other comprehensive loss (net of tax) . . . . .	(844)	(481)
Retained earnings . . . . .	26,824	22,485
	<u>40,872</u>	<u>34,970</u>
Less: Treasury Stock, at cost (2005 – 233,112,271 shares; 2004 – 170,955,057 shares) . . . . .	7,945	4,230
<b>Total Common Stockholders' Equity</b> . . . . .	32,927	30,740
<b>Total Stockholders' Equity</b> . . . . .	<u>\$35,600</u>	<u>\$31,370</u>

## MANAGEMENT

### Directors

The directors of the Company and their principal occupations as of the date hereof are set forth in the following table:

<u>Name</u>	<u>Principal Occupation</u>
E. Stanley O'Neal	Chairman of the Board and Chief Executive Officer of the Company
Armando M. Codina	Founder, Chairman of the Board and Chief Executive Officer of the Codina Group, Inc.
Jill K. Conway <sup>1</sup>	Visiting Scholar, Massachusetts Institute of Technology
Alberto Cribiore	Founder and Managing Principal of Brera Capital Partners LLC
John D. Finnegan	Chairman of the Board, President and Chief Executive Officer of The Chubb Corporation
David K. Newbigging <sup>2</sup>	Chairman of the Board of Talbot Holdings Limited
Aulana L. Peters	Corporate Director; Partner, Retired, of Gibson, Dunn & Crutcher LLP
Joseph W. Prueher <sup>2</sup>	Corporate Director; Former U.S. Ambassador to the People's Republic of China
Ann N. Reese <sup>2</sup>	Co-Founder and Co-Executive Director of the Center for Adoption Policy
Charles O. Rossotti <sup>2</sup>	Senior Advisor to The Carlyle Group

<sup>1</sup> Jill K. Conway also serves as Lead Independent Director of the Company.

<sup>2</sup> Effective as of April 2005, David K. Newbigging, Joseph W. Prueher, Ann N. Reese and Charles O. Rossotti comprise the members of the Audit Committee.

The business address of each of the directors of the Company is 4 World Financial Center, New York, New York 10080, United States of America.

There are no potential conflicts of interest between any duties to the Company and their private interests or other duties of the directors of the Company.

Information regarding certain relationships and related transactions is set out in a section entitled "Other Matters—Certain Transactions" on page 48 of the Proxy Statement, which is incorporated by reference herein.

## Executive Officers

The following persons, all of whom are full-time employees of the Company, hold the offices indicated in the following table as of the date hereof:

<u>Name</u>	<u>Office</u>
E. Stanley O’Neal	Chairman of the Board, Chief Executive Officer, President and Chief Operating Officer
Rosemary T. Berkery	Executive Vice President and General Counsel
Robert C. Doll	Senior Vice President; Chief Investment Officer and President of Merrill Lynch Investment Managers
Jeffrey N. Edwards	Senior Vice President and Chief Financial Officer
Ahmass L. Fakahany	Executive Vice President, Vice Chairman and Chief Administrative Officer
Gregory J. Fleming	Executive Vice President and President of Global Markets and Investment Banking
Dow Kim	Executive Vice President and President of Global Markets and Investment Banking
Robert J. McCann	Executive Vice President, Vice Chairman and President of Global Private Client

The business address of each of the officers of the Company is 4 World Financial Center, New York, New York 10080, United States of America.

There are no potential conflicts of interest between any duties to the Company and their private interests or other duties of the executive officers of the Company.

Information regarding certain relationships and related transactions is set out in a section entitled “Other Matters—Certain Transactions” on page 48 of the Proxy Statement, which is incorporated by reference herein.

## SUBSCRIPTION AND SALE

The Dealers have entered into an Amended and Restated Program Agreement, dated May 10, 2006, (as the same may be amended or supplemented from time to time in accordance with the terms thereof, the “**Program Agreement**”), with the Company, which sets forth a basis upon which either of them may from time to time agree to purchase the Notes. Any such agreement will extend to those matters stated under “Form of the Notes” and “Terms and Conditions of the Notes” above. In the Program Agreement the Company has agreed to reimburse the Dealers for certain of their expenses in connection with the issue of Notes under the Program.

### United States

The Notes have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act or pursuant to an exemption from the registration requirements of the Securities Act. The Notes will not at any time be offered, sold, reoffered, resold, pledged, exchanged or otherwise transferred, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. persons. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

The Notes are also subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States Person. Terms used in this paragraph have the meanings given to them by the Code and applicable Treasury regulations.

Each Dealer has represented and agreed, and each further Dealer appointed under the Program and each other Purchaser will be required to represent and agree, that (1) it will not offer or sell the Notes of any Tranche (i) as part of its distribution at any time and (ii) otherwise until 40 days after the later of (A) the completion of the distribution (as determined by such Dealer or other Purchaser or, in the case of a syndicated placement, the Lead Manager (as defined in the applicable syndicate purchase agreement)) of all Notes of such Tranche and (B) the closing date of such Tranche of Notes, within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S, and it will have sent to each dealer to which it sells Notes during the distribution compliance period a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons and (2) it will not at any time reoffer, resell, pledge, exchange or otherwise transfer, directly or indirectly, any Notes into the United States or to, or for the account or benefit of, any U.S. person.

