

## COMMERZBANK AKTIENGESELLSCHAFT

Frankfurt am Main, Federal Republic of Germany

### USD 1,000,000,000 Undated Non-Cumulative Fixed to Reset Rate Additional Tier 1 Notes of 2019

COMMERZBANK Aktiengesellschaft, Frankfurt am Main (the "Issuer", the "Bank", "Commerzbank Aktiengesellschaft" or "COMMERZBANK" and together with its consolidated subsidiaries and affiliated companies "COMMERZBANK Group" or the "Group") will issue on 9 July 2019 (the "Issue Date") Undated Non-Cumulative Fixed to Reset Rate Additional Tier 1 Notes (the "Notes") in an aggregate nominal amount of USD 1,000,000,000 (the "Aggregate Nominal Amount") at an issue price of 100 per cent. of their Aggregate Nominal Amount. The Notes will be issued in bearer form in denominations of USD 200,000 (the "Specified Denomination" or the "Original Nominal Amount").

The Notes will bear interest on their Current Nominal Amount (as defined below) from and including the Issue Date to but excluding 9 April 2025 (the "First Call Date") at a fixed rate of 7.0 per cent. *per annum*. Thereafter, and unless previously redeemed, the applicable Rate of Interest (as defined in the terms and conditions of the Notes (the "Terms and Conditions of the Notes")) will be reset at five year intervals on the basis of the then prevailing semi-annual 5-year USD swap rate, converted from a semi-annual to an annual basis in a commercially reasonable manner, plus the initial credit spread of 5.228 per cent. *per annum*. Interest shall be payable annually in arrears on 9 April of each year (each an "Interest Payment Date"), commencing on 9 April 2020 (short first interest period).

Payments of interest (each an "Interest Payment") are subject to cancellation, in whole or in part, and, if cancelled, are non-cumulative and Interest Payments in following years will not increase to compensate for any shortfall in Interest Payments in any previous year.

"Current Nominal Amount" means, with respect to any Note: (i) at the date of the issue, the Original Nominal Amount of such Note and (ii) thereafter, the then outstanding nominal amount of such Note as reduced by any write-downs to the extent not made up for by write-ups (subject to limitations and conditions as provided for in the Terms and Conditions of the Notes). In addition, if the relevant resolution authority were to exercise any write-down and conversion powers, either the then outstanding nominal amount of the Notes will be (permanently) written down or the Notes will be converted to CET1 instruments.

The Notes do not have a maturity date. The Notes are redeemable by COMMERZBANK, subject to the prior approval of the competent authority, on the respective First Call Date and on each Interest Payment Date thereafter or in other limited circumstances and, in each case, subject to limitations and conditions as described in the Terms and Condition of the Notes. The redemption amount for each Note will be its Current Nominal Amount.

This Prospectus constitutes a prospectus within the meaning of Article 5 (3) of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003, as amended (the "Prospectus Directive") and the Luxembourg law relating to prospectuses for securities of 10 July 2005 (*Loi relative aux prospectus pour valeurs mobilières*), as amended (the "Luxembourg Prospectus Law"), which implements the Prospectus Directive in the Grand Duchy of Luxembourg. Application has been made to the Luxembourg *Commission de Surveillance du Secteur Financier* (the "CSSF"), which is the Luxembourg competent authority for the purpose of the Luxembourg Prospectus Law for its approval of the Prospectus. By approving a prospectus, the CSSF shall give no undertaking as to the economic and financial soundness of the operation or the quality or solvency of the issuer pursuant to Article 7(7) of the Luxembourg Prospectus Law.

Application has been made to list the Notes on the Official List of the Luxembourg Stock Exchange and to admit the Notes to trading on the regulated market "*Bourse de Luxembourg*" of the Luxembourg Stock Exchange, which is a regulated market for the purposes of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (as amended) ("**MiFID II**").

The Notes have been assigned the following securities codes: ISIN XS2024502960, Common Code 202450296, WKN CB967B.

**Restrictions on Marketing and Sales to Retail Investors – The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor.** For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4 (1) MiFID II; (ii) a customer within the meaning of Directive 2016/97/EU (as amended, the "**Insurance Distribution Directive**"), where that customer would not qualify as a professional client as defined in point (10) of Article 4 (1) of MiFID II; or (iii) not a qualified investor as defined in Directive 2003/71/EC (as amended, the "**Prospectus Directive**"). Consequently, no key information document required by Regulation (EU) No 1286/2014 (as amended, "**PRIIPs Regulation**") for offering or selling the Notes or otherwise making them available to retail investors in the European Economic Area ("**EEA**") has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under PRIIPs Regulation.

Where acting as agent on behalf of a disclosed or undisclosed client when purchasing, or making or accepting an offer to purchase, any Notes (or any beneficial interests therein) from the Issuer and/or the Joint Lead Managers the foregoing representations, warranties, agreements and undertakings will be given by and be binding upon both the agent and its underlying client.

**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 be offered and sold only outside the United States of America to Non-U.S. Persons in Offshore Transactions in reliance on Regulation S under the Securities Act.**

**Singapore Securities and Futures Act Product Classification Notification under Section 309B(1)(c) of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time (the SFA)** – The Notes are (i) prescribed capital markets products (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018 of Singapore) and (ii) Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

This Prospectus and any documents incorporated by reference herein or therein will be published in electronic form on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) and on the website of the Issuer ([www.commerzbank.com](http://www.commerzbank.com)).

**Investing in the Notes involves certain risks. For a discussion of certain significant factors affecting investments in the Notes, see "2 Risk Factors". An investment in the Notes is suitable only for financially sophisticated investors who are capable of evaluating the merits and risks of such investment and who have sufficient resources to be able to bear any losses which may result from such investment.**

*Joint Lead Managers*

**BARCLAYS**

**COMMERZBANK**

**HSBC**

**J.P. MORGAN**

**UBS INVESTMENT  
BANK**

The date of this Prospectus is 5 July 2019.

## **RESPONSIBILITY STATEMENT**

Commerzbank Aktiengesellschaft with its registered office in Frankfurt am Main, Federal Republic of Germany, is solely responsible for the information given in this Prospectus.

The Issuer hereby declares that, having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus for which it is responsible is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

## NOTICE

This Prospectus should be read and understood in conjunction with any other documents incorporated herein by reference.

No person has been authorised to give any information or to make any representations other than those contained in this Prospectus and, if given or made, such information or representations must not be relied upon as having been authorised by or on behalf of the Issuer, the managers set forth on the cover page (each a "**Manager**" and together, the "**Managers**") or any of them. None of the Managers has independently verified the Prospectus and none of them assumes any responsibility for the accuracy of the information and statements contained in this Prospectus and no representations express or implied are made by the Managers or their affiliates as to the accuracy and completeness of the information and statements herein. Neither the delivery of this Prospectus nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the financial situation of the Issuer since the date of this Prospectus, or that the information herein is correct at any time since the date of this Prospectus.

Neither the Managers nor any other person mentioned in this Prospectus, except for the Issuer, is responsible for the information contained in this Prospectus or any other document incorporated herein by reference, and accordingly, and to the extent permitted by the laws of any relevant jurisdiction, none of these persons makes any representation or warranty or accepts any responsibility as to the accuracy and completeness of the information contained in any of these documents. The Managers have not independently verified any such information and accept no responsibility for the accuracy thereof.

Each investor contemplating purchasing any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness of the Issuer. This Prospectus does not constitute an offer of Notes or an invitation by or on behalf of the Issuer or the Managers to purchase any Notes. Neither this Prospectus nor any other information supplied in connection with the Notes should be considered as a recommendation by the Issuer or the Managers to a recipient of this Prospectus and/or of such other information that such recipient should purchase any Notes.

The Notes have not been and are not being offered to the public within the meaning of the Prospectus Directive and no offering of the Notes was or is subject to the obligation to publish a prospectus under the Prospectus Directive. Offers are made to qualified investors (as defined in the Prospectus Directive) only. No action has been or may be taken to permit an offer of Notes to the public within the meaning of the Prospectus Directive.

The language of the Prospectus is English. The English language Terms and Conditions of the Notes are shown in the Prospectus for additional information. It should be noted, however, that the German text of the Terms and Conditions of the Notes shall be controlling and legally binding.

This Prospectus reflects the status as of its date of issue. Neither the delivery of this Prospectus nor the offering, sale or delivery of the Notes shall, in any circumstances, create any implication that the information contained in such documents is accurate and complete subsequent to its respective date of issue or that there has been no adverse change in the financial situation of the Issuer since such date or that any other information supplied in connection with the issue of the Notes is accurate at any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.

The distribution of this Prospectus and the offering, sale and delivery of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus comes are required by the Issuer and the Managers to inform themselves about and to observe any such restrictions. For a description of the restrictions applicable in the United States of America and its territories, the United Kingdom of Great Britain and Northern Ireland, the Republic of Italy, Hong Kong and Singapore see "*7.3 Selling Restrictions*" on pages 124 *et seq.* of this Prospectus. In particular, the Notes have not been and will not be registered under the United States Notes Act of 1933, as amended, and are subject to tax law requirements of the United States of America; subject to certain exceptions, Notes may not be offered, sold or delivered within the United States of America or to United States persons.

This Prospectus may only be used for the purpose for which it has been published. It does not constitute an offer or an invitation to subscribe for or purchase any Notes.

This Prospectus may not be used for the purpose of an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such an offer or solicitation.

## RESTRICTIONS ON MARKETING AND SALES TO RETAIL INVESTORS

The Notes issued pursuant to the Prospectus are complex financial instruments and are not a suitable or appropriate investment for all investors. In some jurisdictions, regulatory authorities have adopted or published laws, regulations or guidance with respect to the offer or sale of securities such as the Notes to retail investors.

In particular, in June 2015, the U.K. Financial Conduct Authority (the "**FCA**") published the Product Intervention (Contingent Convertible Instruments and Mutual Society Shares) Instrument 2015, which took effect from 1 October 2015 (the "**PI Instrument**"). In addition, (i) on 1 January 2018, the provisions of Regulation (EU) No. 1286/2014 on key information documents for packaged and retail and insurance-based investment products ("**PRIIPs Regulation**") became directly applicable in all member states of the European Economic Area ("**EEA**") and (ii) MiFID II was required to be implemented in EEA member states by 3 January 2018. Together the PI Instrument, PRIIPs Regulation and MiFID II are referred to as the "**Regulations**".

The Regulations set out various obligations in relation to (i) the manufacture and distribution of financial instruments and the (ii) offering, sale and distribution of packaged retail and insurance-based investment products and certain contingent write-down or convertible securities such as the Notes.

The Managers are required to comply with some or all of the Regulations. By purchasing, or making or accepting an offer to purchase any Notes (or a beneficial interest in the Notes) from the Issuer and/or the Managers each prospective investor represents, warrants, agrees with and undertakes to the Issuer and each of the Managers that:

- (1) it is not a retail investor;
- (2) whether or not it is subject to the Regulations:
  - (A) it will not sell or offer the Notes (or any beneficial interest therein) to retail investors; or
  - (B) it will not communicate (including the distribution of the Prospectus) or approve an invitation or inducement to participate in, acquire or underwrite the Notes (or any beneficial interests therein) where that invitation or inducement is addressed to or disseminated in such a way that it is likely to be received by a retail investor (in each case within the meaning of MiFID II). In selling or offering the Notes or making or approving communications relating to the Notes it may not rely on the limited exemptions set out in the PI Instrument;
  - (C) if it is a person in Hong Kong, it is a 'professional investor' as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the "**SFO**") and any rules made under the SFO; and
- (3) it will at all times comply with all applicable laws, regulations and regulatory guidance (whether inside or outside the EEA) relating to the promotion, offering, distribution and/or sale of the Notes (or any beneficial interests therein), including (without limitation) MiFID II and any other such laws, regulations and regulatory guidance relating to determining the appropriateness and/or suitability of an investment in the Notes (or any beneficial interests therein) by investors in any relevant jurisdiction.

For the purposes of this provision: the expression "**retail investor**" means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4 (1) of MiFID II; (ii) a customer within the meaning of Directive (EU) 2016/97 (**Insurance Distribution Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4 (1) of MiFID II; or (iii) not a qualified investor as defined in the Prospectus Directive.

Each prospective investor further acknowledges that:

- (1) the identified target market for the Notes (for the purposes of the product governance obligations in MiFID II) is eligible counterparties and professional clients only, each having substantial knowledge and/or experience with financial products, a long term investment horizon, asset accumulation as investment objective, the ability to bear losses up to total loss of invested capital, and a risk tolerance and compatibility of the risk/reward profile of the product with the target market that corresponds to 5 as summary risk indicator (SRI) (calculated on the basis of the PRIIPs methodology); and

- (2) no key information document (**KID**) under PRIIPs Regulation has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under PRIIPs Regulation.

Where acting as agent on behalf of a disclosed or undisclosed client when purchasing, or making or accepting an offer to purchase, any Notes (or any beneficial interests therein) from the Issuer and/or the Managers the foregoing representations, warranties, agreements and undertakings will be given by and be binding upon both the agent and its underlying client.

## MIFID II PRODUCT GOVERNANCE

Solely for the purposes of the product governance rules under Directive 2014/65/EU (as amended, "**MiFID II**") and each manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, as defined in MiFID II, having substantial knowledge and/or experience with financial products, a long term investment horizon, an asset accumulation as investment objective, the ability to bear losses up to total loss of invested capital; a risk tolerance and compatibility of the risk/reward profile of the product with the target market that corresponds to 5 as summary risk indicator (SRI) (calculated on the basis of the PRIIPs methodology); and (ii) non-advisory, advisory business and asset management as distribution channels for the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a "**Distributor**") should take into consideration the manufacturers' target market assessment; however, a Distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturers' target market assessment) and determining appropriate distribution channels.

## FORWARD-LOOKING STATEMENTS

This Prospectus contains certain forward-looking statements. A forward-looking statement is a statement that does not relate to historical facts and events. They are based on analyses or forecasts of future results and estimates of amounts not yet determinable or foreseeable. These forward-looking statements are identified by the use of terms and phrases such as "*anticipate*", "*believe*", "*could*", "*estimate*", "*expect*", "*intend*", "*may*", "*plan*", "*predict*", "*project*", "*will*" and similar terms and phrases, including references and assumptions. This applies, in particular, to statements in this Prospectus containing information on future earning capacity, plans and expectations regarding COMMERZBANK's business and management, its growth and profitability, and general economic and regulatory conditions and other factors that affect it.

Forward-looking statements in this Prospectus are based on current estimates and assumptions that the Issuer makes to the best of its present knowledge. These forward-looking statements are subject to risks, uncertainties and other factors which could cause actual results, including COMMERZBANK's financial condition and results of operations, to differ materially from and be worse than results that have expressly or implicitly been assumed or described in these forward-looking statements. COMMERZBANK's business is also subject to a number of risks and uncertainties that could cause a forward-looking statement, estimate or prediction in this Prospectus to become inaccurate. Accordingly, investors are strongly advised to read the following sections of this Prospectus: "*2.1 Risk Factors relating to the COMMERZBANK Group*" and "*5 COMMERZBANK AKTIENGESELLSCHAFT*". These sections include more detailed descriptions of factors that might have an impact on COMMERZBANK's business and the markets in which it operates.

In light of these risks, uncertainties and assumptions, future events described in this Prospectus may not occur. In addition, neither the Issuer nor the Managers assume any obligation, except as required by law, to update any forward-looking statement or to conform these forward-looking statements to actual events or developments.

## STABILISATION

In connection with the issue of the Notes, UBS AG, London Branch, as the stabilising manager (the "**Stabilisation Manager**") (or persons acting on its behalf) may over-allot the Notes or effect transactions with a view to supporting the price of the Notes at a level higher than that which might otherwise prevail. However, stabilisation may not necessarily occur. Any stabilisation action may begin at any time after the adequate public disclosure of the terms of the offer of the Notes and, if begun, may cease at any time, but it must end no later than the earlier of 30 days after the Issue Date of the Notes and 60 days after the date of the allotment of the Notes. Any stabilisation action or over-allotment must be conducted by the Stabilisation Manager (or person(s) acting on its behalf) in accordance with all applicable laws and rules.

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## 1 OVERVIEW OF THE NOTES

The following overview should be read in conjunction with, and is qualified in its entirety by, the detailed information appearing elsewhere in this Prospectus. For a more detailed description of the Notes, please refer to the section "Terms and Conditions of the Notes" of this Prospectus. For more information on the Issuer, its business and its financial conditions, please refer to the section "5 COMMERZBANK AKTIENGESELLSCHAFT". In the event of any inconsistency between this overview of the notes and the information provided elsewhere in this Prospectus, the latter shall prevail. Terms used in this overview and not otherwise defined shall have the meaning given to them in the Terms and Conditions of the Notes.

<b>Issuer</b>	Commerzbank Aktiengesellschaft, Frankfurt am Main.
<b>Notes</b>	USD 1,000,000,000 Undated Non-Cumulative Fixed to Reset Rate Additional Tier 1 Notes of 2019.
<b>Risk Factors</b>	There are certain factors that may affect the Issuer's ability to fulfill its obligations under the Notes. In addition, there are certain factors that are material for the purpose of assessing the risks associated with an investment in the Notes. These risks are set out under the section "2 Risk Factors" of this Prospectus.
<b>Joint Lead Managers</b>	Barclays Bank PLC, Commerzbank Aktiengesellschaft, HSBC Bank plc, J.P. Morgan Securities plc, UBS AG, London Branch
<b>Paying Agent</b>	Commerzbank Aktiengesellschaft, Frankfurt am Main.
<b>Aggregate Nominal Amount of the Notes</b>	USD 1,000,000,000
<b>Issue Price</b>	100 per cent.
<b>Issue Date of the Notes</b>	9 July 2019
<b>First Call Date</b>	9 April 2025
<b>Maturity</b>	<p>The Notes have no scheduled maturity date and only provide for termination rights of the Issuer (see "<i>Termination Rights of the Issuer</i>" below) but not for termination rights of the Holders.</p> <p>"<b>Holder</b>" means any holder of a proportionate co-ownership or other right in the Notes.</p>
<b>Specified Denomination / Original Nominal Amount</b>	USD 200,000 per Note.
<b>Use of Proceeds</b>	The net proceeds from the issue of the Notes will be used by COMMERZBANK to strengthen its Tier 1 regulatory capital base and for general corporate and financing purposes.
<b>Status of the Notes</b>	<p>The Notes constitute unsecured and subordinated obligations of the Issuer, ranking <i>pari passu</i> among themselves and (as specified below) <i>pari passu</i> with all other equally subordinated obligations of the Issuer.</p> <p>If resolution measures are imposed on the Issuer, or in the event of the dissolution, liquidation, insolvency or composition of the Issuer, or if other proceedings are opened for the avoidance of insolvency of, or against, the Issuer, the obligations under the Notes shall rank</p> <p>(A) junior to (i) the claims of unsubordinated creditors of the Issuer (including, but not limited to, claims against the Issuer under its non-preferred senior debt instruments within the meaning of § 46f(6)</p>

sentence 1 KWG), (ii) the claims specified in § 39(1) nos. 1 to 5 InsO, (iii) the claims under Tier 2 Instruments, (iv) the claims of subordinated creditors of the Issuer which do not, pursuant to (B) and (C) below, rank *pari passu* with, or junior to, the claims under the Notes, and (v) the claims under other instruments which pursuant to their terms or mandatory provisions of law rank *pari passu* with, or senior to, Tier 2 Instruments unless already captured in (i) or (ii) (the obligations of the Issuer referred to in (i) through (v), together the "**Senior Ranking Obligations**"); provided that in any such event, no amounts shall be payable in respect of the Notes until the Senior Ranking Obligations have been satisfied in full;

- (B) *pari passu* with the claims against the Issuer under other AT1 Instruments and claims under other instruments which pursuant to mandatory provisions of law rank *pari passu* with AT1 Instruments; and
- (C) senior to the claims in respect of common equity tier 1 items of the Issuer pursuant to Article 26 CRR, in particular (but not limited to): claims under ordinary shares and other instruments (if any) of the Issuer which pursuant to their terms or mandatory provisions of law rank *pari passu* with ordinary shares.

"**AT1 Instrument**" means any (directly or indirectly issued) capital instrument of the Issuer that qualifies as additional tier 1 instrument pursuant to Article 52 CRR (including, but not limited to, any capital instrument or other instrument that qualifies as additional tier 1 instrument pursuant to transitional provisions under the CRR).

"**CRR**" means Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended or replaced from time to time, in particular by the Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012; to the extent that any provisions of the CRR are amended or replaced, the reference to provisions of the CRR as used in the Terms and Conditions of the Notes shall refer to such amended provisions or successor provisions from time to time.

"**InsO**" means of the German Insolvency Statute (*InsO*), as amended or replaced from time to time; to the extent that any provisions of the InsO are amended or replaced, the reference to provisions of the InsO as used in the Terms and Conditions of the Notes shall refer to such amended provisions or successor provisions from time to time.

"**KWG**" means the German Banking Act (*Kreditwesengesetz – KWG*), as amended or replaced from time to time; to the extent that any provisions of the KWG are amended or replaced, the reference to provisions of the KWG as used in the Terms and Conditions of the Notes shall refer to such amended provisions or successor provisions from time to time.

"**Tier 2 Instrument**" means any (directly or indirectly issued) capital instrument or subordinated loan instrument of the Issuer that qualifies as a Tier 2 instrument pursuant to Article 63 CRR (including, but not limited to, any capital instrument or subordinated loan instrument or other instrument that qualifies as Tier 2 instrument pursuant to transitional provisions under the CRR).

**No set-off, no security**

No Holder may set off his claims arising under the Notes against any claims of the Issuer. No collateral or guarantee is, shall at any time be, provided securing claims of the Holders under the Notes. Any collateral or guarantee already provided or granted in the future (as the case may be) in connection with other liabilities of the Issuer may not be used for claims under the Notes.

**Interest Payments**

Pursuant to the Terms and Conditions of the Notes, the Issuer will (subject to the provisions set out below, see "*Discretionary Cancellation of Interest*" and "*Compulsory Cancellation of Interest*") from (and including) the Issue Date owe Interest Payments at the applicable Rate of Interest (as defined in the Terms and Conditions of the Notes), calculated annually on the basis of the nominal amount of the Notes from time to time (which may be lower than the Original Nominal Amount of the Notes (cf. "*Write-down of the Redemption Amount and the Nominal Amount of the Notes*" below)) and payable annually in arrear on each Interest Payment Date, subject to having accrued and being payable under the Terms and Conditions of the Notes.

The applicable Rate of Interest for the period from the Issue Date (inclusive) to the First Call Date (exclusive) will be a fixed rate of 7.0 per cent. *per annum*; thereafter, the applicable Rate of Interest will reset on the First Call Date and at five year intervals thereafter on the basis of the then prevailing Original Benchmark Rate or a successor or alternative rate thereto, converted from a semi-annual to an annual basis in a commercially reasonable manner, as provided in § 3 (2) and (7) of the Terms and Conditions of the Notes, plus the initial credit spread of 5.228 per cent. *per annum*.

"**Interest Payment Date**" means 9 April in each year. The first Interest Payment Date is 9 April 2020 (short first interest period).

"**Original Benchmark Rate**" means the semi-annual swap rate for USD swap transactions with a 5 year maturity commencing on the relevant Reset Date, expressed as a percentage, as displayed on the Reuters screen "ICESWAP1" (or any successor page) under the heading "11:00 AM" (as such headings may appear from time to time) as at 11:00 a.m. New York time on the relevant interest determination date.

"**Reset Date**" means the First Call Date and any fifth anniversary of the immediately preceding Reset Date.

For more details, see § 3 of the Terms and Conditions of the Notes.

**Discretionary Cancellation of Interest**

Interest Payments will not accrue if the Issuer has elected, at its sole discretion, to cancel payment of interest (non-cumulative), in whole or in part, on any Interest Payment Date (see also below "*Interest Payments are non-cumulative*").

See § 3 (8) of the Terms and Conditions of the Notes.

**Compulsory Cancellation of Interest**

In addition, the Notes will not bear interest or will bear a reduced amount of interest, as applicable, on an Interest Payment Date:

- (i) to the extent that such payment of interest together with
  - (1) the amount of a write-up, if any, in accordance with § 5 (8)(c) of the Terms and Conditions of the Notes to be effected as of the relevant Interest Payment Date,
  - (2) any additional Distributions (as defined in § 3 (9) of the Terms and Conditions of the Notes) that are scheduled to be made or have been made on the same day or that have been made by the Issuer on other Tier 1 Instruments (as defined in § 3 (9) of the Terms and Conditions of the Notes) in the then

current financial year of the Issuer and

- (3) the total amount of write-ups, if any, on any other AT1 Instruments which shall be effected as of the relevant Interest Payment Date or have been effected in the then current financial year of the Issuer

would exceed the Available Distributable Items (as defined in § 3(9) of the Terms and Conditions of the Notes), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (for the avoidance of doubt, including payments of interest on the Notes) in the determination of the profit on which the Available Distributable Items are based; or

- (ii) if and to the extent that a competent authority orders that all or part of the relevant payment of interest be cancelled or another prohibition of Distributions is imposed by law or an authority or any other restriction to make Distributions exists under the Applicable Supervisory Regulations (including, but not limited to, the calculation of, and the compliance with, the Maximum Distributable Amount (as defined in § 3 (9) of the Terms and Conditions of the Notes)); or
- (iii) if the Issuer is over-indebted within the meaning of § 19 InsO or illiquid within the meaning of § 17 InsO on the relevant Interest Payment Date or to the extent that the relevant payment of interest would result in an over-indebtedness or illiquidity of the Issuer.

**"Applicable Supervisory Regulations"** means the provisions of bank supervisory laws and any regulations and other rules thereunder applicable from time to time (including, but not limited to, the guidelines and recommendations of the European Banking Authority and/or the European Central Bank, the administrative practice of any competent authority, any applicable decision of a court and any applicable transitional provisions) relating to capital adequacy, solvency, other prudential requirements and/or resolution and applicable to the Issuer and/or the banking group to which the Issuer belongs from time to time.

**"Available Distributable Items"** means, with respect to any payment of interest, the distributable items as defined in Article 4(1) no. 128 CRR; at the time of the issuance of the Notes, such term refers to the profit as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date, for which audited annual financial statements are available, plus any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments, less any losses brought forward and any profits which are non-distributable pursuant to the applicable laws of the European Union or Germany or the Articles of Association of the Issuer and any sums placed in non-distributable reserves in accordance with the applicable laws of Germany or the Articles of Association of the Issuer, in each case with respect to the specific category of own funds of the Notes as AT1 Instruments to which the applicable laws of the European Union or Germany or the Articles of Associations of the Issuer relate, provided that the distributable items and the relevant profits, losses and reserves shall be determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law and not on the basis of its consolidated financial statements.

The determination of the Available Distributable Items shall be based on the Applicable Supervisory Regulations at the time of the determination and, accordingly, only those amounts shall be added or deducted that may be added or have to be deducted (as the case may be) for purposes of

determining the amounts distributable on AT1 Instruments under the Applicable Supervisory Regulations.

For more details, see § 3 (8) of the Terms and Conditions of the Notes.

**Interest Payments are non-cumulative**

Interest Payments are non-cumulative. Consequently, Interest Payments in following years will not be increased to compensate for any shortfall in Interest Payments during a previous year and such shortfall shall not constitute an event of default under the Terms and Conditions of the Notes.