In addition, an offer or sale of Notes of such Series within the United States by a dealer that is not participating in the offering during the distribution compliance period described in the preceding paragraph may violate the registration requirements of the Securities Act.

Each issuance of Registered Notes, Indexed Notes, Equity Linked Notes, or Credit Linked Notes will be subject to such additional U.S. selling restrictions as the Company and the relevant Dealer or Purchaser(s) may agree, as indicated in the applicable Final Terms. Each Dealer has agreed and each further Dealer appointed under the Program and each other Purchaser will be required to agree that it will offer, sell or deliver such Notes only in compliance with such additional U.S. selling restrictions.

### European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Notes to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of Notes to the public in that Relevant Member State:

- (a) in (or in Germany, where the offer starts within) the period beginning on the date of publication of a prospectus in relation to those Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive and ending on the date which is 12 months after the date of such publication;

- (b) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
- (c) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or
- (d) at any time in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “**offer of Notes to the public**” in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe to the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

### United Kingdom

Each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, that:

- (a) in relation to any Notes which have a maturity of less than one year, (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of section 19 of the FSMA by the Company;
- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Company; and
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

### Republic of Italy

To the extent that the offering of the Notes has not been cleared by CONSOB (the Italian Securities Exchange Commission) pursuant to Italian securities legislation, no Notes may be offered, sold or delivered, nor may copies of the Final Terms or of any other document relating to the Notes be distributed in the Republic of Italy, except:

- (i) to professional investors (“*operatori qualificati*”), as defined in Article 31, second paragraph, of CONSOB Regulation No. 11522 of 1st July, 1998, as amended; or
- (ii) in circumstances which are exempted from the rules on solicitation of investments pursuant to Article 100 of Legislative Decree No. 58 of 24th February, 1998 (the “**Financial Services Act**”) and Article 33, first paragraph, of CONSOB Regulation No. 11971 of 14th May, 1999, as amended.

Any offer, sale or delivery of the Notes or distribution of copies of the Final Terms or any other document relating to the Notes in the Republic of Italy under (i) or (ii) above must be:

- (a) made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Financial Services Act and Legislative Decree No. 385 of 1st September, 1993 (the “**Banking Act**”), as amended; and
- (b) in compliance with Article 129 of the Banking Act and the implementing guidelines of the Bank of Italy pursuant to which the issue or the offer of securities in the Republic of Italy may need to be

preceded and followed by an appropriate notice to be filed with the Bank of Italy depending, inter alia, on the aggregate value of the securities issued or offered in the Republic of Italy and their characteristics; and

- (c) in accordance with any other applicable laws and regulations.

### **The Grand Duchy of Luxembourg**

In addition to the cases described in the EEA State selling restrictions in which the Dealers can make an offer of the Notes to the public in an EEA Member State (including The Grand Duchy of Luxembourg), the Dealers can also make an offer of Notes in The Grand Duchy of Luxembourg:

- (a) at any time, to national and regional governments, central banks, international and supranational institutions (such as the International Monetary Fund, the European Central Bank, the European Investment Bank) and other similar international organisations;
- (b) at any time, to legal entities which are authorised or regulated to operate in the financial markets (including, credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, undertakings for collective investment and their management companies, pension and investment funds and their management companies, commodity dealers) as well as entities not so authorised or regulated whose corporate purpose is solely to invest in securities; and
- (c) at any time, to certain natural persons or small and medium-sized enterprises (as defined in the Luxembourg law dated 10th July, 2005 on prospectuses for securities implementing the Prospectus Directive into Luxembourg law) recorded in the register of natural persons or small and medium-sized enterprises considered as qualified investors as held by the Commission de Surveillance du Secteur Financier as competent authority in Luxembourg in accordance with the Prospectus Directive.

### **Japan**

The Notes have not been and will not be registered under the Securities and Exchange Law of Japan (the “**Securities and Exchange Law**”). Each Dealer has represented and agreed and each further Dealer appointed under the Program and each other Purchaser will be required to represent and agree that it has not offered or sold and will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan) or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Securities and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

### **Singapore**

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

#### Note

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

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



(b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

(1) to an institutional investor (for corporations, under Section 274 of the SFA) or to a relevant person defined in Section 275(2) of the SFA, or to any person pursuant to an offer that is made on terms that such shares, debentures and units of shares and debentures of that corporation or such rights and interest in that trust are acquired at a consideration of not less than S\$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets, and further for corporations, in accordance with the conditions specified in Section 275 of the SFA;

(2) where no consideration is or will be given for the transfer; or

(3) where the transfer is by operation of law.

## **General**

Unless otherwise stated in the applicable Final Terms, no action has been taken by the Company that would permit a public offering of the Notes or possession or distribution of the Base Prospectus or any other offering material in any jurisdiction where action for that purpose is required. Accordingly, each Dealer has agreed and each further Dealer appointed under the Program and each other Purchaser will be required to agree that it will comply with all applicable laws and regulations in force in any jurisdiction in which it purchases, offers or sells Notes or possesses or distributes the Base Prospectus or any other offering material and will obtain any consent, approval or permission required by it for the purchase, offer or sale by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers or sales and the Company shall have no responsibility therefor.