**Termination Rights of the Issuer**

The Notes may be redeemed at the option of the Issuer in whole but not in part, subject to prior permission of the competent authority together with interest (if any) accrued to (but excluding) the date fixed for redemption:

- (i) at any time for regulatory reasons, if there is a change in the regulatory classification of the Notes that would be likely to result in (i) their exclusion in full or in part from the Issuer's own funds under the CRR or (ii) a reclassification as a lower quality form of the Issuer's own funds as of the issue date, provided that in respect of a redemption prior to the fifth anniversary of the issue date of the Notes the conditions in Article 78 (4)(a) CRR are met, pursuant to which the competent authority may approve such redemption only if (i) it considers the change in the regulatory classification to be sufficiently certain and (ii) the Issuer demonstrated to its satisfaction that the regulatory reclassification of the Notes was not reasonably foreseeable at the issue date;
- (ii) at any time for tax reasons, if the tax treatment of the Notes, due to a change in applicable legislation or relevant jurisprudence, including (but not limited to) a change in any fiscal legislation, rules or practices, which takes effect after the Interest Commencement Date, changes (including but not limited to the tax deductibility of interest payable on the Notes or the obligation to pay Additional Amounts (as defined in § 7 (1)) of the Terms and Conditions of the Notes) and, in respect of a redemption prior to the fifth anniversary of the issue date of the Notes, the conditions in Article 78 (4)(b) CRR are met, pursuant to which the competent authority may approve such redemption only if there is a change in the applicable tax treatment of the Notes which the Issuer demonstrated to its satisfaction is material and was not reasonably foreseeable at the Issue Date;
- (iii) on any Optional Redemption Date (the first one being 9 April 2025) at their Redemption Amount.

In each case, any refusal of the competent authority to grant permission shall not constitute a default for any purpose.

**"Optional Redemption Date"** means the First Call Date and each Interest Payment Date thereafter.

If the Issuer elects, in its sole discretion and subject to prior approval by the competent authority, to redeem the Notes, the Notes will be repaid as a consequence thereof. In such case, the redemption amount per Note may be less than its Original Nominal Amount due to a previous Write-down which has not been fully written-up (see "*Write-down of the Redemption Amount and the Nominal Amount of the Notes*").

**Write-down of the Redemption Amount and the nominal amount of the Notes**

Upon the occurrence of a Trigger Event, the Current Nominal Amount of each Note shall be reduced by the amount of the relevant write-down. If and as long as the Current Nominal Amount of the Notes is below their Original Nominal Amount, any repayment upon redemption of the Notes for regulatory reasons or for tax reasons will be at the Current Nominal Amount of the Notes

and, with effect from the occurrence of such write-down, any Interest Payment will be calculated on the basis of the reduced nominal amount of the Notes.

**"Current Nominal Amount"** means, with respect to any Note: (i) at the date of the issue, the Original Nominal Amount of such Note and (ii) thereafter, the then outstanding nominal amount of such Note as reduced by any write-downs pursuant to § 5(8)(b) of the Terms and Conditions of the Notes (to the extent not made up for by write-ups pursuant to § 5(8)(c) of the Terms and Conditions of the Notes).

A **"Trigger Event"** occurs if, at any time, the common equity tier 1 capital ratio pursuant to Article 92(1)(a) CRR of the Issuer (the **"Common Equity Tier 1 Capital Ratio"**), determined on either (i) a consolidated basis or (ii) an individual basis, falls below 5.125 per cent. (the **"Minimum CET1 Ratio"**), provided that (i) while the Trigger Event in respect of the Minimum CET1 Ratio determined on a consolidated basis may occur at any time, (ii) a Trigger Event in respect of the Minimum CET1 Ratio determined on an individual basis shall only occur if the Issuer should, in the future pursuant to the Applicable Supervisory Regulations or by an administrative order, be required to comply with the prudential requirements on an individual basis as well and, for this purpose, to determine the Minimum CET1 Ratio on an individual basis. Whether a Trigger Event has occurred shall be determined by the Issuer, the competent authority or any agent appointed for such purpose by the competent authority, and such determination will be binding on the Holders.

Upon the occurrence of a Trigger Event, a write-down shall be effected *pro rata* with all of the Issuer's other AT1 Instruments which provide for a write-down (whether permanent or temporary) or a conversion into common equity tier 1 capital instruments upon the occurrence of such Trigger Event. If upon the occurrence of a Trigger Event other AT1 Instruments are also subject to a write-down or are subject to conversion into common equity tier 1 capital instruments, where the respective conditions provide for a trigger event on a level for the Common Equity Tier 1 Capital Ratio at or above the Minimum CET1 Ratio (together with the Notes the **"Relevant AT1 Instruments"**), any such write-down or conversion will occur in such order of application or ratio as required in accordance with the Applicable Supervisory Regulations. If no such order or ratio is required by the Applicable Supervisory Regulations, the following applies:

- (i) Any write-down will, subject to the provision set out in the following sentence, be effected *pro rata* with all other Relevant AT1 Instruments.

The Notes and all other Relevant AT1 Instruments will only participate in a write-down or (as the case may be) a conversion into common equity tier 1 capital instruments to the extent required in aggregate to restore the Common Equity Tier 1 Capital Ratio determined on (i) a consolidated basis and (ii) an individual basis (in each case only if and as long as the Issuer is required pursuant to the Applicable Supervisory Regulations or an administrative order to determine the ratio on such level) to the ratio provided for in their respective terms as the ratio triggering the event resulting in such write-down and/or conversion into common equity tier 1 capital instruments; provided that the total amount of the write-downs and conversions shall not exceed the sum of the outstanding principal amounts of the Relevant AT1 Instruments at the time of occurrence of the Trigger Event.

- (ii) Any other Relevant AT1 Instrument that may be written down or converted in full but not in part will, for the purposes of determining

the relevant *pro rata* amounts for a write-down and calculation of the written-down amount, be treated as if its terms permit a partial write-down or conversion.

The performance of any write-downs in respect of the Notes is not dependent on the effectiveness or implementation of a write-down or conversion of other instruments and will be effected in any event. For the avoidance of doubt: To the extent that the write-down or the conversion into common equity tier 1 capital instruments of one or more of the other AT 1 Instruments of the Issuer is not effective or is not implemented for any reason, such non-effective or non-implemented write-down or conversion will not be taken into account when determining the written-down amount in respect of the Notes under § 5 (8)(b) of the Terms and Conditions of the Notes.

The sum of the write-downs to be effected with respect to the Notes shall be limited to the aggregate Current Nominal Amount of all Notes outstanding at the time of occurrence of the relevant Trigger Event.

Following a Write-down of the redemption amount and the nominal amount of the Notes in accordance with the Terms and Conditions of the Notes described above, the Issuer will be entitled (but not obliged) to effect, in its sole discretion, from annual profits in the future an increase of the redemption amount and the nominal amount of the Notes up to their Original Nominal Amount, subject, however, to certain limitations set out in the Terms and Conditions of the Notes. For more details, see § 5 (8)(c) of the Terms and Conditions of the Notes.

**Payment of Additional Amounts**

If the Issuer is required to withhold or deduct at source amounts payable under the Notes on account of taxes in Germany, the Issuer will, subject to customary exemptions and to the extent this would not exceed Available Distributable Items, pay Additional Amounts on the Notes to compensate for such deduction (but not, for the avoidance of doubt, with respect to the payment of any principal in respect of the Notes). See § 7 of the Terms and Conditions of the Notes.

**Form of Notes**

The Notes are bearer notes (*Inhaberschuldverschreibungen*), each represented by one or more global notes without coupons or receipts.

**Listing and admission to trading**

Application has been made to list the Notes on the Official List of the Luxembourg Stock Exchange and to trade them on the regulated market "*Bourse de Luxembourg*" of the Luxembourg Stock Exchange.

**Governing Law**

The Notes are governed by German law.

**Credit Ratings of the Notes**

The Notes, upon issuance, are expected to be assigned a rating of Ba2 by Moody's Deutschland GmbH and BB by S&P Global Ratings Europe Ltd. (Niederlassung Deutschland). A rating is not a recommendation to buy, sell or hold securities, and may be subject to revision, suspension or withdrawal at any time by the relevant rating agency.

**Selling Restrictions**

There are restrictions on the offer, sale and transfer of the Notes. See the section "*7.3 Selling Restrictions*" under "*7 Subscription and Sale of the Notes*" below.

## 2 RISK FACTORS

An investment in the Notes involves risks. The following is designed to show aspects of the Notes and the business of COMMERZBANK of which prospective investors should be aware. Investors should carefully consider the following discussion of the risks and the other information about the Notes contained in this Prospectus before deciding whether an investment in the Notes is suitable. An investment in the Notes is only suitable for investors experienced in financial matters who are in a position to fully assess the risks relating to such an investment and who have sufficient financial means to absorb any potential loss stemming therefrom. As described below, there is a significant risk that a Holder of Notes will lose all or some of its investment.

### 2.1 Risk Factors relating to the COMMERZBANK Group

Potential investors should read carefully and take into consideration the risk factors described below and other information contained in this Prospectus before making a decision on the acquisition of the Notes from COMMERZBANK. The onset of one or several of these risks, in isolation or in combination with other factors, can seriously affect the business operations of COMMERZBANK Group and have material adverse effects on the net assets, financial standing and profitability of COMMERZBANK Group or on the price of the Notes. The risks described below are possibly not the only risks to which COMMERZBANK Group is exposed. Other risks, which are currently not known to COMMERZBANK or are considered unimportant at present, may also affect the business operations of COMMERZBANK Group and have serious adverse effects on the business activity and the net assets, financial standing and profitability of COMMERZBANK Group. The selected order is neither a statement of the probability of realization nor the extent of the economic effects or the significance of the risk factors mentioned below.

#### 2.1.1 Market and Issuer-related risks

*2.1.1.1 The Group's heavy dependence on the economic environment, particularly in Germany, may result in further substantial negative effects in the event of any renewed economic downturn.*

Economic growth in Germany and the eurozone as a whole has recently shown a considerable decline. This is mainly the result of a slowing global economy, while the low interest rate policy of the European Central Bank ("ECB") is stabilising domestic demand by creating investment incentives, makes the often high level of private-sector debt tolerable and also reduces the burden on public finances.

The Group's increased focus on its customer-oriented business emphasises the role played by the need for credit, investment and banking products and the general interest rate environment as key factors when determining the Group's sources of income. Interest rates remain at historic lows, resulting in lower margins.

The further development of these and other macroeconomic conditions is subject to considerable uncertainty. A renewed recession, particularly in the United States, or a further slowdown of growth in China, combined with a downturn in international trade (including as a result of protectionist tendencies), would have a disproportionately high impact on export-oriented countries like Germany. This, in turn, could have material adverse effects on COMMERZBANK and particularly its SME business. At the same time, a recession could contribute to a return to the financial market and sovereign debt crises.

Due to the large portion of COMMERZBANK's business activities that are located in Germany, a recession in this market would have substantial material adverse effects on the Group's net assets, financial position and results of operations. In the event of a deep recession lasting several years, this may even pose a threat to the Group's existence. Moreover, since the Polish economy is significantly influenced by the state of the German economy, such a recession could also have material adverse effects on the business operations of mBank Group ("**mBank**") in Poland, which could lead to further significant material adverse effects on the Group's net assets, financial position and results of operations.



*2.1.1.2 The global financial crisis and the sovereign debt crisis, particularly in the eurozone, have had a significant material adverse effect on the Group's net assets, financial position and results of operations. There can be no assurance that the Group will not suffer further material adverse effects in the future as well, particularly in the event of a renewed escalation of the crisis. Any further escalation of the crisis within the European Monetary Union may have material adverse effects on the Group, which, under certain circumstances, may even threaten the Group's existence.*

The sovereign debt crisis led to the affected states' existing bonds suffering substantial losses in value. The market values of the bonds of a number of eurozone states, particularly Greece, Italy, Spain, Portugal and Ireland, declined, at times considerably. Countries outside the eurozone, particularly in Eastern Europe, were also affected. At the same time, the trading liquidity of all affected Sovereign Debt decreased, in some cases substantially.

The effects of the financial crisis and the sovereign debt crisis and the resulting deterioration in the business environment have had a material adverse effect on the Group's net assets, financial position and results of operations. The main adverse effects have been an increased need for loan loss provisions and impairments in relation to net investment income, net trading losses and increases in financing costs, as well as declining income. It can be assumed that material adverse consequences may also result for the Group in the future, particularly in the event of a return of the crises. At the same time, it is to some extent not possible, or only possible with great difficulty, for the Group to hedge against risks related to the financial crisis and the sovereign debt crisis.

If further member states of the European Union were to experience payment problems or even become insolvent, the risks relating to the sovereign debt crisis would be significantly greater, even threatening the Group's existence under certain circumstances. The exit of individual countries from the European Monetary Union, in particular the exit of one of the major economic powers such as Germany, Italy, Spain or France, or the complete break-up of the European Monetary Union, would have extremely far-reaching consequences for financial markets and the real economy. Furthermore, potential funding restrictions imposed by local central banks could in this case lead to funding shortfalls and additional foreign currency risks. It can be assumed that such a scenario would have extremely significant material adverse effects on the Group's net assets, financial position and results of operations, and could even threaten the Group's existence under certain circumstances.

*2.1.1.3 The Group holds Sovereign Debt. Impairments and revaluations of such Sovereign Debt to lower fair values have had material adverse effects on the Group's net assets, financial position and results of operations in the past, and may have further adverse effects in the future.*

The Group holds sovereign debt, i.e. bonds issued by a state or by other public-sector entities ("**Sovereign Debt**"). These include bonds issued by Italy and Spain. Adverse performance prompted the Group to reduce its holdings of Sovereign Debt and accept losses as a consequence.

There is a risk that Sovereign Debt (including bonds of government sub-entities) may not be paid back in full. Should this risk materialise, the Sovereign Debt held by the COMMERZBANK Group would be subject to significant impairments, and further negative valuation effects from related interest and inflation hedging instruments would need to be booked through profit or loss. This may have material adverse effects on the Group's net assets, financial position and results of operations.

The Group's options for reducing the risks arising out of its Sovereign Debt holdings, whether through disposals or other measures, are limited or would require the acceptance of losses. This is because the Sovereign Debt holdings in many cases are characterised by very long exposures, the ability and the willingness of the market to absorb Sovereign Debt is limited and many market participants, particularly banks, are attempting to sell such debt. A downward spiral generated thereby may lead to further material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.4 Credit default swaps (CDSs) on Sovereign Debt acquired by the Group could fail to fulfil their hedging purpose. Furthermore, the Group has issued CDSs on Sovereign Debt, thereby assuming the default risk of the Sovereign Debt held by third parties. The risk from CDSs the Group has issued may materialise even if CDSs the Group has acquired fail to fulfil their hedging purpose at the same time.*

The value of the acquired CDSs depends on the respective counterparty's ability to pay. This ability to pay may be impaired if the counterparties fail to hedge their own risk positions effectively or if other substantial risks arising from Sovereign Debt materialise, particularly in the event of a sovereign insolvency. In addition, the contractual terms of the hedging instrument may not cover the specific event triggering the debtor's non-payment. In other

circumstances, however, it may be the case that the hedging provided by the CDSs fails to fulfil its purpose, therefore exposing the Group to risks that it believed it had hedged.

Furthermore, in respect of several countries, the CDSs issued by the Group do not provide the same coverage in terms of amounts and contractual arrangements (e.g. with respect to currencies and terms) as the CDSs acquired by the Group. Therefore, even in the case of full performance of the CDSs by the counterparty, the acquired CDSs would not fully offset the risk arising from the issued CDSs.

A payment default by even just one of the countries whose Sovereign Debt is the subject of CDS coverage provided by the Group or whose Sovereign Debt positions held by the Group are hedged against through CDSs may have material adverse effects on the Group's net assets, financial position and results of operations, in addition to the adverse effects based on the Sovereign Debt of these countries directly held by the Group.

*2.1.1.5 There is a risk that the Group may not benefit from its strategy, or may be able to do so only in part or at a higher cost than planned, and that the implementation of planned measures may not lead to the achievement of the desired strategic objectives.*

COMMERZBANK is planning to further adapt its business model to the changing conditions in the financial industry in the coming years; the "Commerzbank 4.0" strategy was developed for this purpose.

COMMERZBANK is still striving to be the leading bank for private, corporate and institutional customers in Germany. As a universal bank, it offers its customers an extensive range of traditional banking products, services and capital market products, as well as independent advice on selected third-party products for private customers. If the strategic positioning as a universal bank is no longer feasible, there is a risk that cyclical fluctuations in business will have a more significant impact on COMMERZBANK and it will not be able to benefit from joint funding of the segments.

As part of the "Commerzbank 4.0" strategy, COMMERZBANK intends to concentrate on its core businesses, digitalise 80% of relevant processes, and thereby achieve significant efficiency gains. Its business is focused on two customer segments, "Private and Small-Business Customers" and "Corporate Clients".

Even if these strategic goals are successfully implemented the risk result could still increase. The low interest rate environment and continuing customer caution in light of geopolitical uncertainties will have adverse effects on earnings even if the targeted level of growth is achieved.

The onset of any number of macroeconomic risks, including, for example, continuing low interest rates, renewed reluctance of customers to invest in securities or procure loans, high volatility and general uncertainty in the markets, a slowing of global economic growth (particularly in Germany and Poland), and a re-escalation of the financial market or sovereign debt crises, could prevent COMMERZBANK from achieving some or all of the targets set forth in its strategic plans.

Additionally, the Group is exposed to the risk that key assumptions underlying its strategy may prove to be partly or fully incorrect and therefore that some or all of the targets may not be reached. For example, it is possible that the desired growth in customers and business volume will not be achieved due, in particular, to heavy competition. The Group is also exposed to the risk that planned investments cannot be made successfully, in good time or appropriately, with the result that the objectives targeted may only be achieved late, if at all. It cannot be ruled out that the intended portfolio sales and further progress in the run-down of the former Asset & Capital Recovery (ACR) portfolio will not be achieved, will be achieved only in part, or will be achieved only later than planned.

Furthermore, the Group is exposed to the risk that certain factors that could undermine its strategy's success have been underestimated, or that unexpected circumstances could prevent the Group from reaching its stated targets. Operational risks may materialise in implementing the Group's strategy, which could cause this strategy to fail for reasons completely unrelated to its original underlying assumptions. Additionally, it is possible that the Group's future results could be negatively affected by one-time or special effects or developments that offset the positive effects of this strategy. For example, certain assets of the former ACR portfolio may require significant future write-downs that were not foreseen in the planning process.

In addition, the Group is exposed to the risk that cost-saving measures may not be achieved, thereby also threatening the achievement of its strategic objectives.

Regulatory requirements (both current and future), especially in respect of capital adequacy, may come into conflict with the strategic objectives and have a significant negative impact on the Group's net assets, financial position and results of operations.

*2.1.1.6 The Group's results fluctuate significantly and are heavily influenced by volatile individual items and special effects. As a consequence, results for any period can serve as indications of results for subsequent periods to only a limited extent.*

The development of the Group's financial results in the future is subject to known and unknown risks, uncertainties and other factors that may cause it to differ materially from the actual results of the period and any future results expressed or implied by such forward-looking statements. Such factors include the conditions in the financial markets in Germany, Europe, the USA and in other regions from which COMMERZBANK derives a substantial portion of its revenues and in which COMMERZBANK holds a substantial portion of its assets, the development of asset prices and market volatility, potential defaults of borrowers or trading counterparties, the implementation of the strategic initiatives of COMMERZBANK to improve its business model, the reliability of its risk management policies, procedures and methods, risks arising as a result of regulatory change and other risks. Negative trends in these factors, which can only be influenced by the Group to a small extent or not at all, could have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.7 The Group is exposed to default risk (credit risk), including in respect of large individual commitments, large loans and commitments concentrated in individual sectors, referred to as "bulk" risk, as well as loans to debtors that may be particularly affected by the sovereign debt crisis.*

The Group is exposed to default risk (credit risk) in connection with its lending business with customers and credit institutions (primarily comprised of loans to private and corporate customers, real estate finance and ship finance, as well as loans and advances to banks, insurance companies, financial service providers, states and public-sector entities), its substitute credit business (i.e. structured credit products), the financial instruments in its investment portfolio (e.g. bonds issued by industrial companies, banks, insurance companies and sovereigns), other financial instruments, derivatives and transactions with central counterparties. The Group defines credit risk as the risk associated with possible losses in value that may be caused by changes in credit ratings or the inability of a counterparty to make payments (for example, due to insolvency). In addition to credit rating risk and default risk, other subcategories of credit risk include settlement risk, counterparty risk and country risk. A worsening of a borrower's economic circumstances, payment defaults and impairments in the value of posted collateral could result in a need to increase loan loss provisions to cover acute and latent credit default risk, or in an increase in the Group's capital charge due to an increase in risk-weighted assets. Further exacerbating the risks described above are risk concentrations in respect of individual large borrowers and counterparties.

Finally, the Group is exposed to credit risks related to financial institutions and companies that were particularly affected by the financial market and sovereign debt crises, for example because they are located in, or have operations focusing on, countries with high levels of debt such as Greece, Italy, Spain, Portugal or Ireland, because they have a high level of credit exposure to highly indebted countries or because they have issued a substantial amount of CDSs relating to the Sovereign Debt of these countries.

A worsening of the economic environment or an escalation of the financial market and sovereign debt crises, in particular, may call into question the continued economic viability of some of these counterparties. A possible worsening could acutely affect financial institutions in particular, as they are affected by higher defaults on loans or write-downs of securities or because, in the case of a material worsening of the economic environment, a substantial need for impairments in respect of real estate loan portfolios may occur or a substantial volume of customer deposits may be withdrawn. If the confidence in the creditworthiness of these financial institutions falls because of these factors, then their ability to refinance themselves through the market may be impaired, threatening their liquidity. This could lead to the collapse of those financial institutions and thereby indirect economic harm for COMMERZBANK.

The onset of one or more of the risks described above may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.8 The run-down of the ship finance portfolio is exposed to considerable risks in view of the persistently difficult market environment and the volatility of ship prices and the default risk (credit risk) affected thereby, as well as the risk of substantial changes in the value of collaterals of ships directly owned.*

The goal of the Group's ship finance business is the value-optimizing run-down of the portfolio, irrespective of the current risk level of the individual financings. The ships furnished as collateral to the Group in connection with ship financing are subject to value fluctuations. The value of ships is significantly affected by the charter rates that have been and can be achieved. These depend on the supply of and demand for ships and transport capacity and reflect the nature of the ship (type, age, technology, size, etc.).

The markets for container ships, bulkers and tankers are still plagued by overcapacity, as is reflected in very low charter rates. Some ship financings can no longer be serviced as agreed. While the improvement in charter rates for container ships and bulkers that was already evident in 2017, and which was in some cases considerable, continued in 2018, these declined significantly over the course of the second half of the year. Ultimately, container rates fell back to early-2018 levels while bulker rates even declined to slightly below year-end levels from 2017. As a result, charter rates were still largely at a level that was insufficient for fully servicing the debt. The charter rates for tankers deteriorated further after 2017 and into the third quarter of 2018. These did not begin to increase again, in some cases markedly, until the end of the fourth quarter 2018. In view of a renewed uptick in new orders and historically low scrapping rates for container ships and bulkers, it is unlikely that the situation for all three ship segments will change substantially. The start of 2019 was similarly weak, with charter rates in all three ship segments continuing to decrease, in the case of bulkers quite significantly.

Accordingly, the losses seen in ship values resulted in very high risk provisioning up to and including 2017. COMMERZBANK has converted the credit risks related to the ship finance portfolio (which is slated to be run down) to their fair value in accordance with IFRS 9 as at 1 January 2018. The plan to wind this portfolio down in a way that preserves value remains unchanged. If market conditions change, the fair value approach could result in fluctuating results that would negatively impact results if shipping markets decline. This could have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.9 The run-down of the commercial real estate finance portfolio is exposed to particular risks in view of the market environment, the volatility of real estate prices and the default risk (credit risk) affected thereby, as well as the risk of substantial changes in the values of directly-owned real estate and real estate held as collateral.*

Success in reducing the Group's commercial real estate finance portfolio depends to a large extent on the performance of real estate markets. Factors that may have a long-lasting influence on the real estate market include, but are not limited to, the relationship between the supply of and the demand for commercial real estate, tenants' ability to pay and the availability of tenants, the investment behaviour and risk appetite of investors, refinancing possibilities and general economic and political developments.

Due to the economic reasons described above, the value of directly-owned real estate and the collateral posted for the loan portfolios of the commercial real estate finance business are subject to considerable fluctuations in value. Impairments in respect of collateral may necessitate an increase in loan loss provisions to cover acute and latent credit default risk. In the event that collateral is realised, however, this may also lead to it no longer being sufficient to cover the outstanding loan volume. Such a case would require additional valuation adjustments. All of this may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.10 The Group has a substantial number of non-performing loans in its portfolio, and defaults may not be sufficiently covered by collateral or by write-downs and provisions previously taken.*

On a Group-wide basis, a large percentage of the receivables attributable to the default portfolio are covered by collateral measured from the point of view of realisation and impairments as part of risk provisioning (including general loan loss provisions). For the loan volume that is not covered, the Group expects to be able to generate further revenue from the positions in the default portfolio, for example because successful debt restructuring can still be effected or because some collateral having value could not be taken into consideration under regulatory principles. It is possible that the assumptions made in this regard may in retrospect prove to be inaccurate or no longer congruent with future developments, such that the quality of the collateral does not meet current estimations. This could be the case, for example, if macroeconomic developments continue to deteriorate and restructurings were to fail. In that event the Group could be faced with further significant losses from the default portfolio, which may have a material adverse effect on its net assets, financial position and results of operations.

*2.1.1.11 The Group continues to hold a substantial portfolio of securities that are characterised by poor liquidity, low, volatile or unavailable market prices and uncertainty regarding their value, and that the Group plans to reduce. It is possible that in the future the Group may have to further significantly impair these securities or sustain further significant losses in the downsizing of such portfolios.*

The Group holds portfolios of structured financial instruments, some of which are highly complex, which have declined considerably in value and for which trading takes place only to a limited extent or only in phases.

The Group is exposed to the risk of further reductions in value and losses in relation to the aforementioned financial instruments. This risk persists despite some phases of market recovery. A further increase of these risks is possible, particularly in the case of a renewed escalation of the financial market and sovereign debt crises, as, following the reductions carried out in the past, those financial instruments that remain can for the most part only be disposed of with greater difficulty or by incurring larger losses. At the same time, increasing numbers of market participants, in particular other banks, are also attempting to sell these kinds of financial instruments. In addition to the risks and value trends of the respective instruments over their full term, the Group also takes into account the regulatory capital tied up by the positions to be reduced. Therefore, losses realised upon disposal may be tolerated if capital is freed up.

Further losses in value on any of the structured financial instruments held by the Group may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.12 The Group is exposed to the risk of changes in the fair value of the financial instruments it holds.*

A considerable portion of the Group's assets and liabilities consists of financial instruments that must be reported at fair value in the Bank's consolidated financial statements. For some of these financial instruments reported at fair value, there are no objective market prices. In these cases, fair value is determined using appropriate valuation methods for these instruments.

The use of valuation methods employing non-observable market data for determining fair value requires making assumptions and estimates that depend on the characteristics of the relevant instrument and the complexity and liquidity of the underlying market. If individual assumptions and estimates change as a result of negative market developments or for other reasons, revaluations of the relevant instruments may lead to significant changes in fair value, potentially resulting in substantial losses. This also includes the risk that previously recorded write-downs may not suffice to cover later defaults on amortisation and interest payments.