With regard to each Series, the relevant Purchaser will be required to comply with such other additional restrictions as the Company and the relevant Purchaser shall agree and as shall be set out in the applicable Final Terms.

## UNITED STATES INCOME AND ESTATE TAXES

### *Circular 230 Legend*

The following discussion of United States federal income tax matters and any other discussions of United States federal income tax matters contained elsewhere in this Base Prospectus (a) were not intended or written to be legal or tax advice to any person and were not intended or written to be used, and they cannot be used, by any person for the purpose of avoiding any tax-related penalties that may be imposed on such person, and (b) were written in connection with the promotion or marketing of the Notes pursuant to the Program by the Company and the Dealers. Each person considering an investment in the Notes pursuant to the Program should seek advice based on its particular circumstances from an independent tax advisor.

Notwithstanding anything to the contrary contained herein, a prospective purchaser (and each employee, representative, or other agent of a prospective purchaser) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions described in this Base Prospectus and all materials of any kind that are provided to the prospective purchaser relating to such tax treatment and tax structure (as such terms are defined in Treasury Regulation Section 1.6011-4). This authorization of tax disclosure is retroactively effective to the commencement of discussions between the Company, the Dealers or their representatives and a prospective investor regarding the transactions contemplated herein.

### *Bearer Notes*

Under United States federal income and estate tax law as now in effect and subject to the discussion below concerning backup withholding, (a) principal of, and interest on, any Note beneficially owned by a United States Alien (as defined under “Terms and Conditions of the Notes—8. Payment of Additional Amounts”) paid by the Company or any paying agency thereof to the United States Alien will not be subject to United States federal withholding tax, provided that in the case of interest (including original issue discount, if any) (i) the United States Alien does not actually or constructively own 10 per cent. or more of the total combined voting power of all classes of stock of the Company (ii) the United States Alien is not a controlled foreign corporation as to the United States that is related to the Company through stock ownership and (iii) the United States Alien is not a bank receiving interest described in Code section 881(c)(3)(A); (b) any gain or income realized by any United States Alien holder upon the sale, exchange or redemption of any Note generally will not be subject to United States income or withholding tax, provided that such gain or income is not effectively connected with a United States trade or business of such holder and, in the case of an individual holder, such individual is not present in the United States for 183 days or more in the taxable year of the sale, exchange or redemption and such individual does not have a “tax home” (as defined for United States federal income tax purposes) in the United States (other exceptions may apply, and a holder should consult its tax advisor in this regard); and (c) a Note, Receipt or Coupon held by an individual who at the time of death is not a citizen or resident of the United States will not be subject to United States federal estate tax as a result of such individual’s death, unless the individual actually or constructively owns 10 per cent. or more of the total combined voting power of all classes of stock of the Company or such individual holds the Note in connection with a United States trade or business.

### *Registered Notes*

A United States Alien who is an individual or corporation (or an entity that is treated as a corporation for federal income tax purposes) holding Registered Notes on its own behalf will not be subject to United States federal income taxes on payments of principal, premium (if any) or interest (including original issue discount, if any) on a Registered Note, unless such United States Alien is a direct or indirect 10% or greater shareholder of ML&Co., a controlled foreign corporation related to ML&Co. or a bank receiving interest described in section 881(c)(3)(A) of the Code. To qualify for the exemption from taxation, the Withholding Agent, as defined below, must have received a statement from the individual or corporation that:

- is signed under penalties of perjury by the beneficial owner of the Registered Note,
- certifies that such owner is not a United States holder, and
- provides the beneficial owner’s name and address of the beneficial owner’s permanent residence.

A “Withholding Agent” is any person, United States. or foreign, that has control, receipt or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding.

Generally, the aforementioned statement is made on an IRS Form W-8BEN (“W-8BEN”), which is effective for the period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. Notwithstanding the preceding sentence, a W-8BEN with a United States taxpayer identification number will remain effective until a change in circumstances makes any information on the form incorrect, provided that the Withholding Agent reports at least annually to the beneficial owner on IRS Form 1042-S. The beneficial owner must inform the Withholding Agent within 30 days of a change in circumstances that makes any information on the W-8BEN incorrect and must furnish a new W-8BEN. A holder of a Registered Note which is not an individual or corporation (or an entity treated as a corporation for United States federal income tax purposes) holding the Registered Notes on its own behalf may have substantially increased reporting requirements. In particular, in the case of Registered Notes held by a foreign partnership (or certain foreign trusts), the partnership (or trust) will be required to provide the certification from each of its partners (or beneficiaries), and the partnership (or trust) will be required to provide certain additional information.

A United States Alien whose income with respect to its investment in a Registered Note is effectively connected with the conduct of a United States trade or business would generally be taxed as if the holder was a United States Person provided the holder provides to the Withholding Agent an IRS Form W-8ECI.

Certain securities clearing organizations, and other entities who are not beneficial owners, may be able to provide a signed statement to the Withholding Agent. However, in such case, the signed statement may require a copy of the beneficial owner’s W-8BEN (or substitute form).