The onset of one or more of the risks described above may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.13 Changes in the classification of assets, relevant accounting standards, the regulatory environment or ratings from rating agencies may lead to changes in the value of the Group's assets, which could have an adverse effect on the Group's net assets, financial position and results of operations.*

Assets are valued on the basis of differing criteria depending on their classification. For example, financial instruments are reported on the balance sheet either at amortised cost or at fair value, depending on the category to which they are assigned. Changes in the categorisation or reclassifications of assets may therefore lead to a revaluation and, consequently, also to a valuation adjustment or to a valuation at amortised cost, depending on the circumstances. A change in the relevant accounting standards may also prompt a reclassification or a change to the valuation of assets. Regulatory changes, such as changes in capital buffer requirements, may also make a revaluation necessary.

If there are changes in relevant accounting standards, the regulatory environment or rating agencies' criteria or their interpretation, the Group may be required to recalibrate the valuation of its assets, the amount of its loan loss provisions or the models used to value them. For example, the new IFRS 16 "Leases", which replaced IAS 17 and is effective from 1 January 2019, resulted in an increase of the risk-weighted assets (RWA) of the Group by around EUR 2 billion leading to a negative impact of 0.16 percentage points on its Common Equity Tier 1 capital ratio as at 31 March 2019. Furthermore, such changes may include that the Group has to change its existing models for valuing structured financial instruments and other financial assets and its accounting of financial instruments in inactive markets, and accordingly may also have to change their fair value. Negative changes in the values of the aforementioned assets can have a decisive effect on the profitability of some of the Group's business divisions and therefore have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.14 Contracts with bond and credit insurers, particularly monoline insurers, are exposed to a significant risk of default as these insurance companies are threatened by insolvency.*

The Group is exposed to the default risk associated with OTC derivatives (non-standardised derivatives that are not traded on a stock exchange, but "over the counter") vis-à-vis bond and credit insurers, including monoline insurers (insurers that exclusively offer credit insurance for the issuers of bonds and other market players) and Credit Derivative Product Companies ("CDPCs")<sup>1</sup>. Some of these OTC derivatives are CDSs. These are reported in the balance sheet at fair value. Factors affecting the fair value of CDSs include the expected default risk of the financial instrument underlying the hedge and that of the party issuing the CDSs. The situation of monoline insurers and CDPCs remains uncertain and risky. Defaults may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.15 The Group is exposed to credit risk related to reductions in the value of collateral that is not real property, particularly in the case of financial instruments.*

The Group engages significantly in the repo and derivatives business, primarily with financial institutions. The value of the collateral posted in connection therewith may fluctuate unexpectedly and, in the event of a simultaneous default by the borrower, lead to unexpected losses, particularly if the valuation of the securities underlying the transactions correlates to the borrower's credit rating. Such a loss may have a material adverse effect on the Group's net assets, financial position and results of operations.

In general, the value of the collateral provided to the Group for hedging against credit risk is subject to fluctuations under certain circumstances. This applies to collateral that is not real property, and in particular to securities whose value is subject to significant fluctuations in volatile markets. Write-downs on collateral provided may necessitate an increase in loan loss provisions to cover acute and latent loan default risks, and an increase in risk-weighted assets may increase the Group's capital charge, which may have a material adverse effect on its net assets, financial position and results of operations.

*2.1.1.16 In addition to its traditional lending business, the Group is also exposed to credit risk extending significantly beyond the risks from traditional bank lending.*

The Group conducts business exposing it to the risk that third parties who owe money, securities or other assets to companies of the COMMERZBANK Group may not meet their obligations. In addition, the Group is also exposed to credit risk in many business areas outside the traditional banking business activities of deposit-taking and lending.

Credit risk outside the traditional lending business may arise, for example, from holding securities for third parties or entering into swap agreements or other derivative transactions in which counterparties have payment obligations to the Group. Other examples are forwards/futures, currency and commodity transactions that are not settled at the agreed time due to the counterparty's non-performance or due to the realisation of a settlement risk, i.e., due to system malfunctions on the part of a clearing agent or stock markets, clearing houses or other financial intermediaries.

The parties to these contracts may fail to meet their obligations to the Group as a result of insolvency, political and economic events, liquidity shortages, operational failures or for other reasons. This may have an adverse effect on the Group's net assets, financial position and results of operations.

Credit risk outside the traditional banking business also exists for the Group in the field of derivative transactions. Certain credit derivatives require the Group to deliver the underlying security, loan or other liability to the counterparty in order to receive payment. This may result in the Group not receiving the payments owed to it or at least in a delay in settling the transaction. In some cases, the Group may not hold the underlying asset or may be unable to deliver it. This may have a negative impact on the reputation of the Group and affect its ability to engage in future business. It may also give rise to increased costs for the Group. This too may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.17 The Group is exposed to a large number of different market risks.*

The Group is exposed to market risk in the form of or in relation to:

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<sup>1</sup> Credit derivative company whose business model is based on the sale of hedges of single-name credit default swaps (CDSs) and senior tranches of collateralised debt obligations (CDOs). They rely on AAA ratings assigned based on the strength of their capital model, which is carefully monitored by the rating agencies, and do not offer any collateral.

the measurement of equities and fund units: The prices of equities and fund units can be heavily affected by instability with correspondingly negative trends on the financial markets, resulting in a fall in the value of equities and fund units held in the Group's financial investment or trading portfolios.

interest rate risk: The Group is exposed to the risk of a change in interest rates when the amount or type of interest (fixed/variable) on assets and liabilities in individual maturity buckets do not match, thereby creating open interest rate positions in assets and in liabilities. Changes in market interest rates may lead to a flat or even inverse yield curve. A flat or inverse yield curve, particularly over an extended period, may have a material adverse effect on the Group's interest margin and profitability. The low/negative interest rate environment may have an impact on the Group's interest income and profitability, especially when prevailing over a longer period.

credit spread risks: The Group is exposed to market risk in the form of credit spread risks: If spreads on Sovereign Debt or other instruments should substantially widen, this would lead to a decline in market values and thus to a loss in the cash value of outstanding bonds in the event of divestment and a corresponding negative impact on results. Furthermore, negative income statement effects may also result from fair value revaluations of securities held in the trading portfolio.

volatility and correlation risk: The Group engages in the structuring and trading of financial derivatives. Derivatives are subject to price fluctuations caused by changes in the volatility of the prices of the underlying assets. To the extent that derivatives are based on two underlying assets or a portfolio of underlying assets, the prices of these derivatives are subject to what is referred to as "correlation fluctuations". Correlation is a statistical measure for the linear interaction of two underlying assets. The higher the correlation coefficient, the more the two assets move in unison. If derivatives positions are not or cannot be hedged against changes in volatility or fluctuations in correlation, losses may result.

commodity price risk: In its operating business, the Group is exposed to market risk in the trading of commodity-related derivatives, certificates and spot transactions. The underlying commodities are generally precious metals, industrial metals, energy and agricultural commodities. The prices of these financial instruments may rise or fall due to a number of factors, including the general state of the economy, market trends, exchange rate trends and changes in legal and political conditions. If positions are not fully hedged against these risks, losses may result.

The onset of one or more of the risks described above may have material adverse effects on the Group's net assets, financial position and results of operations.

#### *2.1.1.18 The Group is exposed to currency risks.*

Group subsidiary companies based outside the eurozone prepare their individual financial statements in foreign currencies. Currency fluctuations between the euro and the respective local currencies may result in the exchange rates used to convert non-euro items in the individual entities' financial statements for the purpose of preparing the consolidated financial statements differing from those used in previous reporting periods. These translation differences may reduce the Bank's equity. In addition, the Bank and other Group companies located in the eurozone enter into transactions in currencies other than the euro. A relative appreciation or depreciation of the respective foreign currency against the euro may result in correspondingly higher expenses or lower income from the foreign currency transactions.

Consumers in many Central and Eastern European countries have taken out a substantial number of loans in foreign currencies, particularly in Swiss francs. The Group has also extended such loans. Due to the relative decline of the currencies of these countries, some of these loans are now non-performing or are on the verge of becoming so. This situation may be aggravated if Central and Eastern European currencies decline or the Swiss franc appreciates further. In Poland, draft legislation has been introduced regarding the reimbursement of loans denominated in foreign currencies at "unreasonable" exchange rate margins. Further measures (e.g. higher capital requirements and higher risk weightings for such foreign currency loans) are intended to prompt the lending banks to "voluntarily" exchange such foreign currency loans into Polish Zloty.

The onset of one or more of the risks described above may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.19 The Group's hedging strategies may prove to be ineffective, result in costs and entail risks.*

The Group utilises a range of instruments and strategies to hedge risks. If these instruments and strategies prove to be partly or entirely ineffective, the Group may sustain losses that were actually intended to have been hedged. In addition, hedging strategies incur costs and may give rise to additional risks.

Unforeseen market developments may have a significant impact on the effectiveness of hedging measures adopted by the Group. Gains and losses from ineffective risk-hedging measures can increase the volatility of the income generated by the Group, which may result in material adverse effects on its net assets, financial position and results of operations.

Finally, the Group is, in some cases, able to hedge against risks related to crises such as the financial market and sovereign debt crisis only with difficulty or inadequately. The effects of crises on different counterparties and the assessment of those counterparties by the markets also depend on psychological factors. These assessments may to some extent vary sharply within a short period of time, thereby leading to fluctuations in market values, liquidity of instruments and risks. This may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.20 The Group's income and profit from its brokerage business and other commission-based or fee-based business may decrease further.*

The developments of recent years may result in a further decrease in the Group's income and profit from its brokerage business and other commission-based or fee-based business. Uncertain economic growth prospects may lead to a lower number and volume of transactions carried out by the Group for its customers. Moreover, the fees earned by the Group for managing securities portfolios depend primarily on the value and performance of the holdings being managed. The market situation and a change in investor behaviour may reduce the value of these securities portfolios. This may lead to a drop in income generated by the securities business in the private customer business.

At the same time, the statutory requirements for investment advisory services have risen, mainly in the private customer business. This requires additional time and effort, sometimes quite considerable, and also involves increased compliance risks. It is possible that the Group will not succeed in passing on the associated costs or offsetting these costs in the brokerage area through other additional income over the long term. This could have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.21 There is a risk that products developed by the Group cannot be placed in the market, that the products that are placed do not perform as expected and that investments made in these products therefore prove to have been wasted, or that liability risks or financing commitments result therefrom.*

The Group develops various products. Developing these types of products involves costs. Considerable expenses are sometimes already incurred in advance of the launch of the product. If the product cannot then be placed, these expenses may prove to have been wasted. This can lead to assets being disposed of only at a lower price or having to be written off.

In other cases a product which is developed by the Group or by a third party but marketed and placed by the Group may perform differently than expected over time. If the entire product is not placed in the market, then the Group is exposed to the corresponding risks from the remaining portion held by it. In respect of the portion that is placed, the negative performance of the product may lead to claims by investors against the Group. The negative performance of the product may also lead to draw downs of commitments made by the Group with respect to the product.

The onset of any of the aforementioned risks may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.22 The markets in which the Group is active, particularly the German market (and, in particular, the private and corporate customer business and investment banking activities) and the Polish market, are characterised by intense competition on price and on transaction terms, which results in considerable pressure on margins.*

The COMMERZBANK Group competes in Germany and internationally for customers, investors and employees. In Europe it principally competes with the European universal banks with a leading position in each domestic market. In Germany the banking sector overall is characterised by a high level of fragmentation and intense



competition. Competition is often conducted under conditions that result in margins that are economically unattractive or are not commensurate with the associated risks. At the same time, the current low interest rates are having an amplified effect on margin erosion in the deposit business with private and above all corporate customers.

The banking sector in Poland is also characterised by intense competition and the resulting pressure on margins. Additionally, an economic downturn in Poland as well as, since the Polish economy is significantly influenced by the state of the German economy, an economic downturn in Germany could have material adverse effects on mBank's business operations in Poland, which could adversely affect the Group's net assets, financial position and results of operations.

In addition, non-banks and other new entrants such as fintechs are also increasingly competing for customers and share of wallet.

If the Group does not succeed in providing its products and services on competitive terms and in achieving margins that at least compensate for the costs and risks associated with its business activities, this may have a material adverse effect on the Group's net assets, financial position and results of operations.

*2.1.1.23 The Group is dependent on the regular supply of liquidity, and a market-wide or company-specific liquidity shortage could have material adverse effects on the Group's net assets, financial position and results of operations.*

The Group regularly requires liquidity in order to refinance its business activities and is therefore generally exposed to liquidity risk as part of its business model, i.e. the risk that it is unable to meet its current and future payment commitments at all or in a timely manner, or that it can only refinance itself at unacceptably high costs.

In general, liquidity risk can be observed in the following forms. It can occur in terms of intraday liquidity risk, which means that the Bank is not able to settle its intraday payment obligations with one of its market counterparts or within the European Payment System. It also can occur in terms of a structural liquidity mismatch which may ultimately materialise as intraday liquidity risk if the Bank is not in a position to take mitigating actions in time.

In the event of certain market movements or a rating downgrade, the Bank may be faced with additional collateral requirements, which could constitute a burden to the Bank's liquidity position as the additional collateral would need to be funded.

In the event of refinancing difficulties, the Group could be forced to dispose of assets held by it for less than their book values and to limit its business activities. Measures of this nature may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.24 The Group's options for securing longer-term refinancing through Pfandbriefe could be limited by an impairment of the liquidity of the covered bond markets.*

"Pfandbriefe" are covered bonds issued under the German Covered Bond Act (*Pfandbriefgesetz*). COMMERZBANK issues mortgage Pfandbriefe (*Hypothekenpfandbriefe*) which are collateralised by residential mortgage loans and public sector Pfandbriefe (*Öffentliche Pfandbriefe*) which are collateralised by public sector loans. The issuance of Pfandbriefe is an important element of the Group's medium and long-term refinancing. An impairment of the liquidity of the covered bond market, for example due to stricter cover requirements imposed by rating agencies, could restrict the issuance of Pfandbriefe. To the extent that the Group's business operations are thereby limited, this could have material adverse effects on the Group's financial position.

*2.1.1.25 A downgrade in the rating of COMMERZBANK and its subsidiaries may make refinancing more difficult or more expensive and entitle counterparties to terminate derivative transactions or demand additional collateral.*

The rating agencies S&P, Moody's, Fitch and Scope perform creditworthiness assessments to determine whether a potential borrower will be in a position to meet its contractually agreed credit obligations in the future. In addition, COMMERZBANK's rating is also an important comparative element in competition with other banks. It also has a considerable influence on the ratings of COMMERZBANK's significant subsidiaries. The assessment of the borrower's net assets, financial position and results of operations is key to the assigned rating. The rating agencies' assessment depends on a number of factors, in particular the Bank's business model and associated earnings potential, capitalisation, risk positioning, profitability and refinancing opportunities or liquidity. In addition to these fundamental factors some rating agencies take into their considerations debt buffers dependent on

volume and ranking of liabilities within the bail-in liability cascade. In rare cases also government support is included in some ratings assuming that the state would intervene in case of resolution.

A downgrade of COMMERZBANK's rating would have a negative impact on the costs of the Group's equity and debt capital and could result in the creation of new liabilities or the acceleration of repayment obligations under existing liabilities that depend on the maintenance of a specific rating. A downgrade or the mere possibility of a downgrade of COMMERZBANK's rating or the rating of one of its subsidiaries may have a detrimental effect on the respective company's customer relationships and sales of products and services. A downgrade may also have a negative impact on COMMERZBANK's eligibility to act as a counterparty to derivative transactions, or the Bank might no longer be considered as a counterparty for derivative transactions. The costs of derivatives transactions could also increase if additional collateral were needed in connection with rating-dependent collateral agreements for derivatives transactions. Furthermore, should the rating of COMMERZBANK or one of its subsidiaries be downgraded to a rating below the four highest rating levels (investment grade), this could significantly impair the operating businesses of COMMERZBANK or of the subsidiary concerned and, consequently, also the funding costs for all Group companies.

Any of the aforementioned risks may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.26 The Group is exposed to a large number of operational risks, including the risk that employees will enter into excessive risks on behalf of the Group or will violate applicable rules, laws or regulations while conducting business activities and thereby cause considerable losses to appear suddenly, which may also lead indirectly to an increase in regulatory capital requirements.*

As part of its normal business activities, the Group conducts a large number of complex transactions in a wide range of jurisdictions and is exposed to a variety of related operational risks. These risks include, in particular, the possibility of inadequate or erroneous internal and external workflows and systems, regulatory problems, violations of applicable laws, regulations and rules and provisions in connection with the conduct of its business activities, and human error. Violations of applicable laws, regulations and rules (e.g. in connection with combating money laundering and the financing of terrorism, compliance with rules on sanctions and embargoes, or tax law) may lead to official and/or criminal investigations resulting in fines or other measures.

As several spectacular cases relating to competitors have illustrated, banks can suffer significant sudden losses if employees take on excessive risks, particularly if they do so with the intent to cause damage or in circumvention of internal rules and controls, and if these risks materialise or if the processes designed to prevent such excessive risks prove to be insufficient. Such risks and losses may sometimes be recognised only after a delay of several years. It cannot be ruled out that the Group will also be affected by such risks or losses. Internal control and safety mechanisms for the prevention of such incidents may prove to be insufficient in this respect or may be intentionally circumvented.

It is also conceivable that external events such as natural disasters, terrorist attacks, wars, pandemics or other states of emergency may significantly impair the environment in which the Group is active and thus indirectly affect the Group's internal processes. Such events may result in the Group incurring substantial losses, as well as reputational damage. The Group endeavours to hedge operational risks by implementing appropriate control processes tailored to its business and the market and regulatory environment in which it operates. However, it is possible that these measures may prove ineffective. The Group also endeavours to insure itself against numerous operational risks, but it is not possible to obtain insurance coverage on the market for all operational risks at commercially acceptable terms.

In addition to internal data, external loss data from Operational Riskdata eXchange (ORX) Association, Geneva, an international data consortium, are used to model the operational risk loss distribution. In this respect, individual major loss events incurred by other participating banks may result in an increase in COMMERZBANK's regulatory capital requirements for operational risks.

Should certain or all of the aforementioned risks materialise, this may have a material adverse effect on the Group's net assets, financial position and results of operations.

*2.1.1.27 The Group is highly dependent on complex IT systems whose ability to function may be impaired by internal and external circumstances.*

The Group's banking operations are highly exposed to risks such as, for example, computer damage, the default of service providers and vendors, operational errors and software or hardware errors. Furthermore, regular

enhancements are required for all IT systems to meet the demands imposed by constant changes in business, accounting and regulatory requirements. In particular, compliance with regulatory guidelines makes substantial demands on the functionality of the Group's IT systems and will continue to do so. The occurrence of any of these risks may have a material adverse effect on the Group's net assets, financial position and results of operations.

*2.1.1.28 The Bank's operational systems are subject to an increasing risk of cyber-attacks and other internet crime, which could result in losses of customer information, damage the Bank's reputation and lead to regulatory proceedings and financial losses.*

Among the operational risks COMMERZBANK faces is the risk of the security of the Bank's computer systems being breached due to unauthorised access to networks or resources, infiltration by computer viruses or malware, and other forms of cyber-attack or internet crime. Such breaches could threaten the confidentiality of customer data and the integrity or availability of the Bank's systems. COMMERZBANK devotes significant resources towards protecting its computer systems against such breaches. To address the risk from the growing threat of cybercrime, the Bank has launched a dedicated "Cyber Security Programme" to regularly optimise its protective measures and investigate and rectify any weaknesses in its IT security. Nevertheless, the risk remains that such measures may not be effective against all threats. Given the Bank's global footprint and the volume of transactions COMMERZBANK processes, certain errors or actions may be repeated or compounded before they are discovered and rectified.

Several financial institutions have experienced attacks on computer systems, including attacks aimed at obtaining unauthorised access to confidential company or customer information or damaging or interfering with company data, resources or business activities. Activists, nation states, criminal organisations, insiders and opportunists are among those targeting computer systems. Cyber-attacks have become increasingly frequent and sophisticated in recent times, raising the risk profile of many organisations around the world. The Bank's management devotes a considerable portion of its attention to drawing up comprehensive preventive measures against such attacks. Cyber security is growing in importance due to factors such as the continued and increasing reliance on the technology environment. It is possible, given the use of new technologies, the growing reliance on the internet and the varying nature and evolving sophistication of such attacks, that the Bank may not be able to anticipate and effectively prevent all such attacks. A successful attack could have a significant negative impact on the Bank, e.g. due to the disclosure or misuse of customer, third-party or proprietary information, interruptions or malfunctions in customers', counterparties' or third parties' operations, computer systems being unavailable or damaged, additional losses and costs for the Bank or the Bank being exposed to reputational damage, customer dissatisfaction and potential regulatory or litigation exposure.

Each of the aforementioned risks may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.29 The Group is required to make significant investments in order to ensure a competitive IT landscape and to comply with regulatory requirements. There can be no assurance that new IT systems will function properly or that the targeted IT competitiveness can be achieved through investments.*

The Group's IT landscape is heterogeneous and complex. In various segments the Group has to catch up in order to ensure a competitive IT landscape and to comply with regulatory requirements. There continues to be a considerable need for investment in the digitalisation of business processes. In this regard, extensive updates are being implemented in the IT landscape of the Group. There is also a constant need for improvement in the process areas of user access authorisation procedures and the management of IT risk in particular, as a result of the dynamic development of these specific areas. If the targeted level of IT competitiveness cannot be reached through investments, this could have a significantly negative impact on the Group's net assets, financial position and results of operations.

There can be no assurance that new or updated IT systems will function properly. Likewise, there can be no assurance that these new or updated IT systems will meet applicable regulatory requirements.

*2.1.1.30 The growing significance of external electronic trading platforms may have an adverse effect on the Group's business operations.*

The use of modern technologies is of central importance for the banking sector and the Group's business. Continuous growth in electronic trading and the introduction of related technologies are changing the manner in which banking business is conducted and are giving rise to new challenges. Securities, futures and options trading is increasingly carried out electronically. Some of the electronic trading platforms through which these transactions are carried out are in competition with the systems currently used by the Group, and it is foreseeable that the

expected further encroachment of electronic trading platforms will intensify this competition in the future. In addition, the increasing use of low-cost electronic trading platforms by the Group's customers offering them direct access to trading markets could lead to a reduction in the brokerage commissions and margins generated by the Group, which may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.31 It is possible that the goodwill reported in the Group's consolidated financial statements and trademark rights will have to be fully or partly written down as a result of impairment tests.*

The expected future economic benefit of the goodwill carried in the consolidated balance sheet is reassessed (impairment test) at the level of the individual underlying cash-generating units at least on each balance sheet date. In this process, the carrying amount of the cash-generating units (including the attributed goodwill) is compared with its recoverable amount. The recoverable amount is the higher of the value in use and the fair value less costs of disposal, and is based on the expected cash flows from the unit in accordance with the business plan, discounted using a risk-adjusted interest rate. If there are objective indications that the economic benefits originally identified may no longer be realised, an impairment charge will have to be taken. If an impairment review on a future balance sheet date results in a significant impairment of the goodwill or trademark rights recognised in the balance sheet, this may have material adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.32 The Group is exposed to risks on account of direct and indirect pension obligations.*

COMMERZBANK and its subsidiaries have various direct and indirect pension obligations towards their current and former staff. These obligations constitute uncertain liabilities for accounting purposes, as the precise timing and duration of the payment obligation is not fixed. These obligations therefore entail various risks. In issuing a commitment to grant direct pension payments, the Group assumes risks that are similar to those of a life insurance company (for example, fluctuation risks, balance sheet valuation risks, longevity risks, administrative risks, inflationary risk). The assets set aside to meet future pension payments (referred to as plan assets) are subject to the risks typically associated with a capital investment. Balance sheet risks may also arise as a result of accounting changes and changes in the discount rate. Obligations similar to pensions (such as obligations in respect of early retirement, part-time employment for older employees and long-service anniversaries) are subject to similar risks. The magnitude of existing pension provisions may also increase on account of judicial rulings and changes in the law (for example with reference to factors such as equal treatment, adjustment, non-forfeitability and the pensionable age). Each of these risks may have materially adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.33 A further increase in the contributions to the German Pensions Protection Fund could put considerable strain on the Group's financial position and results of operations.*

In the event of a company's insolvency, the German Pensions Protection Fund will, subject to certain conditions, assume the obligations arising out of existing occupational pension schemes. It is financed through annual contributions aligned to the losses arising from insolvencies in a given year. In the past, an increasing number of corporate insolvencies in Germany led to a considerable increase in these contributions. A further increase in the number of corporate insolvencies could lead to further considerable increases in contributions, particularly for large companies. Such an increase would also have a significant adverse effect on COMMERZBANK and its German subsidiaries. The resulting burdens may have materially adverse effects on the Group's net assets, financial position and results of operations.

*2.1.1.34 The Group may be unable to attract and retain qualified staff in the future.*

Across all its business divisions, the Group needs to attract and retain highly qualified staff. The Group endeavours to counteract the risk of losing know-how as a result of the departure of key employees through various measures. These include comprehensive loyalty and development programmes and the offer of three potential career development paths (management, project-related and professional careers). Despite these measures, the Group may not succeed in attracting or retaining highly qualified employees in the future. This risk is exacerbated by a further cut in the Group's workforce and, in some cases, by a shortage of qualified people on the market. Likewise, it cannot be ruled out that the statutory requirements regarding the structuring of remuneration systems, including provisions governing the requirement of appropriate proportionality between the variable and fixed annual remuneration for employees and managers and provisions requiring the holding period for the Group's Long-Term Incentive Plan for senior management to be extended to five years, will lead to additional difficulties in recruiting or retaining employees.

If the Group's efforts to attract and retain employees should fail, this may have a material adverse effect on the Group's net assets, financial position and results of operations.

#### *2.1.1.35 The Group may be exposed to risks through the use of external staff.*

The revised German Temporary Employment Act, which tightened the rules even further regarding companies' use of external staff, has been in force since April 2017. As a rule, the Board of Managing Directors has decided not to use freelancers and to authorise exceptions by means of a structured process. This puts in place strong measures to minimise the risk of potential false self-employment.

Moreover, internal rules governing the use of external staff are being continually optimised and tightened. Various measures, e.g. qualification formats, information events, etc., are being implemented in order to ensure compliance with regulatory and internal Bank requirements. Processes will continue to be developed with the aim of formalising the necessary requirements into corresponding processes. Should cases of hidden temporary staff, for example, nevertheless be discovered, these may result in fines. This may have an adverse effect on the net assets, financial position and results of operations of COMMERZBANK.

#### *2.1.1.36 The Group may be exposed to risks that are either not identified or inadequately assessed by its existing risk management.*

The Group has developed and implemented principles, procedures and evaluation methods for the monitoring and identification of risks. Nevertheless, it is not possible to fully prevent the Group from being exposed to various types of risks that it fails to identify or predict. Some of the quantitative measurement methods and categories in risk management are based on empirical values gained from COMMERZBANK's knowledge of historical market developments. Statistical and other methods are applied to these empirical values in order to quantify the risks. In addition, quantitative risk management models do not take all risks into consideration and make numerous assumptions in respect of the market environment that are not based on concrete events. The use of models outside their defined scope of application may result in inaccurate assessments. As a result, risks have arisen from factors which were not foreseen by the statistical models applied or which were not appropriately assessed. The losses potentially incurred as a result may be considerably higher than the historic data suggests.

Models are used extensively in COMMERZBANK's risk management not only for the measurement of risks, but also for the calculation of risk-bearing capacity. These models could in hindsight prove to be faulty and could significantly overestimate or underestimate risks.

Each of these risks may have a material adverse effect on the Group's net assets, financial position and results of operations.