Generally, a United States Alien will not be subject to United States federal income taxes on any amount which constitutes capital gain upon retirement or disposition of a Registered Note, unless such United States Alien is an individual who is present in the United States for 183 days or more in the taxable year of the disposition and such gain is derived from sources within the United States. Certain other exceptions may be applicable, and a United States Alien should consult its tax advisor in this regard.

The Registered Notes will not be includible in the estate of a United States Alien unless the individual is a direct or indirect 10% or greater shareholder of ML&Co. or, at the time of such individual’s death, payments in respect of the Registered Notes would have been effectively connected with the conduct by such individual of a trade or business in the United States.

#### *Backup Withholding*

“Backup” withholding of United States federal income tax at the applicable statutory rate and information reporting requirements may apply to certain payments to certain non-corporate United States holders of principal of and interest on an obligation, and proceeds of certain sales (including sales pursuant to an option) of an obligation before maturity. For the purpose of the following discussion, “United States Person” means any citizen or resident for U.S. federal income tax purposes of the United States, a corporation or partnership (including an entity treated as a corporation or partnership for United States federal income tax purposes) that is created or organized in or under the laws of the United States, any state thereof or the District of Columbia (unless, in the case of a partnership, Treasury regulations are adopted that provide otherwise), an estate whose income is subject to United States federal income tax regardless of its source, a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States Persons have the authority to control all substantial decisions of the trust, and any other person whose income or gain with respect to a Note is effectively connected with the conduct of a United States trade or business. Notwithstanding the previous sentence, to the extent provided in Treasury regulations, certain trusts in existence before August 20, 1996, and treated as United States Persons before such date that elect to be treated so shall also be considered United States Persons.

Backup withholding and information reporting will not apply to payments of principal or interest on a Note provided that the payor does not have actual knowledge or reason to know that the holder is a United States Person.

In general, payment of the proceeds from the sale of Notes effected at a United States office of a broker is subject to both United States backup withholding and information reporting. However, a holder will not be subject to backup withholding and information reporting on such a sale provided that the broker does not have

actual knowledge or reason to know that the holder is a United States Person or the holder otherwise establishes an exemption. If a holder fails to establish an exemption or the broker has actual knowledge or reason to know of the holder's status as a United States Person, the payments may be subject to information reporting and backup withholding. However, backup withholding will not apply with respect to payments made outside the United States to an offshore account maintained by a holder unless the payor has actual knowledge that a holder is a United States Person.

In general, payment of the proceeds from the sale of Notes effected at a foreign office of a broker will not be subject to information reporting or backup withholding. However, a sale effected at a foreign office of a broker will be subject to information reporting and backup withholding if the proceeds are transferred to an account maintained by the holder in the United States, the payment of proceeds or the confirmation of the sale is mailed to the holder at a United States address, or the sale has some other specified connection with the United States as provided in applicable Treasury regulations, unless the broker does not have actual knowledge or reason to know that the holder is a United States Person or the holder otherwise establishes an exemption.

In addition, payment of the proceeds from the sale of Notes effected at a foreign office of a broker will be subject to information reporting, but not backup withholding, if the sale is effected at a foreign office of a broker that is: (a) a United States Person, (b) a controlled foreign corporation for United States federal income tax purposes, (c) a foreign person 50 per cent. or more of the gross income of which is effectively connected with the conduct of a United States trade or business for a specified three-year period, or (d) a foreign partnership, if at any time during its tax year: (i) one or more of its partners are "U.S. persons", as defined in applicable Treasury regulations, who in the aggregate hold more than 50 per cent. of the income or capital interest in the partnership, or (ii) such foreign partnership is engaged in the conduct of a United States trade or business, unless the broker does not have actual knowledge or reason to know that the holder is a United States Person or the holder otherwise establishes an exemption.

The above discussion is based upon certain of the facts set forth in this Base Prospectus and other documents related to the issuance of the Notes and upon compliance with the provisions thereof and the representations and agreements therein. In addition, such discussion is based upon the Code, Treasury regulations, rulings and decisions in effect as of the date of this Base Prospectus, all of which are subject to change. Furthermore, the above discussion does not apply to the tax consequences of holding Floating Rate Notes, Indexed Notes, Dual Currency Notes, Equity Linked Notes, Credit Linked Notes, Zero Coupon Notes or Notes that are due to mature more than 30 years from their date of issue. Any special United States federal tax consequences of holding such Notes will be described in the applicable Final Terms. Persons considering the purchase of Notes should consult their own tax advisors concerning the application of the laws of any state, local or foreign taxing jurisdictions to their particular situations.

## **EUROPEAN UNION SAVINGS TAX DIRECTIVE**

Under the European Union Council Directive 2003/48/EC on the taxation of savings income, each Member State of the European Union is required to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a Paying Agent within its jurisdiction to an individual resident in that other Member State. However, for a transitional period, Belgium, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries) unless the beneficiary opts for the exchange of information. A number of non-European Union countries and territories, including Switzerland, have adopted similar measures (a withholding system in the case of Switzerland).