### **2.1.2 Risks arising from bank-specific regulation**

#### *2.1.2.1 Ever stricter regulatory capital and liquidity standards and procedural and reporting requirements may call into question the business model of a number of the Group's activities, adversely affect the Group's competitive position, reduce the Group's profitability, or make the raising of additional equity capital necessary.*

The national and international regulations of various legislators, supervisory authorities and standard-setting bodies (e.g. the European Commission, the German legislator, the ECB, the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, "**BaFin**"), the Basel Committee on Banking Supervision and the European Banking Authority ("**EBA**")) have made regulatory capital and liquidity standards as well as procedural and reporting requirements for financial institutions increasingly stricter in recent years. This trend can also be expected to continue in future, as is evidenced by European efforts on behalf of what is referred to as the European risk reduction package for the amendment of Capital Requirements Directive IV (CRD IV), the Capital Requirements Regulation (CRR), the Single Resolution Mechanism Regulation (SRM Regulation) and the Banking Recovery and Resolution Directive (BRRD). On 20 May 2019, the European Union adopted a directive amending the CRD IV (the CRD IV as amended, the "**CRD V**"), a regulation amending the CRR (the CRR as amended, the "**CRR II**"), a regulation amending the SRM Regulation (the SRM Regulation as amended, the "**SRM Regulation II**") and a directive amending the BRRD (all legislative acts together the "**Banking Reform Package**"). The Banking Reform Package came into force on 27 June 2019, with certain provisions gradually being phased-in and other provisions subject to national implementation.

The business volumes and business activities of the Group's various business divisions will continue to be materially affected by the tougher regulatory capital requirements. Banks must therefore maintain certain minimum capital ratios and, in certain circumstances, build up additional capital buffers. Stress tests analysing the

robustness of the banking sector are also regularly carried out and published by national and supranational supervisory authorities. It cannot be ruled out that as a result of such stress tests, COMMERZBANK may be required to build up additional or higher capital buffers. If the bank fails to build up and maintain the required capital buffers, it will be subject to restrictions on payments on own funds instruments (such as paying dividends, for example), share buybacks, and discretionary compensation payments, etc.

Since COMMERZBANK's different business operations generate risk assets and use equity and liquidity to varying degrees, stricter own capital and liquidity requirements could force COMMERZBANK in the future to cease potentially profitable but disproportionately capital-intensive business operations. In addition to regulatory provisions, the market could require financial institutions such as COMMERZBANK to maintain capital levels above the regulatory minimum, which could exacerbate the aforementioned effects on COMMERZBANK or, should COMMERZBANK not increase its capital to the level demanded, lead to the perception in the market that it is generally undercapitalised in comparison to its competitors. Moreover, the requirements to increase capital ratios could force COMMERZBANK to pursue a strategy that is focused on capital conservation and raising instead of generating revenue and profit growth.

Further planned regulations relate to liquidity management and guidelines on necessary liquidity buffers for banks. COMMERZBANK could be forced to adapt its financing structure and business model to comply with regulations modified in connection with these. The requirement to hold additional liquidity is likely to entail higher financing costs.

Furthermore, a non-risk-based maximum leverage ratio was defined, the introduction of which may constrain COMMERZBANK's ability to grow in the future or which could even require COMMERZBANK to reduce its business volumes.

The onset of one or more of the aforementioned risks may have material adverse effects on the Group's business model, net assets, financial position and results of operations.

*2.1.2.2 Other regulatory reforms proposed in the wake of the financial crisis, for example charges such as the bank levy, a possible financial transaction tax, the separation of proprietary trading from deposit-taking business, or stricter disclosure and organisational obligations, may materially influence the Group's business model and competitive environment.*

The financial crisis prompted German and foreign governments, regulators and other authorities to propose a variety of reforms of the regulatory framework governing the financial sector, some of which have already been implemented. These proposals include the creation of a single supervisory mechanism (SSM) comprising the ECB and the respective national supervisory authorities, restrictions on proprietary trading, registration obligations and operational requirements, disclosure and clearing obligations for derivative transactions, an extension of the powers of supervisory authorities, the banning of deposit-taking for certain business areas, far-reaching interventions such as a financial transaction tax, the statutory separation of classic banking business from investment banking in order to make traditional credit and deposit-taking business independent from investment banking, the splitting up of financial institutions that supervisory authorities consider too big to fail in order to reduce the risk of their collapse.

In addition, regulations adopted in foreign countries (such as in the USA) must be observed to the extent that these also have an impact on the business activities of COMMERZBANK in Germany or other countries (e.g. the Dodd Frank Wall Street Reform and Consumer Protection Act or the Foreign Account Tax Compliance Act (FATCA)). This leads to considerable compliance work that must be carried out by COMMERZBANK in order to demonstrate that it complies with the corresponding rules.

Bank levies have also been introduced in a number of countries including Germany and the United Kingdom. COMMERZBANK believes that, based on an annual institution-specific risk-based assessment, the Group's cumulative contributions to the single resolution fund over the coming years will be substantial.

The effects of regulatory changes or new levies or tax burdens on COMMERZBANK may be limited to additional administrative expenses or the implementation and observation of new regulations. They may, however, also adversely affect the profitability of the COMMERZBANK Group or lead to higher financing or capital costs, or even to limitations in respect of the business which COMMERZBANK is permitted to conduct. Furthermore, implementing the necessary changes could also take up management's attention and resources to a significant extent. Should proposals that would require COMMERZBANK to substantially change its business model be adopted, the resulting changes may impair the Group's business and therefore have a material adverse effect on the Group's net assets, financial position and results of operations.

*2.1.2.3 European and German recovery and resolution legislation may have regulatory consequences that could restrict COMMERZBANK's business activities and lead to higher refinancing costs.*

Pursuant to the European and German recovery and resolution legislation, banks and securities companies are required to prepare recovery plans and participate in the preparation of resolution plans by the competent resolution authority. The competent regulatory authority may trigger early intervention measures to confront a critical financial situation. If the requirements for resolution are met, the competent resolution authority may order that all obstacles to resolution be eliminated and, in turn, undertake a range of measures, including the use of resolution tools. Furthermore, affected banks will be required to meet the minimum requirement for own funds and eligible liabilities (*Minimum Requirement for Eligible Liabilities*, "MREL") which will be determined by the competent resolution authority for each institution and the group to which it belongs on an annual basis or at other intervals determined by the authority. In June 2018, COMMERZBANK has been informed by BaFin that the binding MREL requirement applicable to COMMERZBANK Group based on data available as of 31 December 2016, which is defined as a percentage of total liabilities and own funds (TLOF), stands at 12.78% and must be complied with as from 30 June 2020. In terms of risk-weighted assets (RWA), the minimum requirement is 27.27%. As at 31 December 2018, COMMERZBANK's MREL ratio stood at 28.8% in terms of risk-weighted assets (RWA), consisting of 17.0% own fund instruments, 6.7% non-preferred senior instruments within the meaning of § 46f KWG and 5.1% other MREL-eligible instruments.

COMMERZBANK expects a new MREL requirement to be set in the second half of 2019, based on the new methodology of the Single Resolution Board's 2018 MREL policy.

The above-mentioned regulatory requirements will most likely result in an increase in refinancing costs, which could have an adverse effect on the Group's profitability. Furthermore, COMMERZBANK could be required to restrict the Bank's business or take other measures to ensure the Bank's resolvability in compliance with relevant legal and regulatory specifications and any other possible regulations. These steps could adversely affect the Bank's business as well as its net assets, financial position and results of operations. If the use of resolution tools is ordered with respect to COMMERZBANK, this may also result in losses for the Bank's shareholders and creditors.

*2.1.2.4 The regulatory and banking supervisory frameworks for the Group in those jurisdictions outside of Germany in which it operates may change at any time, and non-compliance with regulatory provisions there may result in the imposition of penalties and other disadvantages, including the loss of official licenses.*

The Group's other business activities outside Germany are regulated and supervised by the central banks and regulatory authorities of those countries in which it operates. In each of these countries, a banking license or at least notification to the national regulatory authorities is required for COMMERZBANK, its subsidiaries, its branches and sometimes its representative offices as well, and in some cases for the Group in its entirety. Additional requirements may be imposed on the regulated entities in the event of changes to the regulatory provisions in one or more countries, which may occur at any time. This could hamper their ability to operate in certain business areas or even bar them from such business areas completely. This holds particularly true in light of the United Kingdom's decision to leave the EU. In addition, infringement of provisions which do not fall directly within the scope of bank supervision law may also have regulatory consequences. Moreover, complying with amended regulatory requirements may entail a material increase in the Group's administrative expense. Each of these risks may have a material adverse effect on the Group's net assets, financial position and results of operations.

*2.1.2.5 Increased contributions toward the statutory and private deposit guarantee as well as any (special) charges for rescuing banks in economic difficulties could have a detrimental impact on the Group's business performance.*

Increased contributions toward the statutory and private deposit guarantee could have a detrimental impact on the Group's business performance. The Compensation Scheme of German Private Banks (*Entschädigungseinrichtung deutscher Banken GmbH* – "EdB") may also levy special contributions to finance contribution payments. No upper limit has been set for these special contributions. In addition, the Deposit Protection Fund of the Association of German Banks (*Einlagensicherungsfonds des Bundesverbandes deutscher Banken e. V.* – "Deposit Protection Fund"), which is the supplementary voluntary deposit protection scheme of German private banks in which COMMERZBANK participates, is also funded by annual and special contributions by its participating institutions. These contributions may rise in future. A similar risk arises at the level of subsidiary banks belonging to the Group in respect of possible increased contributions payable by the Group to non-German deposit protection schemes. Increased payments such as this would have material adverse effects on the Group's net assets, financial position and results of operations.

### **2.1.3 Legal risks**

#### **2.1.3.1** *Legal disputes may arise in connection with COMMERZBANK's business activities, the outcomes of which are uncertain and which entail risks for the Group.*

Following a ruling by the German Federal Court of Justice (BGH) in October 2014 declaring that non-term-related processing fees in preformulated contractual terms and conditions for consumer loans were invalid, a large number of customers have lodged claims with COMMERZBANK for repayment of the processing fees. On 4 July 2017, the BGH decided that pre-formulated contract conditions on term-independent processing fees in loan agreements concluded between credit institutions and entrepreneurs shall no longer apply. In the past, the Bank has invoiced term-independent processing fees agreed in pre-formulated contract conditions. However, it established processes some time ago, in which the processing fees are no longer agreed in pre-formulated contract conditions, but are negotiated individually with the customer. Following the decisions issued in July 2017, there was an increase in requests for refunds of processing fees paid to the Bank in the past. Based on the decision of the BGH, the Bank assumes that any claims for refunds not yet filed in respect of fees charged before 1 January 2016 are time-barred. It is not currently possible to predict to what extent customers will claim fee refunds. The Bank has recognised a provision which it believes to be appropriate in size. Should the Bank exceed this provision in the repayment of these processing fees, this may have material adverse effects on the Group's net assets, financial position and results of operations.

The Frankfurt Prosecutor's Office is investigating in connection with equity transactions after the dividend due date (so-called cum-ex transactions) of COMMERZBANK and former Dresdner Bank. The Bank had already initiated a forensic analysis of cum-ex transactions at the end of 2015, which was concluded at the start of 2018 with regard to COMMERZBANK's equity transactions and is still ongoing regarding the equity transactions of the former Dresdner Bank, and is expected to be completed in the third quarter of 2019.

By letter from the Federal Finance Ministry (BMF) of 17 July 2017, the financial administration issued a statement on the treatment of cum-cum transactions (equity transactions around the dividend due date). As such, it intends to critically assess the past under the aspect of the abuse of law. On the basis of the conducted analyses of cum-cum transactions, the Bank formed provisions as a precaution for any capital gains tax of its own that may need to be refunded. With respect to cum-cum securities lending transactions, COMMERZBANK is exposed to compensation claims from third parties for crediting entitlements that have been denied. COMMERZBANK estimates the chances of such claims being successful on the basis of the analyses carried out to be rather slim, but does not rule them out. Under these circumstances, the Bank estimates the potential financial impact in the upper double-digit million range, plus interest on arrears which the Bank classifies as a contingent liability. For the further cum-cum-relevant transactions, COMMERZBANK concludes that there are no inappropriate legal designs within the meaning of § 42 of the German Tax Code for the corresponding transactions. However, it cannot be ruled out that another assessment may result within the framework of the further development, e.g. from the assessment by the tax authorities and financial / civil courts.

Beyond the matters above, COMMERZBANK and its subsidiaries are regularly parties to a variety of legal disputes as well as court and arbitration proceedings in Germany and a number of other jurisdictions, in particular in damages, warranty and rescission cases. These proceedings are characterised by a large number of uncertainties and it is not possible to predict their outcome with certainty. Consequently, risks associated with them may in certain cases be difficult to quantify, or may not be quantifiable at all. It is therefore possible that losses resulting from pending or potential proceedings will exceed the provisions recognised, which may have material adverse effects on the Group's net assets, financial position and results of operations.

## **2.2 Risks associated with an Investment in the Notes**

Words and expressions used in this section and not otherwise defined in the Prospectus shall have the meaning ascribed to them in the Terms and Conditions of the Notes.

The purchase of the Notes involves significant risks arising as a result of specific characteristics of the Notes.

### **2.2.1 The Notes may not be a suitable investment for all investors.**

Potential investors in the Notes must determine the suitability (either alone or with the help of a financial adviser) of that investment in light of their own circumstances and the complexity of the Notes. In particular, each potential investor should:



- have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained or incorporated by reference in this Prospectus or any applicable supplement to this Prospectus;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation and the investment it is considering, an investment in the Notes and the impact such investment will have on his/her overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including the risk not to receive any return on investment or repayment of the invested amount, and also including risks arising if the currency for principal or interest payments on the Notes, *i.e.* U.S. dollars, is different from the currency in which his/her financial activities are principally denominated;
- understand thoroughly the Terms and Conditions of the Notes and be familiar with the behavior of the financial markets;
- know, that it may not be possible to dispose of the Notes for a substantial period of time, if at all; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

Prior to making an investment decision, each potential investor should consider carefully, in light of its own financial circumstances and investment objectives, all the information contained in this Prospectus or incorporated by reference herein, and should have sufficient financial resources and liquidity to bear the risks of an investment in the Notes, including the possibility that the entire principal amount of the Notes could be lost. A potential investor should not invest in the Notes unless he/she has the knowledge and expertise (either alone or with a financial advisor) to evaluate how the Notes will perform under changing conditions, the resulting effects on the likelihood of cancellation of payment of principal, payment of distributions or a write-down and the market price of the Notes, and the impact of this investment on the potential investor's overall investment portfolio.

## **2.2.2 The regulatory classification of the Notes as Additional Tier 1 instruments may be changed.**

In the opinion of the Issuer, the Notes shall qualify with regard to COMMERZBANK Group's own fund requirements as AT 1 Instruments pursuant to Article 52 CRR upon issue. No supervisory authority approved the regulatory classification of the Notes as AT 1 Instruments of the Issuer prior to their issuance. In particular, during the approval process of the Prospectus, the CSSF does not assess the regulatory classification of the Notes. There is a risk that there is a change in the regulatory classification of AT 1 Instruments that may result in the exclusion of the Notes from own funds or reclassification as a lower quality form of own funds. Such change in the regulatory classification may be caused not only by changes in law but also by other reasons, for example changes in the corporate structure of COMMERZBANK Group such that the Notes are no longer eligible as own funds of the Issuer. If the Notes are reclassified as a lower quality form of own funds or even excluded from the Issuer's own funds, this can have a negative impact on the capitalisation of the Issuer, and the Issuer may call the Notes for redemption (regulatory call). See also "2.2.13 Subject to the prior permission of the competent authority, the Notes can be redeemed by the Issuer at any time in its sole discretion under certain regulatory or tax reasons. In such case, the redemption amount may be substantially lower than the Original Nominal Amount of the Notes due to a Write-down that has not been fully written up. In case of a write-down to zero, this may result in a full loss of the nominal amount."

## **2.2.3 Interest Payments are entirely discretionary and subject to the fulfillment of certain conditions. If the Issuer elects to cancel an Interest Payment or is legally prevented to pay interest, such deferral will be non-cumulative, i.e. the Issuer will be under no obligation to compensate for such non-payment at any later point in time. There will be no circumstances under which an Interest Payment will be compulsory for the Issuer.**

The Notes accrue Interest Payments in accordance with their Terms and Conditions. However, pursuant to the Terms and Conditions of the Notes, no Interest Payments will accrue or be payable by the Issuer on any Interest Payment Date if (but only to the extent that):

- (i) the Issuer, in its sole discretion, elects to cancel all or part of any payment of interest which would otherwise fall due for payment on such interest payment date; or

- (ii) such payment of interest together with (1) the amount of a write-up, if any, to be effected as of the relevant Interest Payment Date, (2) any additional Distributions (as defined below, see "*2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.*") that are scheduled to be made or have been made on the same day or that have been made by the Issuer on other Tier 1 Instruments (as defined below, see "*2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.*") in the then-current financial year of the Issuer and (3) the total amount of write-ups, if any, on any other AT1 Instruments which shall be effected as of the relevant Interest Payment Date or have been effected in the then-current financial year of the Issuer would exceed the Available Distributable Items (as defined below, see "*2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.*"), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (including payments of interest on the Notes) in the determination of the profit on which the Available Distributable Items are based (see also "*2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.*" below);
- (iii) a competent authority orders that all or part of the relevant payment of interest be cancelled or another prohibition of Distributions is imposed by law or an authority or any other restriction to make Distributions exists under the Applicable Supervisory Regulations (including, but not limited to, the calculation of, and the compliance with, the Maximum Distributable Amount) (see also "*2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons.*" below); or
- (iv) the Issuer is over-indebted within the meaning of § 19 InsO or illiquid within the meaning of § 17 InsO on the relevant Interest Payment Date or to the extent that the relevant payment of interest would result in an over-indebtedness or illiquidity of the Issuer.

The Issuer may make the election to cancel the payment of any Interest Payment (in whole or in part) on any Interest Payment Date for any reason. In addition, the Issuer will be legally prevented to pay interest (in whole or in part) if and to the extent any of the conditions set out under (ii) through (iv) above is fulfilled. No such election to cancel the payment of any Interest Payment (or part thereof) or non-payment of any Interest Payment (or part thereof) for the reasons set out under (i) to (iv) above will constitute a default under the Notes for any purpose or entitle the Holders or any other person to demand such payment or to take any action to cause the liquidation, dissolution or winding-up of the Issuer.

If due to any of the reasons set out above Interest Payments do not accrue and are not paid on any Interest Payment Date, such Interest Payments will not be paid at any later point of time (non-cumulative). Accordingly, Interest Amounts on following Interest Payment Dates will not be increased to compensate for any shortfalls in Interest Payments on any previous Interest Payment Date.

Furthermore, if the Issuer exercises its discretion to cancel Interest Payments on the Notes with respect to any Interest Payment Date, this will not give rise to any restriction on the Issuer making dividend payments or other distributions or any other payments to the holders of any other instruments, including instruments ranking *pari passu* with, or junior to, the Notes, and the Issuer is entitled to use the funds from cancelled payments of interest without restrictions for the fulfillment of its own obligations when due.

Investors should be aware that there will be no circumstances under which an Interest Payment will be compulsory for the Issuer.

Certain market expectations may exist among investors in the Notes with regard to COMMERZBANK making Interest Payments. Should the Issuer's actions diverge from such expectations or should the Issuer be prevented from meeting such expectations for regulatory reasons, any such event which could result in an Interest Payment not being made or not being made in full may adversely affect the market value of the Notes and reduce the liquidity of the Notes.

## **2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.**

The Interest Payments depend, among others, on the future Available Distributable Items (substantially the 'distributable items' as defined in Article 4 (1) no. 128 CRR from time to time; see also definition below) of the Issuer. Interest Payments will not accrue if (but only to the extent that) such payment, together with any other Distributions that are scheduled to be made or have been made on the same day or that have been made by the Issuer on other Tier 1 Instruments in the then-current financial year, would exceed the Available Distributable Items, provided, however, that for purposes of this determination the Available Distributable Items shall be

increased by an amount equal to the aggregate expense accounted for in respect of Distributions on Tier 1 Instruments (including the Notes) when determining the profit which forms the basis of the Available Distributable Items (see "2.2.3 Interest Payments are entirely discretionary and subject to the fulfillment of certain conditions. If the Issuer elects to cancel an Interest Payment or is legally prevented to pay interest, such deferral will be non-cumulative, i.e. the Issuer will be under no obligation to compensate for such non-payment at any later point in time. There will be no circumstances under which an Interest Payment will be compulsory for the Issuer." above). In such event, Holders would receive no, or reduced, Interest Payments on the relevant Interest Payment Date. With the annual profit and any distributable reserves of COMMERZBANK forming an essential part of the Available Distributable Items, investors should also carefully review the risk factors under "2.1 Risk Factors relating to the COMMERZBANK Group" since any change in the financial prospects of the Issuer or its inherent profitability, in particular a reduction in the amount of profit or distributable reserves on an unconsolidated basis, may have an adverse effect on the Issuer's ability to make a payment in respect of the Notes.

In addition, when determining whether Interest Payments under the Notes will or will not accrue, the Available Distributable Items shall be determined on the basis of the Applicable Supervisory Regulations at the time of the determination and, accordingly, only those amounts shall be added or deducted that may be added or have to be deducted (as the case may be) for purposes of determining the amounts distributable on AT1 Instruments under the Applicable Supervisory Regulations. For example, under the former CRR framework, amounts blocked for distribution under § 268 (8) or § 253 (6) of the German Commercial Code had to be deducted from the distributable amounts when determining the Available Distributable Items as the determination of the Available Distributable Items was by and large synchronised with the determination of the profits distributable to shareholders.

As part of the Banking Reform Package (see "2.1.2.1 Ever stricter regulatory capital and liquidity standards and procedural and reporting requirements may call into question the business model of a number of the Group's activities, adversely affect the Group's competitive position, reduce the Group's profitability, or make the raising of additional equity capital necessary."), the former definition of 'distributable items' in Article 4 (1) no. 128 CRR was amended. The Issuer takes the view that the amounts previously blocked for distribution are no longer blocked under CRR II for purposes of the Available Distributable Items. In addition, the Issuer takes the view that the amendment of the 'distributable items' allows the inclusion of capital reserves for purposes of determining the Available Distributable Items. For the avoidance of doubt, however, these restrictions will continue to apply to distributions to shareholders. The amendment to Article 4 (1) no. 128 under the CRR II framework applies since 27 June 2019.

Furthermore, the interpretation of the amended definition of 'distributable items' and its exact scope are, in the absence of an established supervisory practice, difficult to predict and there can be no assurance that the Issuer may in practice be permitted to calculate the Available Distributable Items for the purpose of distributions under the Notes as currently assumed by the Issuer. Hence, no assurance can be made as to, and investors should not rely on, the availability of the capital reserve and the amounts blocked for distributions under § 268 (8) or § 253 (6) of the German Commercial Code or any other amounts for increasing the Available Distributable Items in the future when determining whether Interest Payments will or will not accrue in light of the Available Distributable Items at that time.

**"Applicable Supervisory Regulations"** means the provisions of bank supervisory laws and any regulations and other rules thereunder applicable from time to time (including, but not limited to, the guidelines and recommendations of the European Banking Authority and/or the European Central Bank, the administrative practice of any competent authority, any applicable decision of a court and any applicable transitional provisions) relating to capital adequacy, solvency, other prudential requirements and/or resolution and applicable to the Issuer and/or the banking group to which the Issuer belongs from time to time.

**"Available Distributable Items"** means, with respect to any payment of interest, the distributable items as defined in Article 4 (1) no. 128 CRR; at the time of the issuance of the Notes, such term refers to the profit as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date, for which audited annual financial statements are available, plus any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments, less any losses brought forward and any profits which are non-distributable pursuant to the applicable European laws of the European Union or the Articles of Association of the Issuer and any sums placed in non-distributable reserves in accordance with the laws of Germany or the Articles of Association of the Issuer, in each case with respect to the specific category of own funds of the Notes as AT1 Instruments to which the applicable laws of the European Union or Germany or the Articles of Associations of the Issuer relate, provided that the distributable items and the relevant profits, losses and reserves shall be determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law and not on the basis of its consolidated financial statements. The determination of the

Available Distributable Items shall be based on the Applicable Supervisory Regulations at the time of the determination and, accordingly, only those amounts shall be added or deducted that may be added or have to be deducted (as the case may be) for purposes of determining the amounts distributable on AT1 Instruments under the Applicable Supervisory Regulations.

**"Distributions"** means any kind of payment of dividends or interest.

**"Tier 1 Instruments"** means capital instruments which, according to the CRR, qualify as common equity tier 1 capital or AT1 Instruments.

The Issuer's management has broad discretion within the applicable accounting principles to influence the amounts relevant for determining the Available Distributable Items and the amount of the Distributions will also be in the Issuer's discretion. In addition, the Issuer is not prevented from issuing further Tier 1 Instruments with interest payments and other distributions potentially being made thereunder also prior to the Interest Payment Date under the Notes in any financial year. This would reduce the Available Distributable Items available for making interest payments under the Notes on any Interest Payment Date. Accordingly, the Issuer is legally capable of influencing its ability to make Interest Payments to the detriment of the Holders.

### **2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons.**

Interest Payments will also be excluded if (and to the extent) such Interest Payments are prohibited or restricted under statutory law or by virtue of a decision of a competent authority of the Issuer.

As part of the Single Supervisory Mechanism ("**SSM**") established within the eurozone by Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions ("**SSM Regulation**"), the European Central Bank ("**ECB**") is the primary and direct supervisory authority of so-called "significant" credit institutions such as the Issuer. In particular, the ECB supervises the Issuer in relation to the own funds requirements set forth in the CRR as well as in relation to the requirement to establish a proper business organisation, which includes, *inter alia*, having in place appropriate risk management processes, internal control mechanisms, remuneration policies and practices and effective internal capital adequacy assessment processes, as set forth in the German Banking Act and transposed from Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending the CRD IV. The German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* – "**BaFin**") has certain remaining supervisory tasks in relation to the Issuer.

The CRR requires the Issuer to meet at all times, on a consolidated basis, a minimum amount of total own funds of 8% of the risk-weighted assets of the Issuer's group and also imposes minimum requirements for Tier 1 capital of 6% and Common Equity Tier 1 capital of 4.5% of risk-weighted assets (all within the meaning of the CRR). In addition, and on the basis of the annual supervisory review and evaluation process ("**SREP**"), the ECB has imposed on the Issuer additional individual capital requirements referred to as "Pillar 2" requirements which must be fulfilled with Common Equity Tier 1 capital in addition to the statutory minimum capital.

The CRD IV also introduced capital buffer requirements that must be met in addition to both the minimum capital requirements set forth in the CRR and the "Pillar 2" requirements set by the ECB as a result of the annual SREP. The capital buffer requirements must be met with Common Equity Tier 1 capital. The respective CRD IV requirements have been implemented into German law by §§ 10c *et seqq.* KWG which introduced five new capital buffers: (i) the capital conservation buffer (as implemented in Germany by § 10c KWG), (ii) the institution-specific countercyclical capital buffer (as implemented in Germany by § 10d KWG), (iii) the global systemically important institutions buffer (G-SII buffer) or, depending on the institution, the other systemically important institutions buffer (O-SII buffer) (as implemented in Germany by §§ 10f and 10g KWG) and (iv) the systemic risk buffer (as implemented in Germany by § 10e KWG). Insofar as these buffers are not set out in statutory law, BaFin as national competent or designated authority is competent to set the buffer rates applicable to the Issuer. In accordance with Article 5 (2) SSM Regulation, the ECB may, if deemed necessary, set higher buffer rates than those applied by BaFin. All applicable capital buffers are aggregated in a combined buffer requirement as set forth in § 10i (1) KWG. In relation to the institution-specific countercyclical capital buffer it should be noted that it may fluctuate as it is calculated as a weighted average of the countercyclical capital buffers applicable in the various countries where COMMERZBANK Group's risk-weighted assets (RWA) are located. The countercyclical capital buffers are normally set by the national authorities in their discretion and may differ from country to country. As more than half of COMMERZBANK Group's risk-weighted assets (RWA) are located in Germany, any implementation of a national countercyclical capital buffer by the competent German supervisory authority will impact the CET1 requirement of COMMERZBANK Group significantly. Currently, no national countercyclical

capital buffer requirement must be applied. However, by decree dated 28 June 2019, BaFin set a national countercyclical capital buffer of 0.25% with effect from 1 July 2019 which has to be applied by the Issuer starting from 1 July 2020. The Issuer expects that, after application, its countercyclical capital buffer requirement would increase by approximately 0.14% based on its current risk-weighted assets (RWA).