## GENERAL INFORMATION

### Listing

Application has been made for Notes issued under the Program to be admitted to the Official List and to be admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market. The admission to the Official List and admission to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market will be expressed as a percentage of their aggregate principal amount (excluding accrued interest). It is expected that each Tranche of Notes which is to be admitted to the Official List and admitted to trading on the London Stock Exchange's Gilt Edged and Fixed Interest Market will be admitted separately as and when issued, subject only to the issue of the global Note representing Notes of that Tranche. The listing of the Program with respect to such Notes is expected to be granted on or around May 10, 2006. Application will be made to the CSSF, for Notes issued under the Program to be admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange. The UKLA will be requested to provide the CSSF with a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with the Prospectus Directive. Notes may also be listed and/or admitted to trading on or by other stock exchanges and/or markets.

### Authorization

The Program has been established and Notes will be issued thereunder pursuant to authority granted by the Board of Directors of the Company on February 24, 1986, June 5, 2000, February 24, 2003 and April 28, 2006, a Consent of the Board of Directors of the Company in Lieu of Meeting dated March 13, 2003, as supplemented by the Approval of New Procedures on the Issuance and Sale of Indebtedness of the Company dated October 19, 2004 and the Certificate of Delegation dated September 12, 2003 and pursuant to authority granted by the Finance Committee of the Board of Directors of the Company on December 5, 2005, as each such authority may be supplemented from time to time.

### Significant Change

There has been no significant change in the financial or trading position of the Company and its subsidiaries on a consolidated basis since May 10, 2006. There has been no material adverse change in the financial position or prospects of the Company and its subsidiaries on a consolidated basis since December 30, 2005.

### Post-Issuance Reporting

The Company does not intend to provide post-issuance information in respect of any Notes issued under the Program.

### Litigation

The Company, certain of its subsidiaries and other persons have been named as parties in various legal actions and arbitration proceedings arising in connection with the operation of the Company's businesses. In most cases, plaintiffs seek unspecified damages and other relief. These include the following:

#### *IPO Allocation Litigation*

*In re Initial Public Offering Antitrust Litigation:* Merrill Lynch\* is named as one of ten underwriting defendants in this consolidated class action filed in the United States District Court for the Southern District of New York. The complaint alleges that the defendants and unnamed co-conspirators violated antitrust laws by conspiring to "require from customers consideration in addition to the underwriters' discount for allocation of shares of initial public offerings of certain technology companies . . . and to inflate the aftermarket prices for such securities." On November 3, 2003, the district court granted the defendants' motions to dismiss the complaint. On September 28, 2005, the Second Circuit reversed the district court's decision dismissing the case, holding that the alleged conduct was not immune from the antitrust laws. On January 11, 2006, the Second Circuit denied defendants' petition for rehearing and rehearing en banc. The defendants are seeking a stay of

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\* Unless the context otherwise requires, the term "Merrill Lynch" means the Company and its consolidated subsidiaries.



further proceedings while they petition for Supreme Court review of the Second Circuit's decision. On March 6, 2006, defendants filed a petition for certiorari with the United States Supreme Court seeking review of the Second Circuit's September 28, 2005, decision reversing the dismissal of this action. The Supreme Court has not yet issued a ruling either granting or denying the petition for certiorari.

*In re Initial Public Offering Securities Litigation:* Merrill Lynch has been named as one of the defendants in approximately 110 securities class action complaints alleging that dozens of underwriting defendants, including Merrill Lynch, artificially inflated and maintained the stock prices of the relevant securities by creating an artificially high aftermarket demand for shares. On October 13, 2004, the district court, having previously denied defendants' motions to dismiss, issued an order allowing certain of these cases to proceed against the underwriters as class actions. On June 30, 2005, the United States Court of Appeals for the Second Circuit entered an order agreeing to review the district court's order granting plaintiffs' motion for class certification. The matter has now been fully briefed, and the parties are awaiting a decision from the Court of Appeals.

#### *IPO Underwriting Fee Litigation*

*In re Public Offering Fee Antitrust Litigation and In re Issuer Plaintiff Initial Public Offering Fee Antitrust Litigation:* Merrill Lynch is one of approximately two dozen defendants that have been named in purported class actions filed in the United States District Court for the Southern District of New York alleging that underwriters conspired to fix the "fee" paid to purchase certain initial public offering securities at 7% in violation of antitrust laws. These complaints have been filed by both investors and certain issuers in initial public offerings. On September 25, 2002, the court denied defendants' motion to dismiss the issuer claims. On February 24, 2004, the court granted defendants' motion to dismiss the investor claims for damages and penalties, and permitted the case to proceed only with regard to claim for injunctive relief. The parties are awaiting a decision on plaintiffs' motions for class certification in both the investor and issuer class actions. On April 18, 2006, the United States District Court for the Southern District of New York issued a decision denying class certification in the issuer class action. With regard to the investor action, which the court previously held could only proceed with respect to claims for non-monetary relief, the court asked the plaintiffs to set forth the reasons why they would wish to proceed as a class action without any prospect of recovering any damages.

#### *Enron Litigation*

*Newby v. Enron Corp. et al.:* On April 8, 2002, Merrill Lynch was added as a defendant in a consolidated class action filed in the United States District Court for the Southern District of Texas against 69 defendants purportedly on behalf of the purchasers of Enron's publicly traded equity and debt securities during the period October 19, 1998 through November 27, 2001. The complaint alleges, among other things, that Merrill Lynch engaged in improper transactions in the fourth quarter of 1999 that helped Enron misrepresent its earnings and revenues in the fourth quarter of 1999. The complaint also alleges that Merrill Lynch violated the securities laws in connection with its role as an underwriter of Enron stock, its research analyst coverage of Enron stock, and its role as placement agent for and limited partner in an Enron-controlled partnership called LJM2. On December 19, 2002 and March 29, 2004, the court denied Merrill Lynch's motions to dismiss. On July 27, 2005, Merrill Lynch filed a Motion for Judgment on the Pleadings based, in part, on the Supreme Court's April 19, 2005, decision in *Dura Pharmaceuticals v. Broudo*, which addressed the standards for pleading and proving loss causation. On August 3, 2005, plaintiff filed a Motion for Partial Summary Judgment against Merrill Lynch, which seeks a judgment that Merrill Lynch knowingly committed deceptive acts in furtherance of a scheme to defraud. Merrill Lynch is opposing that motion. In addition, the defendants, including Merrill Lynch, are awaiting a decision on plaintiffs' motion for class certification. A trial date has been set for October 16, 2006.

*In re Enron Corp.:* On September 24, 2003, Enron Corporation filed an adversary proceeding in the United States Bankruptcy Court for the Southern District of New York against a large collection of financial institutions, including Merrill Lynch. An amended complaint was filed on December 5, 2003. The complaint alleges that the conduct of Merrill Lynch and other bank defendants contributed to Enron's bankruptcy.

*Other Litigation:* Dozens of other actions have been brought against Merrill Lynch and other investment firms in connection with their Enron-related activities, including actions by state pension plans and other state investment entities that purchased Enron securities and actions by other purchasers of Enron securities. There has been no adjudication of the merits of these claims.



### *Research Litigation*

*In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation:* Beginning in 2001, Merrill Lynch was named in dozens of class actions that challenged the objectivity of Merrill Lynch's research recommendations related to securities of internet companies. As a result of the dismissal or abandonment of many of these cases and the February 16, 2006 settlements in principle of others (which settlements are subject to further documentation and court approvals), only two of these class actions are actively being litigated. Merrill Lynch is vigorously defending these two remaining actions, one of which, *Dabit v. Merrill Lynch*, is now before the United States Supreme Court, and the other of which, *In re Merrill Lynch & Co., Inc. Shareholders Litigation*, is pending in the United States District Court for the Southern District of New York.

*In re Merrill Lynch Tyco Research Securities Litigation:* On June 4, 2003, shareholders of Tyco International filed a class action in the United States District Court for the Southern District of New York alleging that a former Merrill Lynch research analyst engaged in a variety of improper practices in connection with research analysis on Tyco International. On February 18, 2004, the court granted Merrill Lynch's motion to dismiss the claims related to Tyco. Plaintiffs have appealed the dismissal of their action to the United States Court of Appeals for the Second Circuit.

### *Tyco-Related Arbitration*

On July 25, 2005, arbitration hearings began on a claim by a group of persons who allege that as a result of allegedly misleading research issued by Merrill Lynch, they were induced not to sell Tyco stock that they had acquired in connection with the sale of their business. They sought damages of over \$90 million. On October 10, 2005, the arbitration panel unanimously rejected all of the claims against Merrill Lynch and held that the claimants were not entitled to any relief.

### *Global Crossing Litigation*

*In re Global Crossing Ltd. Securities Litigation:* On or about January 28, 2003, several dozen entities, including Merrill Lynch, were named as defendants in a class action filed in the United States District Court for the Southern District of New York. Plaintiffs asserted claims against Merrill Lynch in connection with a March 1999 fairness opinion that Merrill Lynch issued to the Board of Directors of Global Crossing in connection with its acquisition of Frontier Corporation, and in connection with two Global Crossing securities offerings that took place in April 2000 in which Merrill Lynch was a member of the underwriting syndicate. On December 18, 2003, the court granted Merrill Lynch's motion to dismiss the claims related to the issuance of the fairness opinion but denied Merrill Lynch's motion to dismiss with regard to its role as an underwriter for the April 2000 offerings. In March 2006, this matter was settled for an amount that did not have a material effect on Merrill Lynch's financial condition or results of operations. The settlement is subject to appropriate documentation and court approval.

### *Allegheny Energy Litigation*

*Merrill Lynch v. Allegheny Energy, Inc.:* On September 24, 2002, Merrill Lynch filed an action in the United States District Court for the Southern District of New York against Allegheny Energy, Inc. The complaint alleges that Allegheny owes Merrill Lynch the final \$115 million payment due in connection with Allegheny's purchase of Merrill Lynch's energy trading business and assets in 2001. The following day, Allegheny filed an action against Merrill Lynch in the Supreme Court of the State of New York claiming misrepresentations in connection with Merrill Lynch's sale of the energy trading business to Allegheny. On July 18, 2005, following a bench trial, the court issued a decision holding that Allegheny is required to pay Merrill Lynch \$115 million plus interest and that Allegheny is not entitled to any recovery against Merrill Lynch. On September 22, 2005, Allegheny appealed the court's July 18, 2005 decision awarding Merrill Lynch \$115 million plus interest on its claim and denying Allegheny any relief on its claim. That appeal is pending.