If the Issuer fails to meet the combined buffer requirement, which is the case if the Issuer does not have sufficient total capital, Tier 1 capital, or Common Equity Tier 1 capital in an amount needed to meet at the same time (a) its minimum capital requirements under the CRR, (b) any additional capital requirements, such as the "Pillar 2" requirement imposed on the Issuer by the ECB on the basis of the annual SREP, and (c) the sum of the capital buffers applicable to it, the Issuer will be required to calculate the Maximum Distributable Amount, notify such amount to BaFin and the German Central Bank (*Deutsche Bundesbank*) and prepare and submit to BaFin and the German Central Bank a capital conservation plan in which the Issuer needs to explain how to increase its own funds with the objective of meeting fully the combined buffer requirement. Until BaFin has approved the capital conservation plan, the Issuer will be prohibited from making any Interest Payments on the Notes (as set forth in § 10i (3) sentence 2 no. 3 KWG). Upon approval of the capital conservation plan or upon specific approval of BaFin to do so, the Issuer will be entitled to make Interest Payments on the Notes, however only up to the amount of its Maximum Distributable Amount (as set forth in § 10i (7) sentence 3 and (8) sentence 1 no. 2 KWG which implement Article 141 (3) CRD IV). The Maximum Distributable Amount is calculated as a percentage of the profits of the institution accrued since the last distribution of profits as further defined in § 37 (2) German Solvency Regulation (*Solvabilitätsverordnung – SolvV*). The applicable percentage is scaled according to the extent of the breach of the combined buffer requirement. As an example, if the scaling is in the bottom quartile of the combined buffer requirement, no Interest Payments or other discretionary distributions will be permitted to be made. As a consequence, in the event of breach of the combined buffer requirement it may be necessary to reduce discretionary payments, including potentially exercising the Issuer's discretion to cancel (in whole or in part) Interest Payments in respect of the Notes.

COMMERZBANK regularly publishes the capital requirements relevant for the requirement to calculate the Maximum Distributable Amount based on the ECB's annual SREP decision as well as the capital buffer rates to which it is subject. On 15 February 2019, COMMERZBANK published that it has been informed by the ECB that it is required, on a consolidated basis, to maintain a CRR/CRD IV Common Equity Tier 1 (CET1) capital ratio of at least 10.11% from 1 January 2019 onwards (the "**2019 SREP requirements**"), including the minimum Pillar 1 requirement (4.5%), the Pillar 2 requirement (2%), the capital conservation buffer (2.5%), the countercyclical capital buffer (0.11%) and the requirement deriving from COMMERZBANK's designation as an O-SII (or domestic systemically important bank (D-SIB)) (1%). The CET1 capital requirement of 10.11% in 2019 sets the level below which COMMERZBANK Group would be required to calculate the Maximum Distributable Amount. The Issuer expects the buffer requirement deriving from COMMERZBANK's designation as an O-SII (or domestic systemically important bank (D-SIB)) to increase from 1.0% by 0.5% to 1.5% as from 1 January 2020. Based on the 2019 SREP requirements (save for this increase), this would result in a total SREP requirement of 10.61% as of 1 January 2020 which equals the requirement on a fully loaded basis.

In comparison, COMMERZBANK's last reported consolidated Common Equity Tier 1 capital ratio as of 31 March 2019 was 12.7%. Furthermore, COMMERZBANK is subject to a Pillar 1 requirement of 6% for the Tier 1 capital ratio (i.e., at least 4.5% CET1 capital and up to 1.5% Additional Tier 1 (AT1) capital) and of 8% for the total capital ratio (i.e. at least 6% Tier 1 capital and up to 2% Tier 2 capital).

While the Tier 1 capital requirement can be satisfied with AT1 capital of up to 1.5%, the AT1 capital of COMMERZBANK Group amounted to EUR 798 million as at 31 March 2019 on a transitional basis (i.e., including the eligible former balance of AT1 capital under the transitional provisions of the CRR which contributed 0.4 percentage points to the Tier 1 capital ratio and the total capital ratio). On a fully loaded basis, the AT1 capital of COMMERZBANK Group amounted to EUR 121 million as at 31 March 2019. The difference of 1.1 percentage points on a transitional basis or 1.4 percentage points on a fully loaded basis must be satisfied with CET1 capital, requiring COMMERZBANK to maintain a higher CET1 ratio on a consolidated basis than would be necessary under the 2019 SREP requirements in relation to CET1 as such. This results in a difference of approximately 1.5 percentage points between COMMERZBANK Group's last reported CET1 capital ratio of 12.7% and the relevant threshold at which it would be required to calculate the Maximum Distributable Amount.

Assuming a SREP requirement of a CET1 capital ratio of 10.61% from 1 January 2020, a constant amount of risk-weighted assets (RWA) and a further phase-out of grandfathered AT1 instruments, as of 1 January 2020, this threshold would rise to approximately 11.8%, considering COMMERZBANK's need to cover an additional 1.2 percentage points in terms of risk-weighted assets (RWA) with CET1 capital on a consolidated basis.

For illustrative purposes and assuming on a consolidated basis constant risk-weighted assets (RWA), the issuance of AT1 capital in an amount of EUR 500 million (or equivalent) would reduce the amount of the Tier 1 capital requirement which needs to be satisfied with CET1 capital by approximately 0.3 percentage points in terms of risk-weighted assets. On the basis of the assumptions above, this would lower the threshold at which COMMERZBANK would be required to calculate the Maximum Distributable Amount from a CET1 capital ratio on a consolidated basis from 11.8% to 11.5%, as of 1 January 2020. Further assuming an unchanged consolidated CET1 capital ratio of 12.7% this would imply a distance to such threshold of 1.2 percentage points.

The expected increase of COMMERZBANK's countercyclical capital buffer requirement by approximately 0.14% (based on current risk-weighted assets (RWA)) from 1 July 2020 would lead to a corresponding increase of COMMERZBANK's SREP requirement as well as the relevant threshold at which COMMERZBANK would be required to calculate the Maximum Distributable Amount and would lower the distance between COMMERZBANK's consolidated CET1 capital ratio to such threshold accordingly.

In addition and under certain conditions, the ECB may restrict or prohibit all or part of the Interest Payments as set forth in Article 16 (1) in connection with (2) point (i) SSM Regulation. Pursuant to Article 16 (1) SSM Regulation, the ECB has the powers set out in Article 16 (2) SSM Regulation to require a significant credit institution in a participating EU Member State (such as the Issuer) to take the necessary measures at an early stage to address relevant problems in particular (a) when the credit institution does not meet the requirements of the CRR or the CRD IV, (b) when there is evidence that the credit institution is likely to breach these requirements within the next twelve months or (c) when, based on a determination, in the framework of a supervisory review that the arrangements, strategies, processes and mechanisms implemented by the credit institution and the own funds and liquidity held by it, a sound management and coverage of its risks is not ensured. Pursuant to Article 16 (2) point (i) SSM Regulation, the ECB has the power to restrict or prohibit distributions by the credit institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution. Relevant cases where the ECB may restrict or prohibit the Issuer from making any Interest Payment exist, for example, if the Issuer does not meet the minimum own funds requirements set forth in the CRR or any additional capital requirements ordered by the ECB, such as the "Pillar 2" requirements set by the ECB as a result of the annual SREP.

Accordingly, even if the Issuer was intrinsically profitable and willing to make Interest Payments, it could be prevented from doing so by regulatory provisions and/or regulatory action. In all such instances, Holders would receive no, or reduced, Interest Payments on the relevant interest payment date.

Please also see "2.2.10 Some aspects of the manner how CRR/CRD IV as amended by the Banking Reform Package is applied after their amendment in the future are uncertain.", "2.2.9 The Notes may be written down (without prospect of a potential write-up in accordance with the Terms and Conditions of the Notes) or converted into equity, and the terms of the Notes may be varied to the detriment of the Holders, by the competent resolution authority." and "2.2.6 Ongoing and future legislative reforms may lead to additional restrictions with regard to Interest Payments on the Notes."

## **2.2.6 Ongoing and future legislative reforms may lead to additional restrictions with regard to Interest Payments on the Notes.**

Financial institutions, such as COMMERZBANK, have been, and are expected to be in the future, subject to extensive regulation and it is expected that ongoing and future regulatory reforms may affect the treatment of the Notes.

On 20 May 2019, following a routine review of the CRR/CRD IV legislative package and other major legal acts in the area of banking regulation and supervision, the European Union adopted the Banking Reform Package to further strengthen the resilience of European Union banks. The legislative acts forming part of the Banking Reform Package came into force on 27 June 2019 (see "2.1.2.1 Ever stricter regulatory capital and liquidity standards and procedural and reporting requirements may call into question the business model of a number of the Group's activities, adversely affect the Group's competitive position, reduce the Group's profitability, or make the raising of additional equity capital necessary."). These acts amend, among others, the CRR, CRD IV and the BRRD, in order to incorporate various remaining elements of the regulatory framework agreed within the Basel Committee on Banking Supervision and the Financial Stability Board ("**FSB**") to refine and supplement the capital adequacy framework known as Basel 3. This includes more risk-sensitive capital requirements, in particular in the area of market risk, counterparty credit risk, and for exposures to central counterparties, methodologies that reflect more accurately the actual risks to which banks may be exposed, a binding leverage ratio, a binding net stable funding ratio, tighter regulation of large exposures, and a requirement for global systemically important banks, to hold certain minimum levels of capital and other instruments which are capable of bearing losses in resolution (so-

called "**Total Loss-Absorbing Capacity**" or "**TLAC**"). As part of the Banking Reform Package, MREL requirements shall be aligned with TLAC. Other measures are aimed at improving banks' lending capacity to support the European Union economy and further facilitate the role of banks in achieving deeper and more liquid European Union capital markets.

The Banking Reform Package also includes clarifications and amendments to the Maximum Distributable Amount framework as described in "*2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons.*" and "*2.2.10 Some aspects of the manner how CRR/CRD IV as amended by the Banking Reform Package is applied after their amendment in the future are uncertain.*" above.

In addition, an amendment to the MREL framework under the SRM Regulation II includes certain supervisory powers conferred to the Single Resolution Board which, when into force, would allow the Single Resolution Board to, for example, prohibit payments on Additional Tier 1 Instruments. Subject to the requirements under the SRM Regulation II, the Single Resolution Board may impose upon the Issuer a prohibition under which it would be prohibited to distribute more than the 'maximum distributable amount related to the minimum requirement for own funds and eligible liabilities' ('M-MDA') pursuant to the MREL framework of the SRM Regulation II. The prohibition under the M-MDA may be imposed if the Issuer fails to meet the combined buffer requirement when considered in addition to the MREL requirements, and the Single Resolution Board shall exercise its power in case it finds that the Issuer still fails to meet such requirement nine months after such situation has been notified. Unlike under the Maximum Distributable Amount framework of the CRD IV and the (yet to be implemented into German law) CRD V (see under "*2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons.*" and "*2.2.10 Some aspects of the manner how CRR/CRD IV as amended by the Banking Reform Package is applied after their amendment in the future are uncertain.*" above), the M-MDA is not triggered automatically in the first nine-month period after having been notified of the failure to meet such requirement but may only be imposed by the Single Resolution Board in its discretion.

The Banking Reform Package also introduces a new potential restriction on distributions in case an institution qualifying as a G-SIB fails to meet a newly introduced leverage buffer requirement with sufficient Tier 1 capital. In such case, the institution would have to calculate the so-called 'leverage ratio related maximum distributable amount' ('L-MDA') which may limit distributions on capital instruments. By 30 June 2022, and every five years thereafter, the EU Commission shall review whether the leverage ratio buffer requirement should be extended to O-SIIs. Presently, the Issuer does not qualify as a G-SIB, but is regarded an O-SII.

Once into force and (where necessary) implemented, any of the legislative acts forming the Banking Reform Package, and also other legislative reforms in the future may impose or result in further restrictions on the Issuer's ability to make payments on the Notes or may limit the reinstatement of the nominal amount of the Notes following a Write-down, which may in turn adversely impact the trading price and the liquidity of the Notes.

**2.2.7 The redemption amount and the nominal amount of the Notes will be reduced under the Terms and Conditions of the Notes upon the occurrence of a Trigger Event which may result in lower Interest Payments as well as lower capital payments upon repayment of the Notes. In case of a reduction of the redemption amount and the nominal amount of the Notes to zero, this may result in a full loss of the money invested in the Notes. Any indication that the Common Equity Tier 1 Capital Ratio of the Issuer is moving towards the level of a Trigger Event may have an adverse effect on the market price of the Notes.**

Under the Terms and Conditions of the Notes, the nominal amount of the Notes is subject to a write-down (a "**Write-down**"). In case of a Write-down, and with effect from the date of the notification, and thus the occurrence, of such Write-down, Interest Payments will be calculated on the basis of the reduced nominal amount of the Notes and thus not accrue in full. In such event, Holders would receive no, or reduced, Interest Payments on the relevant Interest Payment Date.

A Write-down will be effected upon the occurrence of a Trigger Event. A "**Trigger Event**" occurs if, at any time, the common equity tier 1 capital ratio pursuant to Article 92 (1)(a) CRR of the Issuer (the "**Common Equity Tier 1 Capital Ratio**"), determined on either (i) a consolidated basis or (ii) an individual basis, falls below 5.125 per cent. (the "**Minimum CET1 Ratio**"), provided that (i) while the Trigger Event in respect of the Minimum CET1 Ratio determined on a consolidated basis may occur at any time, (ii) a Trigger Event in respect of the Minimum CET1 Ratio determined on an individual basis shall only occur if the Issuer should, in the future pursuant to the regulations applicable to it or an administrative order, be required to comply with the prudential requirements on an individual basis as well and, for this purpose, to determine the Minimum CET1 Ratio on an individual basis.

For the avoidance of doubt, a Trigger Event may be determined at any time and may occur on more than one occasion. The occurrence of a Trigger Event and therefore a Write-down is inherently unpredictable and depends on a number of factors, any of which may be outside the control of the Issuer. The calculation of the Issuer's Common Equity Tier 1 Capital Ratio could be affected by a wide range of factors, including, among other things, changes in the mix of COMMERZBANK Group's business, major events affecting its earnings, dividend payments by the Issuer, regulatory changes (including changes to the definitions and calculations of regulatory capital ratios and their components) and COMMERZBANK Group's ability to manage risk-weighted assets (see also "2.2.8 *The Issuer's consolidated Common Equity Tier 1 Capital Ratio will be affected by a number of factors, any of which may be outside the control of the Issuer, as well as by its business decisions and, in making such decisions, the interests of the Issuer may not be aligned with those of the Holders*").

If upon the occurrence of a Trigger Event other AT1 Instruments are also subject to a write-down or are subject to conversion into common equity tier 1 capital instruments, where the respective conditions provide for a trigger event on a level for the Common Equity Tier 1 Capital Ratio at or above the Minimum CET1 Ratio (together with the Notes the "**Relevant AT1 Instruments**"), any such write-down or conversion will occur in such order of application or ratio as required in accordance with the Applicable Supervisory Regulations. If no such order or ratio is required by the Applicable Supervisory Regulations, the following applies. The Notes and all other Relevant AT1 Instruments will only participate in a Write-down or (as the case may be) a conversion into common equity tier 1 capital instruments to the extent required in aggregate to restore the Common Equity Tier 1 Capital Ratio determined on (i) a consolidated basis and (ii) an individual basis (in each case only if and as long as the Issuer is required pursuant to the Applicable Supervisory Regulations or an administrative order to determine the ratio on such level) to the ratio provided for in their respective terms as the ratio triggering the event resulting in such write-down and/or conversion into common equity tier 1 capital instruments; provided that the total amount of the write-downs and conversions shall not exceed the sum of the outstanding principal amounts of the Relevant AT1 Instruments at the time of occurrence of the Trigger Event. Any Write-down will be effected *pro rata* with all of the Issuer's other AT1 Instruments which provide for a write-down (whether permanent or temporary) or a conversion into common equity tier 1 capital instruments upon the occurrence of such Trigger Event. For purposes of determining the relevant *pro rata* amounts for a Write-down and calculation of the written-down amount, any other Relevant AT1 Instrument that may be written down or converted in full but not in part will, be treated as if its terms permit a partial write-down or conversion.

Such Write-down will also negatively affect the size of the redemption amount payable on the Notes in case the Issuer calls the Notes for redemption for certain tax or regulatory reasons. Other than in case of an optional redemption, the Issuer is not required to reinstate the nominal amount of the Notes by means of a write-up in order to call the Notes for redemption for tax or regulatory reasons. The amount to be repaid under the Notes, if any, may thus be substantially lower than the Original Nominal Amount of the Notes, and may also be reduced to zero which would result in a full loss of all money invested in the Notes.

Therefore, as any event which could result in a Write-down of the redemption amount and the nominal amount of the Notes may adversely affect the market value of the Notes and reduce the liquidity of the Notes, the market price of the Notes is expected to be affected by changes in the Common Equity Tier 1 Capital Ratio of the Issuer. Such changes may be caused by changes in the amount of Common Equity Tier 1 capital or risk weighted assets, as well as changes to their respective definition and interpretation under the applicable capital regulations. Any indication that the Common Equity Tier 1 Capital Ratio of the Issuer is moving towards the level of a Trigger Event may have an adverse effect on the market price of the Notes. A decline or perceived decline in the Common Equity Tier 1 Capital Ratio may significantly affect the trading price and/or liquidity in trading of the Notes.

The Issuer's current and future outstanding junior instruments might not include write-down or similar features with triggers comparable to those of the Notes. As a result, it is possible that the Notes will be subject to a Write-Down, while other junior instruments remain outstanding and continue to receive payments.

Following a Write-down of the redemption amount and the nominal amount in accordance with the Terms and Conditions of the Notes described above, the Issuer will, subject to certain limitations set out in the Terms and Conditions of the Notes, be entitled (but not obliged) to effect, in its sole discretion an increase of the redemption amount and thereby the nominal amount of the Notes up to their Original Nominal Amount (see "2.2.17 *The Issuer is under no obligation to reinstate any written down amounts.*").



**2.2.8 The Issuer's consolidated Common Equity Tier 1 Capital Ratio will be affected by a number of factors, any of which may be outside the control of the Issuer, as well as by its business decisions and, in making such decisions, the interests of the Issuer may not be aligned with those of the Holders**

Pursuant to the Terms and Conditions of the Notes, a Write-down occurs if the Common Equity Tier 1 Capital Ratio falls below 5.125% (see "2.2.7 *The redemption amount and the nominal amount of the Notes will be reduced under the Terms and Conditions of the Notes upon the occurrence of a Trigger Event which may result in lower Interest Payments as well as lower capital payments upon repayment of the Notes. In case of a reduction of the redemption amount and the nominal amount of the Notes to zero, this may result in a full loss of the money invested in the Notes. Any indication that the Common Equity Tier 1 Capital Ratio of the Issuer is moving towards the level of a Trigger Event may have an adverse effect on the market price of the Notes.*"). As of the date of 31 March 2019, the consolidated Common Equity Tier 1 Capital Ratio of the Issuer is 12.7%. The calculation of the Issuer's consolidated Common Equity Tier 1 Capital Ratio could be affected by a wide range of factors, including, among other things, changes in the mix of COMMERZBANK Group's business, major events affecting its earnings, dividend payments by the Issuer, regulatory changes (including changes to the definitions and calculations of regulatory capital ratios and their components) and the COMMERZBANK Group's ability to manage risk-weighted assets.

Such ratio will also depend on COMMERZBANK Group's decision relating to its businesses and operations, as well as the management of its capital position, and may be affected by changes in applicable accounting rules or by changes to regulatory adjustments which modify the regulatory capital impact of accounting rules. For example, the Issuer may decide not to raise capital at a time when it is feasible to do so, even if that would result in the occurrence of a Trigger Event. Moreover, the consolidated Common Equity Tier 1 Ratio will depend in part on decisions made by the Issuer and other entities in COMMERZBANK Group relating to their businesses and operations as well as the management of their capital position. The Issuer will have no obligation to consider the interest of the Holders in connection with its strategic decisions, including in respect of capital management. Holders will not have a claim against the Issuer or any other member of COMMERZBANK Group relating to decisions that affect the business and operations of COMMERZBANK Group, including its capital positions, regardless of whether they result in the occurrence of a Trigger Event. Following the occurrence of a Trigger Event, such decisions could cause Holders to lose all or part of the value of their investment in the Notes (see also "2.2.7 *The redemption amount and the nominal amount of the Notes will be reduced under the Terms and Conditions of the Notes upon the occurrence of a Trigger Event which may result in lower Interest Payments as well as lower capital payments upon repayment of the Notes. In case of a reduction of the redemption amount and the nominal amount of the Notes to zero, this may result in a full loss of the money invested in the Notes. Any indication that the Common Equity Tier 1 Capital Ratio of the Issuer is moving towards the level of a Trigger Event may have an adverse effect on the market price of the Notes.*"). In addition, in the event of a reduction of the consolidated Common Equity Tier 1 Capital Ratio, the Issuer may be required to reduce or cancel Interest Payments under the Notes for regulatory reasons (see "2.2.5 *Interest Payments may be excluded and cancelled for regulatory reasons.*").

**2.2.9 The Notes may be written down (without prospect of a potential write-up in accordance with the Terms and Conditions of the Notes) or converted into equity, and the terms of the Notes may be varied to the detriment of the Holders, by the competent resolution authority.**

In addition to being subject to a possible Write-down upon the occurrence of a Trigger Event in accordance with the Terms and Conditions of the Notes (see "2.2.16 *Upon the occurrence of a Trigger Event, there may be a Write-down of the Notes even if other capital instruments of the Issuer are not written down or converted into Common Equity Tier 1 instruments.*"), the Notes may also be subject to a permanent write-down or conversion into ordinary shares or other instruments of ownership (in whole or in part) and/or to other resolution measures, in particular in circumstances where the competent authorities have determined that the Issuer has reached the point of non-viability and the competent resolution authority has taken the decision to apply these measures to the Issuer.

On 15 May 2014, the European Parliament and the Council of the European Union ("EU") adopted Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (commonly referred to as the 'Bank Recovery and Resolution Directive', the "BRRD") which was transposed into German law by the German Recovery and Resolution Act (*Sanierungs- und Abwicklungsgesetz* – "SAG") with effect from 1 January 2015. For credit institutions established in the eurozone, such as the Issuer, which are supervised within the framework of the SSM, Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund

and amending Regulation (EU) No 1093/2010 ("**SRM Regulation**") provides for a coherent application of the resolution rules across the eurozone under responsibility of the Single Resolution Board ("**SRB**"), which is a EU agency, with effect since 1 January 2016 (this framework is referred to as the 'Single Resolution Mechanism', the "**SRM**"). Within the SRM, the SRB is responsible for adopting resolution decisions in close cooperation with the ECB, the European Commission, the Council of the EU and national resolution authorities in the event that a significant credit institution directly supervised by the ECB, such as the Issuer, is failing or likely to fail and certain other conditions are met. The national resolution authorities in the EU Member States concerned would implement such resolution decision adopted by the SRB in accordance with the powers conferred on them under the national laws transposing the BRRD. Since 1 January 2018, the national resolution authority competent for Germany and the Issuer is BaFin.

Due to their qualification as Additional Tier 1 instruments, the Notes are 'relevant capital instruments' as defined in Article 3 (1) point (51) SRM Regulation and § 2 (2) SAG which are intended to be recognised for the purposes of meeting own funds requirements of the Issuer on a consolidated basis. The Notes are therefore in particular subject to the 'write-down and conversion of capital instruments' ("**WDCCI**") tool as set out in Article 21 SRM Regulation and § 89 SAG. If the ECB or the SRB determines that the Issuer is failing or likely to fail and certain other conditions are met (as set forth in the SRM Regulation, the SAG and other applicable rules and regulations), BaFin, upon a resolution scheme adopted by the SRB, has the power to write down, including to write down to zero, all claims for payment of the principal, interest or any other amount in respect of the Notes or to convert the Notes into ordinary shares or other instruments qualifying as Common Equity Tier 1 capital. The SRB and BaFin will have to exercise the WDCCI tool in a way that results in (a) Common Equity Tier 1 items (such as ordinary shares of the Issuer) being reduced first in proportion to the relevant losses, (b) subsequently, the outstanding amount of Additional Tier 1 capital instruments, including the Notes, being written down on a permanent basis or converted into Common Equity Tier 1 instruments in order to absorb any remaining losses or to recapitalise the relevant institution to the extent this is necessary after step (a), and (c) finally, the outstanding amount of the Issuer's Tier 2 instruments as well as the Issuer's other "bail-inable" liabilities (unless exempted by the SRM Regulation or the SAG) being written down on a permanent basis or converted into Common Equity Tier 1 capital instruments in accordance with their order of priority and to the extent this is necessary after steps (a) and (b). In addition to the WDCCI tool, the SRB and BaFin may apply any other resolution measure including (but not limited to) a transfer of the Notes to another entity, a variation of the Terms and Conditions of the Notes (including, but not limited to, the variation of maturity of the Notes) or a cancellation of the Notes. The WDCCI tool and each of these other resolution measures are hereinafter referred to as a "**Resolution Measure**". Generally, the SRB and BaFin may apply Resolution Measures individually or in any combination. Furthermore, potential investors should be aware that, according to the BRRD, the SRM Regulation and the SAG, public financial support should only be granted as a last resort after having assessed and exploited, to the maximum extent practicable, the application of Resolution Measures, including the WDCCI tool, to the Issuer.

In all these cases, the Holders can lose the entire or a substantial part of their investments. Consequently, any amounts so written down in respect of the Notes would be irrevocably lost and the Holders would cease to have any claims thereunder, and any conversion into Common Equity Tier 1 instruments of the Issuer (or a third party such as a bridge institution) with generally higher risks would be permanent, regardless whether or not COMMERZBANK Group's financial position is restored. Holders would have no claim against the Issuer in such cases and there would be no obligation of the Issuer to make any further payments under the Notes.

Potential investors should therefore consider the risk that they may lose all of their investment, including the nominal amount plus any accrued interest in particular if the SRB and BaFin impose a write-down or conversion of the Notes into Common Equity Tier 1 instruments. In addition, potential investors should note that the provisions of the Terms and Conditions of the Notes relating to a Write-up will not apply if the Notes have been subject to a Resolution Measure (see "*2.2.16 Upon the occurrence of a Trigger Event, there may be a Write-down of the Notes even if other capital instruments of the Issuer are not written down or converted into Common Equity Tier 1 instruments.*")

## **2.2.10 Some aspects of the manner how CRR/CRD IV as amended by the Banking Reform Package is applied after their amendment in the future are uncertain.**

Many of the provisions of the Terms and Conditions of the Notes depend on the final interpretation or even implementation of CRR/CRD IV (including any regulations promulgated thereunder) in their form after adoption and implementation of the Banking Reform Package (see "*2.1.2.1 Ever stricter regulatory capital and liquidity standards and procedural and reporting requirements may call into question the business model of a number of the Group's activities, adversely affect the Group's competitive position, reduce the Group's profitability, or make the raising of additional equity capital necessary.*").