### *Boston Chicken Litigation*

*BCI Trustee Litigation:* The Plan Trustee, appointed by the Boston Chicken Inc. ("BCI") Plan of Reorganization, has filed claims against numerous defendants, including Merrill Lynch and other underwriters, alleging damages to BCI resulting from debt and equity offerings in which the underwriters participated between 1993 and 1997. The Plan Trustee's suit is pending in federal district court in Phoenix, Arizona. In January 2006, this matter was settled (subject to court approval) for an amount that did not have a material effect on ML & Co.'s financial condition or results of operations. The detailed terms and conditions of the settlement are confidential.

### *Sale of Mutual Fund Shares*

Since May 2004, four putative class actions have been filed in the United States District Court for the Southern District of New York against Merrill Lynch. These cases allege that Merrill Lynch failed to disclose incentives to mid-level managers to maximize the sale of mutual funds carrying the Merrill Lynch brand name and that these mid-level managers pressured financial advisers to maximize the sale of these funds. Merrill Lynch is seeking the dismissal of these actions. In addition, Merrill Lynch is a defendant in a putative class action captioned *Thomas J. DeBenedictis v. Merrill Lynch & Co., et al.*, which was filed in the United States District Court for the District of New Jersey. This putative class action alleges that the registration statements and prospectuses for the Merrill Lynch Funds should have stated, but omitted to state, that for certain investors Class B shares are inherently inferior to Class A, C, and D shares. On February 21, 2006, the court granted Merrill Lynch's motion to dismiss the action.

### *Market Timing Class Action*

In October 2004, a securities class action was filed against a large number of defendants, including Merrill Lynch, in the United States District Court for the District of Maryland and was subsequently consolidated as part of *In re Mutual Funds Investment Litigation*, MDL1586. With regard to Merrill Lynch, the complaint alleges that between November 1, 1998 and September 3, 2003, Merrill Lynch violated federal securities laws in connection with serving as a broker-dealer intermediary on behalf of certain other defendants who allegedly engaged in market timing trading strategies in mutual fund shares. On November 3, 2005, the court granted Merrill Lynch's motion to dismiss these actions.

### *McReynolds v. Merrill Lynch*

On November 18, 2005, a purported class action was filed in the United States District Court for the Northern District of Illinois seeking to certify a class of current and former African American Merrill Lynch employees, as well as African Americans who applied for employment. Plaintiff alleges that the firm has engaged in a pattern and practice of discrimination against African Americans in violation of federal Civil Rights statutes. Merrill Lynch is vigorously contesting these claims.

### *Parmalat*

Merrill Lynch Capital Markets Bank Limited is one of dozens of defendants sued in Italy by Dr. Enrico Bondi, the specially appointed administrator of Parmalat Finanziaria S.p.A. ("**Parmalat**"). Parmalat was admitted into insolvency proceedings in Italy on December 27, 2003. The claim against Merrill Lynch Capital Markets Bank Limited is that in 2003 it wrongfully helped Parmalat stay in business, and thus continue to lose money, by buying options from Parmalat prior to Parmalat being admitted into insolvency proceedings. The first hearing on this claim is scheduled for May 2006. In addition, the Parmalat Administrator has charged Merrill Lynch International with wrongfully facilitating the sale of a note to Parmalat that was linked to Parmalat's credit in 1999. The first hearing on this claim is scheduled for April 2006. Merrill Lynch is vigorously contesting these claims.

### *Short Sales*

*Electronic Trading Group, LLC v. Banc of America Securities LLC, et al.*: On April 12, 2006, a purported class action was filed against eleven financial services firms, including Merrill Lynch, in the United States District Court for the Southern District of New York. The case alleges that the defendants violated federal antitrust laws by charging unearned fees on short sales by their clients even when they failed to borrow and/or deliver stock in support of those short sales. Merrill Lynch intends to vigorously defend itself against these charges.

### *SwissAir*

Merrill Lynch Capital Markets Bank AG ("**MLCMB AG**") is one of several defendants sued in Zurich, Switzerland by the Liquidator of SAirGroup ("**SwissAir**"). The Liquidator claims that SwissAir lacked authority to enter into certain transactions with MLCMB AG in 1999 and 2000 pursuant to which SwissAir received an economic interest in additional SwissAir shares, and that MLCMB AG should pay the Liquidator losses on those shares. On March 1, 2006, the commercial court of Zurich declined to dismiss the case on procedural grounds, but did not rule on the substance of any of the claims. MLCMB AG is vigorously defending itself against these claims. The first hearing that considers the merits of the claims is likely to take place in late 2006 or early 2007.

### *Other*

Merrill Lynch has been named as a defendant in various other legal actions, including arbitrations, class actions, and other litigation arising in connection with its activities as a global diversified financial services institution. The general decline of equity securities prices between 2000 and 2003 resulted in increased legal actions against many firms, including Merrill Lynch.