CRR/CRD IV is a complex set of rules and regulations that impose a series of new requirements, some of which are still subject to transitional provisions and others will be amended in the near future after implementation of CRR II/CRD V. Although CRR and CRR II are directly applicable in each EU Member State, CRR and CRR II provide for important interpretational issues to be further specified through binding technical standards and/or delegated legal acts and through guidelines and leaves certain other matters to the discretion of the Competent Authority.

In addition, COMMERZBANK Group is subject to direct supervision of the ECB. The manner in which many of the concepts and requirements under CRR/CRD IV and amendments of the CRR II/CRD V framework under the Banking Reform Package are applied to COMMERZBANK Group remains somehow uncertain.

In particular, the interplay between the SREP requirements and the Maximum Distributable Amount as well as the determination of the Maximum Distributable Amount are complex. The Maximum Distributable Amount imposes a cap on the Issuer's ability to make discretionary payments including Interest Payments on the Notes (see also "2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons."), on the Issuer's ability to reinstate the current nominal amount of the Notes following a Write-down and on its ability to redeem or repurchase Notes. There are a number of factors for the complexity of the determination of the Maximum Distributable Amount, including the following:

- The Maximum Distributable Amount framework applies when certain capital buffers are not maintained (see also "2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons."). A 'capital buffer' is an amount of capital that a credit institution is required to maintain beyond the minimum amount required by applicable regulations. If the institution fails to meet the capital buffer, it becomes subject to restrictions on payments and distributions on Tier 1 instruments (including its ability to make payments on and to redeem and repurchase Additional Tier 1 instruments such as the Notes), and on the payment of certain bonuses to employees. There are several different buffers, some of which are intended to encourage countercyclical behaviour (with extra capital retained when profits are robust), and others which are intended to provide additional capital cushions for institutions whose failure would result in a significant systemic risk.
- Certain capital buffers (see also "2.2.5 Interest Payments may be excluded and cancelled for regulatory reasons.") depend and will depend on the macro-economic situation (in case of the (institution-specific) countercyclical buffer: the credit cycle and risks due to excess credit growth in an EU Member State, taking into account specificities of the national economy), the existence of systemic risks (in case of the systemic risk buffer) or because of the assessment of a credit institution/its group as a global systemically important bank ("**G-SIB**") or other systemically important institution ("**O-SII**") (in case of the G-SIB buffer and the O-SII buffer). As a result, it is difficult to predict when the Maximum Distributable Amount will apply to the Notes, and to what extent. Presently, the Issuer does not qualify as a G-SIB, but is regarded an O-SII.
- The Issuer will have the discretion to determine how to allocate the Maximum Distributable Amount among the different types of payments contemplated in Article 141 (2) CRD IV and CRD V. Moreover, payments made earlier in the relevant period will reduce the remaining Maximum Distributable Amount available for payments later in the relevant period, and the Issuer will have no obligation to preserve any portion of the Maximum Distributable Amount for payments scheduled to be made later in a given period. Even if the Issuer attempts to do so, there can be no assurance that it will be successful, because the Maximum Distributable Amount will depend on the amount of profits earned during the course of the relevant period, which will be difficult to predict.

These issues and other possible issues of interpretation make it difficult to determine how the Maximum Distributable Amount will apply as a practical matter to limit Interest Payments on the Notes, the reinstatement of the nominal amount of the Notes following a Write-down and the ability of the Issuer to redeem and repurchase Notes.

This uncertainty and the resulting complexity may adversely impact the trading price and the liquidity of the Notes. See also "2.2.6 Ongoing and future legislative reforms may lead to additional restrictions with regard to Interest Payments on the Notes." for further restrictions on distributions introduced by the Banking Reform Package.

## **2.2.11 The Notes have no scheduled maturity and the Terms and Conditions of the Notes do not provide for events of default allowing acceleration of the Notes if certain events occur.**

The Notes have no scheduled maturity and may run for an indefinite period. Accordingly, the Issuer is under no obligation to repay all or any part of the nominal amount of the Notes at a certain point in time. The Terms and Conditions of the Notes only provide for termination by the Issuer and not by the Holders. Except for certain tax or

regulatory reasons, as stipulated in this Prospectus, the Terms and Conditions of the Notes provide that an ordinary termination by the Issuer may not become effective earlier than the First Call Date and subsequently on each Interest Payment Date (as defined in the Terms and Conditions of the Notes). In addition, the Terms and Conditions of the Notes stipulate that no termination shall become effective without prior regulatory approval. Moreover, any termination by the Issuer of the Notes will be at the Issuer's full discretion.

The Holders have no ability to require the Issuer to redeem their Notes and the Terms and Conditions of the Notes do not provide for any events of default allowing acceleration of the Notes. In particular, neither non-viability nor a regulatory bail-in in connection therewith (see "2.2.9 *The Notes may be written down (without prospect of a potential write-up in accordance with the Terms and Conditions of the Notes) or converted into equity, and the terms of the Notes may be varied to the detriment of the Holders, by the competent resolution authority.*") will constitute an event of default with respect to the Notes. Accordingly, if the Issuer fails to meet obligations under the Notes, including the payment of interest which has not been cancelled, Holders will not have the right of acceleration of principal. The only remedy against the Issuer available to Holders for recovery of amounts which have become due in respect of the Notes will be the institution of legal proceedings to enforce payment of the amounts. In particular, as solely BaFin is entitled to file an application for the institution of insolvency proceedings in respect of the Issuer, Holders would not be able to file for the institution of insolvency proceedings with a view to recover such amounts.

Certain market expectations may exist among investors in the Notes with regard to COMMERZBANK making use of a right to call the Notes for redemption. Should the Issuer's actions diverge from such expectations or should the Issuer be prevented from meeting such expectations for regulatory reasons, the market value of the Notes could be adversely affected and the liquidity of the Notes could be reduced.

Therefore, Holders should be aware that they may be required to bear the financial risks of an investment in the Notes for an indefinite period of time.

## **2.2.12 The Notes may be redeemed at the Issuer's option (subject to the prior permission of the competent authority).**

Subject to the prior permission of the competent authority, the Notes may be redeemed at the option of the Issuer (in whole but not in part) at the First Call Date and subsequently on each Interest Payment Date (as defined in the Terms and Conditions of the Notes). The Issuer discretionally decides whether to redeem the Notes but is subject to the competent authority's permission pursuant to Article 78 CRR.

At the time of the issuance of the Notes, permission pursuant to Article 78 CRR requires that either of the following conditions is met:

- (i) before or at the same time as the redemption, the Issuer replaces the Notes with own fund instruments of equal or higher quality at terms that are sustainable for the income capacity of the Issuer; or
- (ii) the Issuer has demonstrated to the satisfaction of the competent authority that the own funds and eligible liabilities of the Issuer would, following such redemption, exceed the requirements laid down in the Applicable Supervisory Regulations by a margin that the competent authority considers necessary;

provided that the competent authority may grant the Issuer a general prior permission to make a redemption or a repurchase for a specified period, which shall not exceed one year, after which it may be renewed, and for a certain predetermined amount as set by the competent authority, subject to criteria that ensure that any such future redemption will be in accordance with the conditions set out in points (i) and (ii) above, if the Issuer provides sufficient safeguards as to its capacity to operate with own funds above the amounts required in the Applicable Supervisory Regulations.

Furthermore, an optional redemption requires that any reductions of the redemption amount or the nominal amount of the Notes have been fully compensated by a write-up.

In the event of a redemption of the Notes, the Holders are exposed to the risk that their investment has a lower yield than expected. In addition, the Holders are exposed to risks connected with any reinvestment of the cash proceeds received as a result of the early redemption. Therefore, the Holders are exposed to reinvestment risk if market interest rates decline. This means that Holders might reinvest the redemption proceeds only at the then prevailing lower interest rates.

**2.2.13 Subject to the prior permission of the competent authority, the Notes can be redeemed by the Issuer at any time in its sole discretion under certain regulatory or tax reasons. In such case, the redemption amount may be substantially lower than the Original Nominal Amount of the Notes due to a Write-down that has not been fully written up. In case of a write-down to zero, this may result in a full loss of the nominal amount.**

The Issuer may redeem the Notes at any time, in whole but not in part, subject to prior permission by the competent authority, and without any previous Write-down having been written up if there is a change in the regulatory classification of the Notes that would be likely to result in (i) their exclusion in full or in part from the Issuer's own funds under the CRR or (ii) their reclassification as a lower quality form of the Issuer's own funds as of the Issue Date, provided that, in respect of a redemption prior to the fifth anniversary of the issue date of the Notes, the conditions in Article 78 (4) point (a) CRR are met, pursuant to which the ECB as competent authority may permit such redemption if (i) it considers the change in the regulatory classification to be sufficiently certain and (ii) the Issuer demonstrated to the satisfaction of the competent authority that the regulatory reclassification of the Notes was not reasonably foreseeable at the Issue Date.

Moreover, the Issuer may redeem the Notes at any time, in whole but not in part, for tax reasons subject to prior permission of the ECB, and without any previous Write-down having been written up, if the tax treatment of the Notes, due to a change in applicable legislation or relevant jurisprudence, including a change in any fiscal or regulatory legislation, rules or practices, which takes effect after the Issue Date, changes (including but not limited to the tax deductibility of interest payable under the Notes or the obligation to pay Additional Amounts (as defined in § 7 (1) of the Terms and Conditions of the Notes) and, in respect of a redemption prior to the fifth anniversary of the issue date of the Notes, the conditions in Article 78 (4) point (b) CRR are met, pursuant to which the competent authority may approve such redemption if there is a change in the applicable tax treatment of the Notes which the Issuer demonstrates to the satisfaction of the competent authority is material and was not reasonably foreseeable at the Issue Date.

If the Issuer elects, in its sole discretion and subject to prior permission by the competent authority, to redeem the Notes, the Notes will be repaid as a consequence thereof. Due to any previous Write-downs that have not been fully written up, in the cases of a redemption for regulatory or tax reasons the amount to be repaid under the Notes, if any, may be substantially lower than the Original Nominal Amount of the Notes, and may also be reduced to zero which would result in a full loss of all money invested in the Notes (see "2.2.7 *The redemption amount and the nominal amount of the Notes will be reduced under the Terms and Conditions of the Notes upon the occurrence of a Trigger Event which may result in lower Interest Payments as well as lower capital payments upon repayment of the Notes. In case of a reduction of the redemption amount and the nominal amount of the Notes to zero, this may result in a full loss of the money invested in the Notes. Any indication that the Common Equity Tier 1 Capital Ratio of the Issuer is moving towards the level of a Trigger Event may have an adverse effect on the market price of the Notes.*" and "2.2.12 *The Notes may be redeemed at the Issuer's option (subject to the prior permission of the competent authority).*").

**2.2.14 The obligations under the Notes constitute unsecured and subordinated obligations of the Issuer. There is a significant risk that Holders of Notes will lose all or some of its investment should the Issuer become insolvent or is liquidated.**

The obligations of the Issuer under the Notes constitute unsecured and subordinated obligations of the Issuer. If resolution measures are imposed on the Issuer, or in the event of the dissolution, liquidation, insolvency or composition of the Issuer, or if other proceedings are opened for the avoidance of insolvency of, or against, the Issuer, the obligations under the Notes shall rank

(A) junior to

- (i) the claims of unsubordinated creditors of the Issuer (including, but not limited to, claims against the Issuer under its non-preferred senior debt instruments within the meaning of § 46f(6) sentence 1 KWG),
- (ii) the claims specified in § 39(1) nos. 1 to 5 InsO,
- (iii) the claims under Tier 2 Instruments,
- (iv) the claims of subordinated creditors of the Issuer which do not, pursuant to (B) and (C) below, rank *pari passu* with, or junior to, the claims under the Notes, and

- (v) the claims under other instruments which pursuant to their terms or mandatory provisions of law rank *pari passu* with, or senior to, Tier 2 Instruments unless already captured in (i) or (ii) (the obligations of the Issuer referred to in (i) through (v), together the "**Senior Ranking Obligations**")

provided that in any such event, no amounts shall be payable in respect of the Notes until the Senior Ranking Obligations of the Issuer have been satisfied in full;

- (B) *pari passu* amongst themselves and with the claims against the Issuer under other AT1 Instruments and claims under other instruments which pursuant to mandatory provisions of law rank *pari passu* with AT1 Instruments; and
- (C) senior to the claims in respect of common equity tier 1 items of the Issuer pursuant to Article 26 CRR, in particular (but not limited to): claims under ordinary shares and other instruments (if any) of the Issuer which pursuant to their terms or mandatory provisions of law rank *pari passu* with ordinary shares.

No Holder may set off his claims arising under the Notes against any claims of the Issuer. No collateral or guarantee is or shall at any time be provided to secure claims of the Holders under the Notes. Any collateral or guarantee already provided or granted in the future (as the case may be) in connection with other liabilities of the Issuer may not be used for claims under the Notes.

Furthermore, the Holders will have limited ability to influence the outcome of any insolvency proceeding or a restructuring outside insolvency. In the course of insolvency proceedings over the assets of the Issuer, the Holders will not have any right to vote in the assembly of creditors (*Gläubigerversammlung*). Accordingly, the Holders may only affect the outcome of a restructuring to a very limited extent.

Therefore, in the event of the dissolution, liquidation, insolvency or composition, or any other proceedings for the avoidance of insolvency, there is a significant risk that a Holder of Notes will lose all or some of its investment.

**2.2.15 There is no restriction on the amount or type of further instruments, including those which rank *pari passu* or senior to the Notes and those which depend, amongst others, on the Issuer's Distributable Items, or other indebtedness that the Issuer may issue, incur or guarantee.**

The Issuer has not entered into any restrictive covenants in connection with the Notes regarding its ability to issue or guarantee further instruments, including those which depend, amongst others, on the Issuer's Available Distributable Items, or other indebtedness ranking *pari passu* with or senior to claims under the Notes. In particular, concurrently with the issue of the Notes, the Issuer may issue additional notes for the purposes of raising Additional Tier 1 capital. The issuance of further instruments which rank *pari passu* or senior to the Notes may reduce the amount recoverable by investors upon the occurrence of an insolvency, liquidation or winding-up of the Issuer. The issue or guaranteeing of any further instruments or indebtedness may limit the Issuer's ability to make payments of principal and interest under the Notes.

**2.2.16 Upon the occurrence of a Trigger Event, there may be a Write-down of the Notes even if other capital instruments of the Issuer are not written down or converted into Common Equity Tier 1 instruments.**

The terms and conditions of other instruments already in issue or to be issued after the date hereof by the Issuer may vary and accordingly such instruments may not be written down at the same time as the Notes if the Notes are written down, or to the same extent, as the Notes, or at all. Alternatively, such other instruments may provide that they shall convert into CET1 instruments, or become entitled to reinstatement of the principal amount of the Notes or other compensation in the event of a potential recovery of the Issuer and/or any other entity of the COMMERZBANK Group or a subsequent change in the financial condition thereof. Such capital instruments may also provide for such reinstatement or compensation in different circumstances from those in which, or to a different extent to which, the principal amount of the Notes may be reinstated.

**2.2.17 The Issuer is under no obligation to reinstate any written down amounts.**

The Issuer is under no obligation to reinstate any principal amounts which have been subject to any Write-down up to a maximum of the Original Nominal Amount (a "**Write-up**"), even if certain conditions (as further described in the Terms and Conditions of the Notes) that would permit the Issuer to do so, were met. Any write-up of the Notes is at the sole discretion of the Issuer.

The Issuer's ability to make a Write-up depends on the availability of an annual profits (*Jahresüberschuss*) as recorded on the basis of the financial statements of the Issuer prepared in accordance with German commercial law and is subject to a number of conditions set out in the Terms and Conditions of the Notes, including that the sum of the write-up of Additional Tier 1 instruments the terms of which provide for a similar Trigger Event (including the Notes but excluding instruments that qualify as additional tier 1 instrument solely pursuant to transitional provisions under the CRR, the "**Written Down AT1 Instruments**") together with the amounts of any dividend payments and other payments of dividends and interest on shares and other Common Equity Tier 1 instruments of the Issuer for the relevant financial year does not exceed the maximum distributable amount within the meaning of Article 141 (2) CRD (or any successor provision, in each case as implemented into German law) or any other maximum amount that may have to be observed for this purpose. However, there can be no assurance that the Issuer will at any time have the ability and be willing to effect such Write-up and Write-ups do not have priority over other payments and therefore the Issuer may make dividend payments and other payments of dividends and interest even if no Write-up has been effected. In case a Write-up is made, it will have to be effected on a *pro rata* basis with other Written Down AT1 Instruments of the Issuer.

Moreover, the Issuer will, inter alia, only have the option to write-up the current nominal amount of the Notes subject to certain limitations set forth in the Terms and Conditions of the Notes and if the Maximum Distributable Amount (if any) would not be exceeded when operating a write-up (see also "2.2.10 Some aspects of the manner how CRR/CRD IV as amended by the Banking Reform Package is applied after their amendment in the future are uncertain.").

No assurance can be given that these conditions will ever be met or that the Issuer will ever write up (fully or partially) the principal amount (i.e. the then-current nominal amount) of the Notes following a Write-down. Furthermore, any write-up must be undertaken on a *pro rata* basis with all Notes and among any Written Down AT1 Instruments.

#### **2.2.18 The Issuer's interests may not be aligned with those of investors in the Notes.**

The consolidated Common Equity Tier 1 Capital Ratio, the Available Distributable Items and the Maximum Distributable Amount will depend in part on decisions made by the Issuer and/or other entities of the COMMERZBANK Group relating to their businesses and operations, as well as the management of their capital position. The Issuer and/or other entities of the COMMERZBANK Group will have no obligation to consider the interests of Holders in connection with their strategic decisions, including in respect of capital management and the relationship among the various entities of the COMMERZBANK Group and its group structure.

The Issuer may decide not to raise capital at a time when it is feasible to do so, even if that would result in the occurrence of a Trigger Event. Moreover, in order to avoid the use of public resources, the Competent Authority may decide that the Issuer should allow a Trigger Event to occur at a time when it is feasible to avoid it.

Holders will not have any claim against the Issuer and/or other entities of COMMERZBANK Group relating to decisions that affect the capital position of the Issuer and/or COMMERZBANK Group, regardless of whether they result in the occurrence of a Trigger Event. Such decisions could cause Holders to lose all or part of their investment in the Notes.

#### **2.2.19 The Notes are governed by German law, and changes in applicable laws, regulations or regulatory policies may have an adverse effect on the Issuer, the Notes and the Holders.**

The Terms and Conditions of the Notes will be governed by German law. Holders should thus note that the governing law may not be the law of their own home jurisdiction and that the law applicable to the Notes may not provide them with similar protection as their own law.

Furthermore, the Terms and Conditions of the Notes are drafted on the basis of German law in effect as at the date of this Prospectus. No assurance can be given as to the impact of any possible judicial decision or change to German law, or administrative practice after the date of this Prospectus (see also "2.2.2 The regulatory classification of the Notes as Additional Tier 1 instruments may be changed.").

#### **2.2.20 The statutory presentation period provided under German law will be reduced under the Terms and Conditions applicable to the Notes in which case Holders may have less time to assert claims under the Notes.**

Pursuant to the Terms and Conditions of the Notes the regular presentation period of 30 years (as provided in § 801 (1) sentence 1 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*)) will be reduced to ten years. In case of partial or total non-payment of amounts due under the Notes the Holder will have to arrange for the

presentation of the relevant Global Note to the Issuer. Due to the abbreviation of the presentation period the likelihood that the Holder will not receive the amounts due to him increases since the Holder will have less time to assert his claims under the Notes in comparison to holders of debt instruments the terms and conditions of which do not shorten the statutory presentation period at all or to a lesser degree than the Terms and Conditions of the Notes.

**2.2.21 The Terms and Conditions of the Notes, including the terms of payment of principal and interest are subject to amendments by way of majority resolutions of the Holders, and any such resolution will be binding for all Holders. In case of an appointment of a joint representative, the individual right of a Holder of Notes to pursue and enforce its rights under the Terms and Conditions of the Notes may be limited.**

Pursuant to the Terms and Conditions of the Notes, the Holders may consent by majority resolution to amendments of the Terms and Conditions of the Notes in accordance with and subject to the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen* – "**SchVG**"). The voting process under the Terms and Conditions of the Notes will be governed in accordance with the SchVG, pursuant to which the required participation of Holder votes (quorum) is principally set at 50 per cent of the aggregate nominal amount of outstanding notes in a vote without a meeting. In case there is no sufficient quorum in the vote without a meeting, there is no minimum quorum requirement in a second meeting or voting on the same resolution (unless the resolution to be passed requires a qualified majority, in which case Holders representing at least 25 per cent of outstanding Notes by nominal amount must participate in the meeting or voting). As the relevant majority for Holders' resolutions is generally based on votes cast, rather than on nominal amount of Notes outstanding, the aggregate nominal amount such Notes required to vote in favour of an amendment will vary based on the Holders' votes participating. Therefore, a Holder is subject to the risk of being outvoted by a majority resolution of such Holders and losing rights towards the Issuer against his will in the event that Holders holding a sufficient aggregate nominal amount of the Notes participate in the vote and agree to amend the Terms and Conditions of the Notes or on other matters relating to the Notes by majority vote in accordance with the Terms and Conditions of the Notes and the SchVG. As such majority resolution is binding on all Holders of the Notes, including Holders who did not attend and vote at the relevant meeting and Holders who voted in a manner contrary to the majority, certain rights of such Holder against the Issuer under the Terms and Conditions of the Notes may be amended or reduced or even cancelled.

In addition, the Holders' rights to convene a Holders' meeting and to solicit a Holders' resolution are limited as, pursuant to § 9 (1) of the SchVG, a Holders' meeting will only be convened if Holders jointly holding at least 5% of the outstanding Notes request such convocation in writing stating their particular interest in convening such a meeting.

**2.2.22 If a joint representative (*gemeinsamer Vertreter*) is appointed for the Notes, the Holders may be deprived of their individual right to pursue and enforce their rights under the terms and conditions against the Issuer.**

In case of an appointment of a joint representative (*gemeinsamer Vertreter*) for all Holders, it is possible that a Holder may be deprived of its individual right to pursue and enforce its rights under the Terms and Conditions of the Notes against the Issuer, such right passing to the joint representative who is then exclusively responsible to claim and enforce the rights of all the Holders.

**2.2.23 There has been no prior market for the Notes, a liquid market may not develop and the Notes may be subject to significant market price volatility.**

The Notes constitute a new issue of securities. Prior to their issue, there has been no public market for the Notes. Although application has been made to have the Notes listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the regulated market "*Bourse de Luxembourg*" of the Luxembourg Stock Exchange which appears on ESMA's list of regulated markets, there can be no assurance that an active public market for the Notes will develop. Even if such a market were to develop, neither the Issuer nor the Managers nor any other person is obligated to maintain it. In an illiquid market, an investor might not be able to sell his Notes at all or at any time at fair market prices. The possibility to sell the Notes might additionally be restricted due to country-specific reasons. Moreover, the liquidity and the market for the Notes can be expected to vary with changes in the securities market and economic conditions, the financial condition and prospects of the Issuer and other factors which generally influence the market prices of securities. Such fluctuations may significantly affect liquidity and market prices for the Notes. Market liquidity in hybrid financial instruments similar to the Notes has historically been limited. In addition, potential investors should note that hybrid financial instruments similar to the Notes have experienced pronounced price fluctuations in connection with the crisis of the financial markets and



the banking sector since 2007. Notes denominated in different currencies may trade differently even if their terms and conditions are otherwise similar.

**2.2.24 The Holders are exposed to risks relating to the reset of interest rates based on the 5 year semi-annual swap rate. A reset of Interest rates may result in a decline of yield.**

From and including the relevant first Reset Date to but excluding the date on which the Issuer redeems the Notes in whole, but not in part, pursuant to the terms and conditions, the Notes generally entitle the Holders to interest at a rate which will be determined on each Reset Date at the semi-annual swap rate for swap transactions denominated in USD with a term of five years for the relevant Interest Period, converted from a semi-annual to an annual basis in a commercially reasonable manner, plus the initial credit spread. Unless previously redeemed, creditors of securities paying a fixed interest rate which will be reset during the term of the securities, as will be the case for the Notes, are exposed to the risk of fluctuating interest rate levels and uncertain interest income. Potential investors should be aware that the performance of the semi-annual swap rate for swap transactions denominated in USD with a term of five years cannot be anticipated. Due to varying interest income and the Issuer's option to generally cancel Interest Payments, potential investors are not able to determine a definite yield to maturity of the Notes at the time of purchase. Therefore, their return on investment cannot be compared with that of investments with longer fixed interest rate periods.

Potential investors in the Notes should bear in mind that neither the current nor the historical level of the semi-annual swap rate for swap transactions denominated in USD with a term of five years is an indication of its future development.

Furthermore, during each Interest Period, there remains a risk of decreasing prices of the Notes as a result of changes in the market interest rate. This is because the market interest rate fluctuates. During each of these periods, the Holders are exposed to the risks as described under "2.2.26 *Resettable fixed rate securities have a market risk.*"

**2.2.25 Interest Payments are linked to a benchmark and are therefore exposed to the risks of financial benchmarks and reference rate continuity; a discontinuity of the original benchmark (including a material alteration of the methodology for its calculation) could lead to Interest Payments under the Notes effectively becoming fixed rate instruments due to fall-back provisions.**

On 9 April 2025 and thereafter in intervals of five years, the rate of interest payable under the Notes will reset and be calculated by reference to the semi-annual swap rate for swap transactions denominated in USD with a term of five years, which appears on the Reuters screen page "ICESWAP1" under the heading "11:00 AM " as at 11.00 a.m. New York time on the relevant interest determination date (the "**Original Benchmark Rate**"). The Original Benchmark Rate is provided by ICE Benchmark Administration Limited ("**IBA**").

The Original Benchmark Rate and other interest rates or other types of rates and indices which are deemed to be a "benchmark" ("**Benchmark**") have become the subject of regulatory scrutiny and recent national and international regulatory guidance and proposals for reform. Some of these reforms are already effective while others are still to be implemented. These reforms may cause the relevant Benchmark to perform differently than in the past, or to disappear entirely, or have other consequences which cannot be predicted.

International reforms and proposals for reform of Benchmarks include the Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ("**Benchmarks Regulation**") which is fully applicable since 1 January 2018.

The Benchmarks Regulation could have a material impact on the Notes, including in any of the following circumstances:

- a Benchmark may only be used if its administrator obtains authorisation (Article 29 Benchmarks Regulation) or is registered and in case of an administrator which is based in a non-EU jurisdiction, if the administrator's legal benchmark system is considered equivalent (Article 30 Benchmarks Regulation), the administrator is 'recognised' (Article 32 Benchmarks Regulation) or the Benchmark is 'endorsed' (Article 33 Benchmarks Regulation) (subject to applicable transitional provisions). If this is not the case, the Notes could be impacted; and

- the methodology or other terms of the Benchmark could be changed in order to comply with the terms of the Benchmarks Regulation, and such changes could have the effect of reducing or increasing the rate or level or affecting the volatility of the published rate or level, and could impact the Notes, including calculation agent determination of the rate.

As at the date of this Prospectus, IBA appears on the register of administrators and benchmarks (the "**Register**") established and maintained by ESMA pursuant to Article 36 Benchmarks Regulation.

Under the Terms and Conditions of the Notes, certain Benchmark fall-back provisions will apply in case of the following events (each a "**Benchmark Event**"):

- (i) the Original Benchmark Rate ceases to be published on a regular basis or ceases to exist, or
- (ii) the administrator announces that it has ceased or that it will cease publishing the Original Benchmark Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed), or
- (iii) the administrator's supervisor announces that the Original Benchmark Rate has been or will be permanently or indefinitely discontinued, or
- (iv) the administrator's supervisor announces that the Original Benchmark rate has been or will be prohibited to be used, or
- (v) it has become unlawful to calculate or determine the interest rate under the Notes using the Original Benchmark Rate,

provided that, for the purposes of (i) through (iii), a material alteration of the methodology used by the administrator on the interest commencement date for the determination of the Original Benchmark Rate will be deemed a cessation and discontinuation, respectively, of the Original Benchmark Rate. The fall-back provisions will however not apply if and to the extent that (i) as a result of such adjustment the Issuer would be entitled to redeem the Notes for regulatory reasons and/or (ii) such adjustment would prejudice the qualification of the Notes as eligible liabilities or loss absorbing capacity instruments for the purposes of a bank resolution.

The application of these fall-back provisions could result in the Notes effectively becoming fixed rate instruments.

Uncertainty as to the continuation of the Original Benchmark Rate and the rate that would be applicable in case of a Benchmark Event in relation to the Original Benchmark Rate may adversely affect the trading market and the value of the Notes. At this time, it is not possible to predict the future effect of these developments or their impact on the value of the Notes.

In addition to the aforementioned reform, there are numerous other proposals, initiatives and investigations which may impact Benchmarks. Following the implementation of any such potential reforms, the manner of administration of Benchmarks may change, with the result that they may perform differently than in the past, or Benchmarks could be eliminated entirely, or there could be other consequences which cannot be predicted.

Any changes to a Benchmark as a result of the Benchmarks Regulation or other initiatives could have material adverse effect on the costs of obtaining exposure to a Benchmark or the costs and risks of administering or otherwise participating in the setting of a Benchmark and complying with any such regulations or requirements. Such factors may have the effect of discouraging market participants from continuing to administer or participate in certain benchmarks, trigger changes in the rules or methodologies used in certain benchmarks or lead to the disappearance of certain benchmarks. Although it is uncertain whether or to what extent any of the above-mentioned changes and/or any further changes in the administration or method for determining a Benchmark could have an effect on the value of any Notes whose interest is linked to the relevant Benchmark, investors should be aware that they face the risk that any changes to the relevant Benchmark and any determination of a successor or alternative reference rate in case of a discontinuation of the relevant Benchmark may have a material adverse effect on the value of and the amount payable under Notes whose rate of interest is linked to a Benchmark.

## **2.2.26      Resettable fixed rate securities have a market risk.**

A holder of fixed rate securities is particularly exposed to the risk that the price of such securities falls as a result of changes in the market interest rate. While the nominal interest rate of the Notes is fixed until the relevant first Reset Date and will thereafter be reset every 5 years on the basis of the Original Benchmark Rate plus the

relevant margin as set out in the terms and conditions, the current interest rate on the capital market (the "**market interest rate**") typically changes on a daily basis. These changes of the market interest rate result in changes of the price of the Notes. If the market interest rate increases, the price of the fixed rate Notes would typically fall. If the market interest rate falls, the price of the fixed rate Notes would typically increase. Potential investors should be aware that movements in these market interest rates can adversely affect the market price of the Notes and can lead to losses for Holders seeking to sell the Notes.

In addition, the initial credit spread of the Issuer has not yet been determined. A credit spread is the margin payable by the Issuer to the Holders as a premium for the assumed credit risk of the Issuer. Credit spreads are offered and sold as premiums on current risk-free interest rates or as discounts on the price. The following factors may affect the credit spread, including, but not limited to: creditworthiness and rating of the Issuer, probability of default, recovery rate, liquidity situation, general level of interest rates, overall economic developments, and the currency, in which the relevant obligation is denominated, may also have a positive or negative effect. Investors are exposed to the risk that the credit spread of the Issuer widens, resulting in a decrease in the price of the Notes.

#### **2.2.27 Risk of a change in market value.**

The market value of the Notes is influenced by a change in the creditworthiness (or the perception thereof) of the Issuer and by the credit rating of the Issuer and a number of other factors including, but not limited to, market interest, rate of return, certain market expectations with regard to the Issuer making use of a right to call the Notes for redemption and the right not to pay interest on the Note.

The value of the Notes depends on a number of interacting factors. These include economic and political events in Germany or elsewhere as well as scenarios which generally affect the capital markets and the stock exchanges on which the Notes are traded. The price at which a Holder can sell the Notes might be considerably below the issue price or the purchase price paid by such Holder.

#### **2.2.28 The Notes may be traded with accrued interest, but under certain circumstances described above, subsequent Interest Payments may not be made in full or in part.**

The Notes may trade, and the prices for the Notes may appear on trading systems on which the Notes are traded, with accrued interest. If this occurs, purchasers of Notes in the secondary market will pay a price that includes such accrued interest upon the purchase of the Notes. However, if an Interest Payment is cancelled (in whole or in part) in relation to an Interest Payment Date, purchasers of such Notes will not be entitled to an Interest Payment (in full or in part, as the case may be), and will not receive any compensation for an increased price paid due to accrued interest.

#### **2.2.29 Changes in the credit ratings assigned to the Issuer or the Notes could affect the market value and reduce the liquidity of the Notes.**

The Issuer expects that, shortly after issuance, the Notes will be assigned a rating of Ba2 by Moody's Deutschland GmbH and of BB by S&P Global Ratings Europe Ltd. (Niederlassung Deutschland). Such ratings may not reflect the potential impact of all risks related to the structure of the Notes, the market for the Notes or additional factors discussed above, and other factors that may affect the value of the Notes. Further, any rating assigned to the Notes at the date of issuance is not indicative of future performance of the Issuer's business or its future creditworthiness. A credit rating is not a recommendation to buy, sell or hold securities and any rating initially assigned to the Notes may at any time be lowered or withdrawn entirely by a rating agency, or the Issuer may decide not to maintain a solicited rating by one or more rating agencies which may or may not lead to a withdrawal of the credit ratings assigned to the Notes. Any change in, or withdrawal of, the credit rating(s) assigned to the Issuer or the Notes may affect the market value and could reduce the liquidity of the Notes.

In general, European regulated investors are restricted under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 26, 2009 on credit rating agencies, as amended from time to time (the "**CRA Regulation**") from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU and registered under the CRA Regulation (and such registration has not been withdrawn or suspended). Such general restriction will also apply in the case of credit ratings issued by non-EU credit rating agencies, unless the relevant credit ratings are endorsed by an EU-registered credit rating agency or the relevant non-EU rating agency is certified in accordance with the CRA Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended). The list of registered and certified rating agencies published by ESMA on its website in accordance with the CRA Regulation is not conclusive evidence of the status of the relevant rating agency included in such list, as there may be delays

between certain supervisory measures being taken against a relevant rating agency and the publication of the updated ESMA list.

### **2.2.30 Exchange rate risks and exchange controls.**

The Notes are denominated in U.S. dollars. Potential investors should bear in mind that an investment in the Notes involves currency risks. This includes the risks of amendments in currency exchange rates. An appreciation in the value of the investor's currency relative to the U.S. dollar would decrease (i) the investor's currency-equivalent yield on the Notes, (ii) the investor's currency equivalent value of the principal payable on the Notes and (iii) the investor's currency-equivalent market value of the Notes. In addition, government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable currency exchange rate. As a result, Holders may receive less interest or principal than expected, or no interest or principal.

### **2.2.31 There may be circumstances under which the Notes may be subject to withholding tax which will not be grossed-up, including withholding tax under FATCA.**

Investors should be aware that duties, other taxes and expenses, including any stamp duty, depositary charges, transaction charges and other charges, may be levied in accordance with the laws and practices in the countries where the Notes are transferred and that it is the obligation of an investor to pay all such duties, other taxes and expenses.

All payments made under the Notes shall be made free and clear of, and without withholding or deduction for, any present or future taxes imposed by the Issuer's country of incorporation (or any authority or political subdivision thereof or therein), unless such withholding or deduction is imposed or required by law. If any such withholding or deduction is imposed and required by law, the Issuer will, in limited circumstances, be required to pay additional amounts to cover the amounts so withheld or deducted ("**Additional Amounts**") and such event will allow the Issuer to redeem them early as this would allow the Issuer to redeem the Notes in full, but not in part as further specified in the Terms and Conditions of the Notes.

In no event will Additional Amounts be payable in respect of U.S. withholding taxes pursuant to the Foreign Account Tax Compliance Act ("**FATCA**"). Pursuant to certain provisions of the U.S. Internal Revenue Code of 1986, commonly known as FATCA, a "foreign financial institution" may be required to withhold on certain payments it makes ("**foreign passthru payments**") to persons that fail to meet certain certification, reporting, or related requirements. A number of jurisdictions (including Germany) have entered into, or have agreed in substance to, intergovernmental agreements with the United States to implement FATCA ("**IGAs**"), which modify the way in which FATCA applies in their jurisdictions. Certain aspects of the application of the FATCA provisions and IGAs to instruments such as the Notes, including whether withholding would ever be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Notes, are uncertain and may be subject to change. Even if withholding would be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Notes, such withholding would not apply before the date that is two years after the date of publication in the Federal Register of final regulations defining the term "foreign passthru payment." To date such final regulations have not yet been published. Investors should consult their own tax advisors regarding how these rules may apply to their investment in the Notes. In the event any withholding would be required pursuant to FATCA or an IGA with respect to payments on the Notes, neither the Issuer nor the Guarantor will pay any additional amounts as a result of the withholding.

Investors should be aware that payments made under the Notes and capital gains from the sale or redemption of the Notes may be subject to taxation in the jurisdiction of the holder of the Notes or in other jurisdictions in which the holder of the Notes is required to pay taxes. Section "*6 Taxation*" below contains a general description of certain tax considerations relating to the purchasing, holding and disposing of the Notes in relation to the Federal Republic of Germany.

### **2.2.32 Change in tax law**

Investors should be aware that tax regulations and their application by the relevant taxation authorities are subject to change, possibly with retrospective effect, and that this could negatively affect the value of the Notes. Any such change may cause the tax treatment of the Notes to change from the tax position at the time of purchase and may render the statements in this Prospectus concerning the relevant tax law and practice to be inaccurate or insufficient to cover the material tax considerations in respect of the Notes. The German Federal Ministry of Finance issued on April 10, 2014 a decree regarding the tax treatment of Additional Tier 1 instruments. According to the wording of such decree, the principles set out therein were meant to only apply to certain specimen terms and conditions as attached to the decree. The Issuer has obtained a binding ruling (which is only binding for the

Issuer's tax authorities and not regarding the tax treatment of investors of the Notes) confirming that the Terms and Conditions of the Notes in all material tax aspects correspond to the specimen terms and conditions and, therefore, the Issuer's tax authorities will apply the principles set out in the aforesaid decree to the Notes. Notwithstanding, it is not possible to predict the precise tax treatment which will apply at any given time including and after the Issue Date of the Notes due to changes in tax law and relevant jurisprudence. A change in the applicable tax treatment of the Notes may give the Issuer the right to redeem the Notes for reasons of taxation (see "2.2.13 *Subject to the prior permission of the competent authority, the Notes can be redeemed by the Issuer at any time in its sole discretion under certain regulatory or tax reasons. In such case, the redemption amount may be substantially lower than the Original Nominal Amount of the Notes due to a Write-down that has not been fully written up. In case of a write-down to zero, this may result in a full loss of the nominal amount.*"). In addition, a letter by the European Commission to the Permanent Representation of the Netherlands to the European Union dated 22 June 2018 has raised concerns whether tax deductibility of payments on Additional Tier 1 instruments constitute a preferential treatment of their issuers which would fall within state aid regulations and may be unjustified pursuant to such regulations. There has not been a comparable communication by the European Commission or a ruling on this issue by the European Court of Justice with regard to German tax law. In the view of the Issuer, the tax deductibility of payments on Additional Tier 1 instruments in Germany does not violate state aid regulations as the tax deductibility follows from general principles of tax laws and not from a preferential treatment under tax laws specifically applicable to financial institutions as was previously the case in the Netherlands. However, if the European Commission came to a different conclusion, this could result in interest payments no longer being deductible and may give the Issuer the right to redeem the Notes for reasons of taxation.

### 3 TERMS AND CONDITIONS OF THE NOTES

#### ANLEIHEBEDINGUNGEN

##### § 1

##### Währung, Stückelung, zusätzliches Kernkapital, Form

- (1) *Währung; Stückelung.* Diese Serie von nachrangigen Schuldverschreibungen (die "**Schuldverschreibungen**") der Commerzbank Aktiengesellschaft (die "**Emittentin**") wird in USD (die "**festgelegte Währung**") im Gesamtnennbetrag von USD 1.000.000.000 (in Worten: eine Milliarde U.S.-Dollar) in einer Stückelung von jeweils USD 200.000 (die "**festgelegte Stückelung**" oder der "**Ursprüngliche Nennbetrag**") begeben.

Zweck der Schuldverschreibungen ist die Überlassung von Eigenmitteln auf unbestimmte Zeit in Form von zusätzlichem Kernkapital an die Emittentin.

- (2) *Form.* Die Schuldverschreibungen lauten auf den Inhaber.
- (3) *Vorläufige Globalurkunde – Austausch.*
- (a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die "**vorläufige Globalurkunde**") ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in der festgelegten Stückelung, die durch eine Dauerglobalurkunde (die "**Dauerglobalurkunde**" und, gemeinsam mit der vorläufigen Globalurkunde, jeweils die "**Globalurkunde**") ohne Zinsscheine verbrieft sind, ausgetauscht. Die vorläufige Globalurkunde und die Dauerglobalurkunde sind nur wirksam, wenn sie die handschriftlichen oder faksimilierten Unterschriften von zwei durch die Emittentin bevollmächtigten Personen sowie die handschriftliche oder faksimilierte Unterschrift eines Kontrollbeauftragten der Commerzbank Aktiengesellschaft tragen. Einzelkunden und Zinsscheine werden nicht ausgegeben.
- (b) Die vorläufige Globalurkunde wird frühestens an einem Tag (der "**Austauschtag**") gegen die Dauerglobalurkunde austauschbar, der 40 Tage nach dem Tag der Ausgabe der vorläufigen Globalurkunde liegt. Ein solcher Austausch wird nur nach Vorlage von Bescheinigungen gemäß U.S. Steuerrecht

#### TERMS AND CONDITIONS

##### § 1

##### Currency, Denomination, AT1 Capital, Form

- (1) *Currency; Denomination.* This series of subordinated notes (the "**Notes**") of Commerzbank Aktiengesellschaft (the "**Issuer**") is being issued in USD (the "**Specified Currency**") in the aggregate nominal amount of USD 1,000,000,000 (in words: one billion U.S. dollars) in a denomination of USD 200,000 (the "**Specified Denomination**" or the "**Original Nominal Amount**") each.

The purpose of the Notes is to furnish the Issuer with own funds in the form of additional tier 1 capital for an indefinite period of time.

- (2) *Form.* The Notes are being issued in bearer form.
- (3) *Temporary Global Note – Exchange.*
- (a) The Notes are initially represented by a temporary global note (the "**Temporary Global Note**") without interest coupons. The Temporary Global Note will be exchanged for Notes in the Specified Denomination represented by a permanent global note (the "**Permanent Global Note**" and together with the Temporary Global Note each the "**Global Note**") without interest coupons. The Temporary Global Note and the Permanent Global Note shall each be only valid if they bear the hand-written or facsimile signatures of two authorised representatives of the Issuer and the hand-written or facsimile control signature of a person instructed by Commerzbank Aktiengesellschaft. Definitive notes and interest coupons will not be issued.
- (b) The Temporary Global Note shall be exchangeable for the Permanent Global Note on a date (the "**Exchange Date**") not earlier than 40 days after the date of issue of the Temporary Global Note. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes

erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist hinsichtlich einer jeden solchen Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der vorläufigen Globalurkunde eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß § 1(3)(b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, sind nur außerhalb der Vereinigten Staaten (wie in § 4(3) definiert) zu liefern.

represented by the Temporary Global Note are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions) as required by U.S. tax law. Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to § 1(3)(b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 4(3)).

- (4) *Clearing System.* Die vorläufige Globalurkunde und die Dauerglobalurkunde werden bei der Deutsche Bank Aktiengesellschaft als gemeinsame Verwahrstelle für Clearstream Banking, S.A., 42 Avenue JF Kennedy, L-1855 Luxemburg ("**CBL**") und Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brüssel ("**Euroclear**") (gemeinsam das "**Clearing-System**") hinterlegt.
- (5) *Gläubiger von Schuldverschreibungen.* "**Gläubiger**" bedeutet jeder Inhaber eines Miteigentumsanteils oder anderen Rechts an den Schuldverschreibungen.

- (4) *Clearing System.* The Temporary Global Note and the Permanent Global Note will be deposited with Deutsche Bank Aktiengesellschaft as common depository for Clearstream Banking, S.A., 42 Avenue JF Kennedy, L-1855 Luxembourg ("**CBL**") and Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels ("**Euroclear**") (together the "**Clearing System**").
- (5) *Holder of Notes.* "**Holder**" means any holder of a proportionate co-ownership or other right in the Notes.

## § 2 Status

- (1) Die Schuldverschreibungen begründen nicht besicherte, nachrangige Verbindlichkeiten der Emittentin, die untereinander und (nach Maßgabe von § 2(3)) mit allen anderen ebenso nachrangigen Verbindlichkeiten der Emittentin im gleichen Rang stehen.
- (2) Im Fall von Abwicklungsmaßnahmen in Bezug auf die Emittentin und im Fall der Auflösung, der Liquidation oder der Insolvenz der Emittentin oder eines Vergleichs oder eines anderen der Abwendung der Insolvenz dienenden Verfahrens gegen die Emittentin gehen die Verbindlichkeiten aus den Schuldverschreibungen (i) den Ansprüchen dritter Gläubiger der Emittentin aus nicht nachrangigen Verbindlichkeiten

## § 2 Status

- (1) The Notes constitute unsecured and subordinated obligations of the Issuer, ranking *pari passu* among themselves and (as specified in § 2(3)) *pari passu* with all other equally subordinated obligations of the Issuer.
- (2) If resolution measures are imposed on the Issuer, or in the event of the dissolution, liquidation, insolvency or composition of the Issuer, or if other proceedings are opened for the avoidance of insolvency of, or against, the Issuer, the obligations under the Notes shall be fully subordinated to (i) the claims of unsubordinated creditors of the Issuer (including, but not limited to, claims against the Issuer under its non-preferred senior debt instruments within the meaning of § 46f(6)

(einschließlich, jedoch nicht ausschließlich, Ansprüchen gegen die Emittentin aus deren nicht bevorrechtigten, nicht nachrangigen Schuldtiteln im Sinne von § 46f Absatz 6 Satz 1 KWG), (ii) den in § 39 Absatz 1 Nr. 1 bis 5 InsO bezeichneten Forderungen, (iii) den Ansprüchen aus Tier 2 Instrumenten, (iv) den Ansprüchen dritter Gläubiger der Emittentin aus nachrangigen Verbindlichkeiten, die nicht gemäß § 2(3) im gleichen Rang zu den Ansprüchen aus den Schuldverschreibungen stehen oder diesen im Rang nachgehen, sowie (v) den Ansprüchen aus anderen Instrumenten, die nach ihren Bedingungen oder zwingendem Recht mit Tier 2 Instrumenten gleichrangig oder zu diesen vorrangig sind und nicht bereits unter (i) oder (ii) erfasst sind, im Rang vollständig nach (die Verbindlichkeiten der Emittentin unter (i) bis (v) zusammen die "**Vorrangigen Verbindlichkeiten**"); Zahlungen auf die Schuldverschreibungen erfolgen in einem solchen Fall solange nicht, bis die Vorrangigen Verbindlichkeiten vollständig befriedigt sind.

"**InsO**" bezeichnet die Insolvenzordnung (InsO), in der Fassung wie jeweils geändert oder ersetzt; soweit Bestimmungen der InsO geändert oder ersetzt werden, bezieht sich der Verweis auf Bestimmungen der InsO in diesen Anleihebedingungen auf die jeweils geänderten Bestimmungen bzw. die Nachfolgeregelungen.

"**KWG**" bezeichnet das Gesetz über das Kreditwesen (Kreditwesengesetz – KWG), in der Fassung wie jeweils geändert oder ersetzt; soweit Bestimmungen des KWG geändert oder ersetzt werden, bezieht sich der Verweis auf Bestimmungen des KWG in diesen Anleihebedingungen auf die jeweils geänderten Bestimmungen bzw. die Nachfolgeregelungen.

"**Tier 2 Instrument**" bezeichnet jedes (unmittelbar oder mittelbar begebene) Kapitalinstrument oder nachrangige Darlehensinstrument der Emittentin, das als Ergänzungskapitalinstrument gemäß Artikel 63 CRR qualifiziert (einschließlich, jedoch nicht ausschließlich, eines jeden Kapitalinstruments, nachrangigen Darlehensinstruments oder anderen Instruments, das nach den Übergangsbestimmungen der CRR als Ergänzungskapitalinstrument qualifiziert).

(3) Im Fall von Abwicklungsmaßnahmen in Bezug auf die Emittentin und im Fall der Auflösung, der Liquidation oder der

sentence 1 KWG), (ii) the claims specified in § 39(1) nos. 1 to 5 InsO, (iii) the claims under Tier 2 Instruments, (iv) the claims of subordinated creditors of the Issuer which do not, pursuant to § 2(3), rank *pari passu* with, or junior to, the claims under the Notes, and (v) the claims under other instruments which pursuant to their terms or mandatory provisions of law rank *pari passu* with, or senior to, Tier 2 Instruments unless already captured in (i) or (ii) (the obligations of the Issuer referred to in (i) through (v), together the "**Senior Ranking Obligations**"); in any such event, no amounts shall be payable in respect of the Notes until the Senior Ranking Obligations have been satisfied in full.

"**InsO**" means of the German Insolvency Statute (*InsO*), as amended or replaced from time to time; to the extent that any provisions of the InsO are amended or replaced, the reference to provisions of the InsO as used in these Terms and Conditions shall refer to such amended provisions or successor provisions from time to time.

"**KWG**" means the German Banking Act (*Kreditwesengesetz – KWG*), as amended or replaced from time to time; to the extent that any provisions of the KWG are amended or replaced, the reference to provisions of the KWG as used in these Terms and Conditions shall refer to such amended provisions or successor provisions from time to time.

"**Tier 2 Instrument**" means any (directly or indirectly issued) capital instrument or subordinated loan instrument of the Issuer that qualifies as a Tier 2 instrument pursuant to Article 63 CRR (including, but not limited to, any capital instrument or subordinated loan instrument or other instrument that qualifies as Tier 2 instrument pursuant to transitional provisions under the CRR).

(3) If resolution measures are imposed on the Issuer, or in the event of the dissolution, liquidation, insolvency or composition of the



Insolvenz der Emittentin oder eines Vergleichs oder eines anderen der Abwendung der Insolvenz dienenden Verfahrens gegen die Emittentin

- (i) stehen die Ansprüche aus den Schuldverschreibungen im gleichen Rang wie die Ansprüche gegen die Emittentin aus anderen AT1 Instrumenten sowie aus anderen Instrumenten, die nach zwingendem Recht mit AT1 Instrumenten gleichrangig sind; und
- (ii) gehen die Ansprüche aus den Schuldverschreibungen den Ansprüchen hinsichtlich Posten des harten Kernkapitals der Emittentin gemäß Artikel 26 CRR im Rang vor, insbesondere, jedoch nicht ausschließlich: den Ansprüchen aus Stammaktien und etwaigen anderen Instrumenten der Emittentin, die nach ihren Bedingungen oder zwingendem Recht gleichrangig mit den Stammaktien der Emittentin sind.

**"AT1 Instrument"** bezeichnet jedes (unmittelbar oder mittelbar begebene) Kapitalinstrument der Emittentin, das als Instrument des zusätzlichen Kernkapitals gemäß Artikel 52 CRR qualifiziert (einschließlich, jedoch nicht ausschließlich, eines jeden Kapitalinstruments oder anderen Instruments, das nach den Übergangsbestimmungen der CRR als Instrument des zusätzlichen Kernkapitals qualifiziert).

**"CRR"** bezeichnet die Verordnung (EU) Nr. 575/2013 des Europäischen Parlaments und des Rates vom 26. Juni 2013 über Aufsichtsanforderungen an Kreditinstitute und Wertpapierfirmen und zur Änderung der Verordnung (EU) Nr. 648/2012, in der Fassung wie jeweils geändert oder ersetzt, insbesondere durch die Verordnung (EU) 2019/876 des Europäischen Parlaments und des Rates vom 20. Mai 2019 zur Änderung der Verordnung (EU) Nr. 575/2013 in Bezug auf die Verschuldungsquote, die strukturelle Liquiditätsquote, Anforderungen an Eigenmittel und berücksichtigungsfähige Verbindlichkeiten, das Gegenparteiausfallrisiko, das Marktrisiko, Risikopositionen gegenüber zentralen Gegenparteien, Risikopositionen gegenüber Organismen für gemeinsame Anlagen, Großkredite, Melde- und Offenlegungspflichten und der Verordnung (EU) Nr. 648/2012; soweit Bestimmungen

Issuer, or if other proceedings are opened for the avoidance of insolvency of the Issuer or against the Issuer,

- (i) claims under the Notes rank *pari passu* with the claims against the Issuer under other AT1 Instruments and claims under other instruments which pursuant to mandatory provisions of law rank *pari passu* with AT1 Instruments; and
- (ii) claims under the Notes rank senior to the claims in respect of common equity tier 1 items of the Issuer pursuant to Article 26 CRR, in particular (but not limited to): claims under ordinary shares and other instruments (if any) of the Issuer which pursuant to their terms or mandatory provisions of law rank *pari passu* with ordinary shares.

**"AT1 Instrument"** means any (directly or indirectly issued) capital instrument of the Issuer that qualifies as additional tier 1 instrument pursuant to Article 52 CRR (including, but not limited to, any capital instrument or other instrument that qualifies as additional tier 1 instrument pursuant to transitional provisions under the CRR).

**"CRR"** means Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended or replaced from time to time, in particular by the Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012; to the extent that any provisions of the CRR are amended or replaced, the reference to provisions of the CRR as used in these Terms and Conditions shall refer to such amended provisions or successor

der CRR geändert oder ersetzt werden, bezieht sich der Verweis auf Bestimmungen der CRR in diesen Anleihebedingungen auf die jeweils geänderten Bestimmungen bzw. die Nachfolgeregelungen.