Some of the legal actions include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. In some cases, the issuers that would otherwise be the primary defendants in such cases are bankrupt or otherwise in financial distress. Merrill Lynch is also involved in investigations and/or proceedings by governmental and self-regulatory agencies. The number of these investigations has also increased in recent years with regard to many firms, including Merrill Lynch.

Merrill Lynch believes it has strong defenses to, and where appropriate, will vigorously contest, many of these matters. Given the number of these matters, some are likely to result in adverse judgments, penalties, injunctions, fines, or other relief. Merrill Lynch may explore potential settlements before a case is taken through trial because of the uncertainty and risks inherent in the litigation process. In accordance with SFAS No. 5, Merrill Lynch will accrue a liability when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In many lawsuits and arbitrations, including most of the class action lawsuits disclosed in the Company's public filings, it is not possible to determine whether a liability has been incurred or to estimate the ultimate or minimum amount of that liability until the case is close to resolution, in which case no accrual is made until that time. In view of the inherent difficulty of predicting the outcome of such matters, particularly in cases in which claimants seek substantial or indeterminate damages, Merrill Lynch cannot predict what the eventual loss or range of loss related to such matters will be. Subject to the foregoing, Merrill Lynch continues to assess these cases and believes, based on information available to it, that the resolution of these matters will not have a material adverse effect on the financial condition of Merrill Lynch as set forth in the consolidated financial statements, but may be material to Merrill Lynch's operating results or cash flows for any particular period and may impact the Company's credit ratings.

Neither the Company nor any subsidiary is or has been involved in any governmental, legal or arbitration proceedings, nor are any governmental, legal or arbitration proceedings pending or threatened involving the Company or any subsidiary of which the Company is aware, which may have or have had during the 12 months prior to the date of this Base Prospectus a significant effect on the financial position of the Company and/or the Company and its subsidiaries on a consolidated basis, however as described above, such matters may have a significant effect on the profitability of the Company and its subsidiaries on a consolidated basis.

### **Financial Statements**

The consolidated financial statements of the Company and its subsidiaries ("**Merrill Lynch**") as of December 30, 2005 and December 31, 2004 and for each of the three years in the periods ended December 30, 2005 and December 31, 2004 and the related financial statement schedule, and management's report on the effectiveness of internal control over financial reporting included or incorporated herein by reference in the Company's Annual Report on Form 10-K for the year ended December 30, 2005 and December 31, 2004 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference. Deloitte & Touche LLP have given and have not withdrawn their written agreement to being named as the independent registered public accounting firm of the Company.

With respect to the unaudited interim condensed consolidated financial information for the three-month periods ended March 31, 2006 and April 1, 2005 which is incorporated herein by reference, Deloitte & Touche LLP, an independent registered public accounting firm, have applied limited procedures in accordance with the standards of the Public Company Accounting Oversight Board (United States) for a review of such information. However, as stated in their report included in the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006 and incorporated by reference herein, they did not audit and they do not express an opinion on that interim financial information. Accordingly, the degree of reliance on their report on such information should be restricted in light of the limited nature of the review procedures applied.

### **The Dealers**

The Company is the ultimate parent company of Merrill Lynch International, Merrill Lynch Capital Markets AG and Merrill Lynch (Singapore) Pte. Ltd.

## **Clearing Systems**

The Notes have been accepted for clearance through Euroclear and Clearstream, Luxembourg systems (which are entities in charge of keeping the records). The appropriate Common Code and ISIN for each Tranche allocated by Euroclear and Clearstream, Luxembourg and details of any other agreed clearing system will be contained in the relevant Final Terms. Transactions will normally be effected for settlement not earlier than three days after the date of the transaction.

The address of Euroclear is 1 Boulevard du Roi Albert II, B-1210 Brussels, Belgium and the address of Clearstream, Luxembourg is 42 Avenue JF Kennedy, L-1855 Luxembourg, Luxembourg.

## **Documents Available for Collection and Inspection**

From the date hereof and throughout the lifetime of the Program, the following documents will be available for collection without charge during normal office hours at, the office of the Paying Agent in Luxembourg, the principal office of the Agent in London, England and the principal office of the Company:

- (a) this Base Prospectus;
- (b) copies of the Company's Restated Certificate of Incorporation and By-laws;
- (c) the 2005 Annual Report and 2005 Auditors' Report;
- (d) the 2004 Annual Report and 2004 Auditors' Report;
- (e) the March 2006 10-Q;
- (f) the Proxy Statement; and
- (g) any future base prospectus and supplements (including the Final Terms with respect to listed Notes) to this Base Prospectus.

Copies of the Agency Agreement (incorporating the forms of the Final terms, the temporary global, permanent global and definitive Notes) and the Program Agreement, in each case, relating to the Program, will be available for inspection during normal office hours at the principal office of the Agent in London, England and the principal office of the Company and, for so long as any Notes are admitted to trading on the regulated market of the Luxembourg Stock Exchange appearing on the list of regulated markets issued by the European Commission and/or listed on the official list of the Luxembourg Stock Exchange, at the office of the Paying Agent in Luxembourg.

**MERRILL LYNCH & CO., INC.**

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***Inquiries and Requests should be  
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Attention: Treasury

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