- (4) Unter Beachtung von § 2(2) bleibt es der Emittentin unbenommen, ihre Verbindlichkeiten aus den Schuldverschreibungen auch aus dem sonstigen freien Vermögen zu bedienen.
- (5) Die Aufrechnung von Forderungen aus den Schuldverschreibungen gegen Forderungen der Emittentin ist ausgeschlossen. Den Gläubigern wird für ihre Rechte aus den Schuldverschreibungen keine Sicherheit oder Garantie gestellt; eine solche Sicherheit oder Garantie wird auch zu keinem späteren Zeitpunkt gestellt werden. Bereits gestellte oder zukünftig gestellte Sicherheiten oder Garantien im Zusammenhang mit anderen Verbindlichkeiten der Emittentin haften nicht für Forderungen aus den Schuldverschreibungen.
- (6) Nachträglich können der Nachrang gemäß § 2(1) und (2) nicht beschränkt sowie die Laufzeit der Schuldverschreibungen und jede anwendbare Kündigungsfrist nicht verkürzt werden. Bereits vor der Vornahme von Abwicklungsmaßnahmen in Bezug auf die Emittentin oder einer Auflösung, Liquidation oder Insolvenz der Emittentin oder eines Vergleichs oder eines anderen der Abwendung der Insolvenz dienenden Verfahrens gegen die Emittentin steht jede Zahlung von Zinsen auf die Schuldverschreibungen unter dem Vorbehalt der Erfüllung der Bedingungen gemäß § 3(8) und jede Rückzahlung der Schuldverschreibungen nach Maßgabe von § 5(2), § 5(3) oder § 5(4) und jeder Rückkauf der Schuldverschreibungen nach Maßgabe von § 10(2) unter dem Vorbehalt der Erfüllung der Rückzahlungs- und Rückkaufbedingungen gemäß § 5(5).
- (7) Werden die Schuldverschreibungen unter anderen als den in § 2(2), § 2(3) und § 2(6) beschriebenen Umständen zurückgezahlt oder von der Emittentin zurückerworben, so ist der zurückgezahlte oder gezahlte Betrag der Emittentin ohne Rücksicht auf entgegenstehende Vereinbarungen zurück zu gewähren, sofern nicht die für die Emittentin zuständige Behörde der Rückzahlung oder dem Rückkauf zuvor zugestimmt hat.

provisions from time to time.

- (4) Subject to § 2(2), the Issuer may satisfy its obligations under the Notes also from other distributable assets (*sonstiges freies Vermögen*) of the Issuer.
- (5) No Holder may set off his claims arising under the Notes against any claims of the Issuer. No collateral or guarantee is, shall at any time be, provided securing claims of the Holders under the Notes. Any collateral or guarantee already provided or granted in the future (as the case may be) in connection with other liabilities of the Issuer may not be used for claims under the Notes.
- (6) No subsequent agreement may limit the subordination pursuant to § 2(1) and (2) or shorten the term of the Notes or any applicable notice period. Even prior to the imposition of any resolution measures upon the Issuer, or the dissolution, liquidation, insolvency, or composition of the Issuer, or the opening of other proceedings for the avoidance of insolvency of, or against, the Issuer, payment of interest on the Notes will be subject to the conditions set forth in § 3(8) being fulfilled, and any redemption of the Notes pursuant to § 5(2), § 5(3) or § 5(4) and any repurchase of the Notes pursuant to § 10(2) will be subject to the conditions to redemption and repurchase set forth in § 5(5) being fulfilled.
- (7) If the Notes are redeemed or repurchased by the Issuer otherwise than in the circumstances described in § 2(2), § 2(3) and § 2(6), then the amounts redeemed or paid must be returned to the Issuer irrespective of any agreement to the contrary unless the competent authority of the Issuer has given its prior consent to such redemption or repurchase.

- (8) *Hinweis auf die Möglichkeit von gesetzlichen Abwicklungsmaßnahmen.* Die zuständige Abwicklungsbehörde kann nach den für die Emittentin geltenden Abwicklungsvorschriften Verbindlichkeiten der Emittentin aus den Schuldverschreibungen vor einer Insolvenz oder Liquidation der Emittentin herabschreiben (bis einschließlich auf null), in Eigenkapital (zum Beispiel Stammaktien der Emittentin) umwandeln oder sonstige Abwicklungsmaßnahmen treffen, einschließlich (jedoch nicht ausschließlich) einer Übertragung der Verbindlichkeiten auf einen anderen Rechtsträger, einer Änderung der Anleihebedingungen oder einer Löschung der Schuldverschreibungen.

- (8) *Note on the possibility of statutory resolution measures.* Prior to any insolvency or liquidation of the Issuer, under bank resolution laws applicable to the Issuer from time to time, the competent resolution authority may write down (including to zero) the obligations of the Issuer under the Notes, convert them into equity (e.g. ordinary shares of the Issuer) or apply any other resolution measure, including (but not limited to) any transfer of the obligations to another entity, an amendment of the Terms and Conditions or a cancellation of the Notes.

### § 3 Zinsen

- (1) *Verzinsung, Zinszahlungstage.*
- (a) Vorbehaltlich des Ausschlusses der Zinszahlung nach § 3(8) werden die Schuldverschreibungen ab dem 9. Juli 2019 (der "**Verzinsungsbeginn**") (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) verzinst.
- "**Zinszahlungstag**" bedeutet jeder 9. April. Erster Zinszahlungstag ist der 9. April 2020 (kurze erste Zinsperiode).
- (b) Zinsen sind vorbehaltlich des Ausschlusses der Zinszahlung nach § 3(8) nachträglich an jedem Zinszahlungstag zur Zahlung vorgesehen.
- (c) Der zur Zahlung vorgesehene Zinsbetrag wird gemäß § 3(3) berechnet.
- (2) *Zinssatz.* Der Zinssatz (der "**Zinssatz**") für jede Zinsperiode (wie in § 3(2)(b) definiert) ist, sofern nachstehend nichts Abweichendes bestimmt wird,
- (a) für den Zeitraum vom Verzinsungsbeginn (einschließlich) bis zum Ersten Optionalen Rückzahlungstag (wie in § 5(2) definiert) (ausschließlich) ein fester Zinssatz in Höhe von 7,0% *per annum*, und
- (b) für den Zeitraum ab dem Ersten Optionalen Rückzahlungstag (einschließlich) bis zum nächsten Zinsanpassungstag (ausschließlich) und danach für den Zeitraum

### § 3 Interest

- (1) *Interest Calculation, Interest Payment Dates.*
- (a) Subject to a cancellation of interest payments pursuant to § 3(8), the Notes shall bear interest from (and including) 9 July 2019 (the "**Interest Commencement Date**") to (but excluding) the first Interest Payment Date, and thereafter from (and including) each Interest Payment Date to (but excluding) the next following Interest Payment Date.
- "**Interest Payment Date**" means 9 April in each year. The first Interest Payment Date is 9 April 2020 (short first interest period).
- (b) Subject to a cancellation of interest payments pursuant to § 3(8), interest shall be scheduled to be paid in arrear on each Interest Payment Date.
- (c) The amount of interest scheduled to be paid will be determined in accordance with § 3(3).
- (2) *Rate of Interest.* The rate of interest (the "**Rate of Interest**") for each Interest Period (as defined in § 3(2)(b)) will, except as otherwise provided below, be
- (a) for the period from (and including) the Interest Commencement Date to (but excluding) the First Call Date (as defined in § 5(2)) a fixed rate of 7.0 per cent. *per annum*, and
- (b) for the period from (and including) the First Call Date to (but excluding) the next Reset Date and thereafter from (and including) each Reset Date to (but excluding) the next

ab jedem Zinsanpassungstag (einschließlich) bis zum nächsten Zinsanpassungstag (ausschließlich) der betreffende Referenzzinssatz (wie nachstehend definiert) zuzüglich der ursprünglichen Kreditmarge in Höhe von 5,228% *per annum*<sup>1</sup>.

Die Berechnungsstelle (wie in § 6 definiert) bestimmt für jeden Zinsanpassungstag am betreffenden Zinsfestlegungstag den jeweiligen Referenzzinssatz nach Maßgabe dieses § 3(2).

Der "**Referenzzinssatz**" zu jedem Zinsanpassungstag wird wie folgt bestimmt:

- (i) Vorbehaltlich (ii) und (iii) entspricht der Referenzzinssatz dem Ursprünglichen Benchmarksatz an dem betreffenden Zinsfestlegungstag;
- (ii) falls der Ursprüngliche Benchmarksatz zu dem betreffenden Zeitpunkt an dem betreffenden Zinsfestlegungstag nicht auf der Bildschirmseite angezeigt wird, aber kein Benchmark-Ereignis (wie in § 3(7)(x) definiert) eingetreten ist, entspricht der Referenzzinssatz an dem betreffenden Zinsfestlegungstag dem Referenzbankensatz;
- (iii) wenn ein Benchmark-Ereignis eintritt, wird der Referenzzinssatz für jeden Reset Zeitraum, der an oder nach dem Stichtag (wie in § 3(7)(vii) definiert) beginnt, gemäß § 3(7) bestimmt;

wobei für die Bestimmung des Referenzzinssatzes ein halbjährlicher Zinssatz in wirtschaftlich vernünftiger Weise von einer halbjährlichen auf eine jährliche Basis umgerechnet wird.

**"Ursprünglicher Benchmarksatz"** bezeichnet den halbjährlichen Swapsatz für USD-Swap-Transaktionen mit einer Laufzeit von 5 Jahren, ausgedrückt als Prozentsatz, beginnend mit dem betreffenden Zinsanpassungstag, der um 11.00 Uhr (Ortszeit New York) am maßgeblichen Zinsfestlegungstag auf der Reuters-Bildschirmseite "ICESWAP1" (bzw. einer Nachfolgesseite) (die "**Bildschirmseite**") unter der Überschrift "11:00 AM" (wie diese Überschriften jeweils erscheinen) angezeigt wird.

Reset Date the applicable Reference Interest Rate (as defined below) plus the initial credit spread of 5.228 per cent. *per annum*<sup>1</sup>.

The Calculation Agent (as defined in § 6) will determine the relevant Reference Interest Rate in accordance with this § 3(2) for each Reset Date on the respective Interest Determination Date.

The "**Reference Interest Rate**" for each Reset Date will be determined as follows:

- (i) Subject to (ii) and (iii) the Reference Interest Rate will be the Original Benchmark Rate on the relevant Interest Determination Date;
- (ii) if the Original Benchmark Rate does not appear on the Screen Page as at such time on the relevant Interest Determination Date, but no Benchmark Event (as defined in § 3(7)(x)) has occurred, the Reference Interest Rate on the relevant Interest Determination Date will be the Reference Bank Rate;
- (iii) if a Benchmark Event occurs, the Reference Interest Rate for each Reset Period commencing on or after the Effective Date (as defined in § 3(7)(vii)) will be determined in accordance with § 3(7);

provided that, for purposes of the determination of the Reference Interest Rate, a semi-annual interest rate will be converted from a semi-annual to an annual basis in a commercially reasonable manner.

**"Original Benchmark Rate"** means the semi-annual swap rate for USD swap transactions with a 5 year maturity commencing on the relevant Reset Date, expressed as a percentage, as displayed on the Reuters screen "ICESWAP1" (or any successor page) (the "**Screen Page**") under the heading "11:00 AM" (as such headings may appear from time to time) as at 11:00 a.m. New York time on the relevant Interest Determination Date.

<sup>1</sup> Dies entspricht der ursprünglichen Kreditmarge im Zeitpunkt der Preisfindung.  
This equals the initial credit spread at the time of pricing.

**"Referenzbankensatz"** bezeichnet den Prozentsatz, der auf der Grundlage der 5-Jahres-Mid-Market-Swapsatz-Angebotssätze ermittelt wird, die der Berechnungsstelle (wie in § 6 definiert) um ca. 11.00 Uhr (Ortszeit New York) am Zinsfestlegungstag von den Referenzbanken zur Verfügung gestellt werden. Falls mindestens drei Angebotssätze zur Verfügung gestellt werden, ist der Satz für den betreffenden Zinsfestlegungstag das arithmetische Mittel dieser Angebotssätze, wobei der höchste Angebotssatz (bzw. bei mehreren gleich hohen Angebotssätzen einer dieser höchsten Sätze) und der niedrigste Angebotssatz (bzw. bei mehreren gleich niedrigen Angebotssätzen einer dieser niedrigsten Sätze) unberücksichtigt bleiben. Falls nur zwei Angebotssätze zur Verfügung gestellt werden, ist der Referenzbankensatz das arithmetische Mittel der zur Verfügung gestellten Angebotssätze. Falls nur ein Angebotssatz zur Verfügung gestellt wird, ist der Referenzbankensatz der zur Verfügung gestellte Angebotssatz. Falls keine Angebotssätze zur Verfügung gestellt werden, ist der Referenzbankensatz der letzte halbjährliche Swapsatz für USD-Swap-Transaktionen mit einer Laufzeit von 5 Jahren, ausgedrückt als Prozentsatz, der auf der Bildschirmseite verfügbar war.

**"5-Jahres-Mid-Market-Swapsatz-Angebotssätze"** bezeichnet das arithmetische Mittel der Geld- und Briefkurse für die halbjährliche Festzinsseite (berechnet auf der Grundlage eines Jahres mit 360 Tagen und zwölf Monaten mit je 30 Tagen) einer USD-Zinsswap-Transaktion fest gegen variabel (i) mit einer Laufzeit von 5 Jahren, die an dem betreffenden Zinsanpassungstag beginnt, (ii) in einem Betrag, der für eine einzelne Transaktion in dem betreffenden Markt zum jeweiligen Zeitpunkt, die mit einem anerkannten Händler guter Bonität im Swap-Markt abgeschlossen wird, repräsentativ ist, und (iii) mit einer variablen Zinsseite, die auf dem 3-Monats-USD LIBOR (berechnet auf der Grundlage der Anzahl der in einem Jahr mit 360 Tagen tatsächlich abgelaufenen Anzahl von Tagen) basiert.

**"Geschäftstag für US-Staatstitel"** bezeichnet jeden Tag außer einem Samstag, Sonntag oder einem Tag, an dem auf die Empfehlung der Securities Industry and Financial Markets Association (oder eine etwaige Nachfolgerin) die Rentenabteilungen ihrer Mitglieder für den Handel mit US-Staatstiteln gänztägig geschlossen sind.

**"Reference Bank Rate"** means the percentage rate determined on the basis of the 5 year Mid-Market Swap Rate Quotations provided by the Reference Banks to the Calculation Agent at approximately 11.00 a.m. New York time on the Interest Determination Date. If at least three quotations are provided, the rate for that Interest Determination Date will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest). If only two quotations are provided, the Reference Bank Rate will be the arithmetic mean of the quotations provided. If only one quotation is provided, the Reference Bank Rate will be the quotation provided. If no quotations are provided, the Reference Bank Rate will be equal to the last available semi-annual swap rate for USD swap transactions with a 5 year maturity, expressed as a percentage, on the Screen Page.

**"5 year Mid-Market Swap Rate Quotations"** means the arithmetic mean of the bid and offered rates for the semi-annual fixed leg (calculated on the basis of a 360-day year of twelve 30-day months) of a fixed-for-floating USD interest rate swap transaction which (i) has a term of 5 years commencing on the relevant Reset Date, (ii) is in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market and (iii) has a floating leg based on the 3-month USD LIBOR rate (calculated on the basis of the actual number of days elapsed in a 360-day year).

**"U.S. Government Securities Business Day"** means any day except for a Saturday, Sunday or a day on which the U.S. Securities Industry and Financial Markets Association (or any successor thereto) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

"**Referenzbanken**" bezeichnet fünf führende Swap-Händler im Interbankenmarkt.

"**Zinsanpassungstag**" bezeichnet den Ersten Optionalen Rückzahlungstag und jeden fünften Jahrestag des jeweils unmittelbar vorhergehenden Zinsanpassungstages.

"**Zinsfestlegungstag**" bezeichnet in Bezug auf den Referenzzinssatz, der für den Zeitraum von einem Zinsanpassungstag (einschließlich) bis zum nächstfolgenden Zinsanpassungstag (ausschließlich) festzustellen ist, den zweiten Geschäftstag für US-Staatstitel vor dem Zinsanpassungstag, an dem dieser Zeitraum beginnt (jeder dieser Zeiträume, ein "**Reset Zeitraum**").

"**Zinsperiode**" bezeichnet den jeweiligen Zeitraum von dem Verzinsungsbeginn (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) bzw. von jedem Zinszahlungstag (einschließlich) bis zum jeweils darauffolgenden Zinszahlungstag (ausschließlich).

- (3) *Zinsbetrag.* Unverzüglich nach Bestimmung des Referenzzinssatzes wird die Berechnungsstelle den anwendbaren Zinssatz bestimmen und den auf die Schuldverschreibungen zahlbaren Zinsbetrag in Bezug auf den Aktuellen Nennbetrag (vorbehaltlich § 3(8)) (der "**Zinsbetrag**") für die entsprechenden Zinsperioden bis zum nächsten Zinsanpassungstag berechnen. Der Zinsbetrag wird ermittelt, indem der Zinssatz und der Zinstagequotient (vorbehaltlich § 3(8)) auf den Aktuellen Nennbetrag angewendet werden. Der resultierende Betrag wird auf die kleinste Einheit der festgelegten Währung auf- oder abgerundet, wobei 0,5 solcher Einheiten aufgerundet werden.

Im Falle einer Herabschreibung nach § 5(8)(b) werden die Schuldverschreibungen für die gesamte betreffende Zinsperiode, in welcher diese Herabschreibung erfolgt, jeweils nur bezogen auf den dann Aktuellen Nennbetrag verzinst, der entsprechend reduziert wurde, wobei eine etwaige an dem Zinszahlungstag gemäß § 5(8)(c) erfolgende Hochschreibung für diese Zinsperiode unberücksichtigt bleibt und sich erst ab der Zinsperiode auswirkt, die an dem Zinszahlungstag beginnt, zu welchem die Hochschreibung erfolgt.

"**Aktueller Nennbetrag**" bezeichnet in Bezug auf eine Schuldverschreibung: (i) am

"**Reference Banks**" means five leading swap dealers in the interbank market.

"**Reset Date**" means the First Call Date and any fifth anniversary of the immediately preceding Reset Date.

"**Interest Determination Date**" means, in respect of the Reference Interest Rate to be determined in relation to the period from (and including) a Reset Date to (but excluding) the next following Reset Date, the second U.S. Government Securities Business Day preceding the Reset Date on which such period commences (each of such periods, a "**Reset Period**").

"**Interest Period**" means each period from (and including) the Interest Commencement Date to (but excluding) the first Interest Payment Date and from (and including) each Interest Payment Date to (but excluding) the following Interest Payment Date.

- (3) *Interest Amount.* The Calculation Agent will, without undue delay after the determination of the Reference Interest Rate, determine the applicable Rate of Interest and calculate the amount of interest (the "**Interest Amount**") payable on the Notes in respect of the Current Nominal Amount (subject to § 3(8)) for the relevant Interest Periods until the next Reset Date. Each Interest Amount shall be calculated by applying the Rate of Interest and the Day Count Fraction (subject to § 3(8)) to the Current Nominal Amount and rounding the resultant figure to the nearest unit of the Specified Currency, with 0.5 of such unit being rounded upwards.

In the event of a write-down pursuant to § 5(8)(b), each of the Notes shall for the full respective Interest Period in which such write-down occurs only bear interest on the then Current Nominal Amount which has been reduced accordingly; a potential write-up pursuant to § 5(8)(c) which may occur on the relevant Interest Payment Date will not be taken into account for such Interest Period and will only become effective from the Interest Period commencing on the Interest

"**Current Nominal Amount**" means, with respect to any Note: (i) at the date of the

Begebungstag den Ursprünglichen Nennbetrag und (ii) anschließend ihren ggf. um Herabschreibungen nach § 5(8)(b) verminderten (soweit nicht durch Hochschreibungen nach § 5(8)(c) kompensiert) ausstehenden Nennbetrag.

"**Zinstagequotient**" bezeichnet im Hinblick auf die Berechnung eines Zinsbetrages auf die Schuldverschreibungen für einen beliebigen Zeitraum (ab dem ersten Tag dieses Zeitraums (einschließlich) bis zu dem letzten Tag dieses Zeitraums (ausschließlich), der "**Zinsberechnungszeitraum**") die Anzahl der Tage in dem Zinsberechnungszeitraum geteilt durch 360, berechnet gemäß der folgenden Formel:

$$ZTQ = \frac{[360 \cdot (Y_2 - Y_1)] + [30 \cdot (M_2 - M_1)] + (D_2 - D_1)}{360}$$

wobei:

"**ZTQ**" ist der Zinstagequotient;

"**Y<sub>1</sub>**" ist das Jahr, ausgedrückt als Zahl, in das der erste Tag des Zinsberechnungszeitraums fällt;

"**Y<sub>2</sub>**" ist das Jahr, ausgedrückt als Zahl, in das der Tag fällt, der auf den letzten Tag des Zinsberechnungszeitraums unmittelbar folgt;

"**M<sub>1</sub>**" ist der Kalendermonat, ausgedrückt als Zahl, in den der erste Tag des Zinsberechnungszeitraums fällt;

"**M<sub>2</sub>**" ist der Kalendermonat, ausgedrückt als Zahl, in den der Tag fällt, der auf den letzten Tag des Zinsberechnungszeitraums unmittelbar folgt;

"**D<sub>1</sub>**" ist der erste Tag des Zinsberechnungszeitraums, ausgedrückt als Zahl, es sei denn, diese Zahl wäre 31, in welchem Fall **D<sub>1</sub>** gleich 30 ist; und

"**D<sub>2</sub>**" ist der Tag, ausgedrückt als Zahl, der auf den letzten Tag des Zinsberechnungszeitraums unmittelbar folgt, es sei denn, diese Zahl wäre 31 und **D<sub>1</sub>** ist größer als 29, in welchem Fall **D<sub>2</sub>** gleich 30 ist.

- (4) *Mitteilung von Zinssatz und Zinsbetrag.* Die Berechnungsstelle wird veranlassen, dass der Zinssatz und der Zinsbetrag für die Zinsperioden bis zum nächsten Zinsanpassungstag der (i) Emittentin, der Zahlstelle und den Gläubigern gemäß § 11

issue, the Original Nominal Amount of such Note and (ii) thereafter, the then outstanding nominal amount of such Note as reduced by any write-downs pursuant to § 5(8)(b) (to the extent not made up for by write-ups pursuant to § 5(8)(c)).

"**Day Count Fraction**" means, in respect of the calculation of an Interest Amount on the Notes for any period of time (from (and including) the first day of such period to (but excluding) the last day of such period, the "**Calculation Period**") the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$DCF = \frac{[360 \cdot (Y_2 - Y_1)] + [30 \cdot (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"**DCF**" means Day Count Fraction;

"**Y<sub>1</sub>**" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"**Y<sub>2</sub>**" is the year, expressed as a number, in which the day immediately following the last day of the Calculation Period falls;

"**M<sub>1</sub>**" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"**M<sub>2</sub>**" is the calendar month, expressed as number, in which the day immediately following the last day of the Calculation Period falls;

"**D<sub>1</sub>**" is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case **D<sub>1</sub>** will be 30; and

"**D<sub>2</sub>**" is the calendar day, expressed as a number, immediately following the last day of the Calculation Period, unless such number would be 31 and **D<sub>1</sub>** is greater than 29, in which case **D<sub>2</sub>** will be 30.

- (4) *Notification of Rate of Interest and Interest Amount.* The Calculation Agent will cause the Rate of Interest and the Interest Amount for the Interest Periods up to the next Reset Date to be notified (i) to the Issuer, to the Paying Agent and to the Holders in

baldmöglichst, aber keinesfalls später als am vierten auf die Berechnung jeweils folgenden Geschäftstag und (ii) jeder Börse, an der die betreffenden Schuldverschreibungen auf Veranlassung der Emittentin zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, baldmöglichst, aber keinesfalls später als zu Beginn der Zinsperiode, für die der betreffende Zinssatz und der betreffende Zinsbetrag gilt, mitgeteilt werden.

(5) *Verbindlichkeit der Festsetzungen.* Alle Bescheinigungen, Mitteilungen, Gutachten, Festsetzungen, Berechnungen, Quotierungen und Entscheidungen, die von der Berechnungsstelle für die Zwecke dieses § 3 gemacht, abgegeben, getroffen oder eingeholt werden, sind (sofern nicht ein offensichtlicher Irrtum vorliegt) für die Emittentin, die Zahlstelle und die Gläubiger bindend.

(6) *Auflaufende Zinsen.* Der Zinslauf der Schuldverschreibungen endet mit Beginn des Tages, an dem sie zur Rückzahlung fällig werden. Falls die Emittentin die Schuldverschreibungen bei Fälligkeit nicht einlöst, ist der Aktuelle Nennbetrag jeder Schuldverschreibung vom Tag der Fälligkeit an (einschließlich) bis zum Tag der tatsächlichen Rückzahlung der Schuldverschreibungen (ausschließlich) in Höhe des gesetzlich festgelegten Zinssatzes für Verzugszinsen<sup>2</sup> zu verzinsen.

(7) *Benchmark-Ereignis.*

Wenn ein Benchmark-Ereignis in Bezug auf den Ursprünglichen Benchmarksatz eintritt, gilt für die Bestimmung des jeweiligen Referenzzinssatzes und die Verzinsung der Schuldverschreibungen gemäß § 3(2) Folgendes:

(i) Wenn ein Benchmark-Ereignis in Bezug auf den Ursprünglichen Benchmarksatz eingetreten ist, dann ist die Berechnungsstelle berechtigt, nach billigem Ermessen einen Neuen Benchmarksatz, die Anpassungsspanne (gemäß § 3(7)(iv)) und etwaige Benchmark-Änderungen (gemäß § 3(7)(v)) festzulegen.

(ii) Wenn die Berechnungsstelle vor dem betreffenden Zinsfestlegungstag

in accordance with § 11 as soon as possible after their determination, but in no event later than the fourth Business Day thereafter and (ii), if required by the rules of any stock exchange on which the Notes are listed from time to time at the request of the Issuer, to such stock exchange as soon as possible after their determination, but in no event later than the first day of the Interest Period in relation to which the relevant Rate of Interest and the relevant Interest Amount apply.

(5) *Determinations Binding.* All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this § 3 by the Calculation Agent shall (in the absence of a manifest error) be binding on the Issuer, the Paying Agent and the Holders.

(6) *Accrual of Interest.* The Notes shall cease to bear interest from the beginning of the day on which they become due for redemption. If the Issuer fails to make the relevant redemption payment under the Notes when due, each of the Notes will bear interest on its Current Nominal Amount from (and including) the due date to (but excluding) the day of actual redemption of the Notes at the statutory default rate of interest<sup>2</sup>.

(7) *Benchmark Event.*

If a Benchmark Event occurs in relation to the Original Benchmark Rate, the relevant Reference Interest Rate and the interest on the Notes in accordance with § 3(2) will be determined as follows:

(i) If a Benchmark Event has occurred in relation to the Original Benchmark Rate, then the Calculation Agent may, using reasonable discretion, determine a New Benchmark Rate, the Adjustment Spread (in accordance with § 3(7)(iv)) and any Benchmark Amendments (in accordance with § 3(7)(v)).

(ii) If the Calculation Agent does not determine a New Benchmark Rate in

<sup>2</sup> Der gesetzliche Zinssatz für Verzugszinsen liegt fünf Prozentpunkte über dem von der Deutschen Bundesbank jeweils veröffentlichten Basiszinssatz, §§ 288 Absatz 1, 247 Bürgerliches Gesetzbuch (BGB). / The default rate of interest established by law is five percentage points above the basic rate of interest published by Deutsche Bundesbank from time to time, §§ 288(1), 247 German Civil Code (*Bürgerliches Gesetzbuch*).



keinen Neuen Benchmark Satz gemäß diesem § 3(7) festlegt, dann entspricht der Referenzzinssatz für den unmittelbar nachfolgenden Reset Zeitraum dem an dem letzten zurückliegenden Zinsfestlegungstag festgestellten Ursprünglichen Benchmarksatz.

Falls dieser § 3(7)(ii) an dem Zinsfestlegungstag in Bezug auf den Reset Zeitraum, der am Ersten Optionalen Rückzahlungstag beginnt, zur Anwendung kommt, entspricht der Referenzzinssatz für diesen ersten Reset Zeitraum dem Ursprünglichen Benchmarksatz auf der Bildschirmseite an dem letzten Tag vor diesem Zinsfestlegungstag, an dem dieser Ursprüngliche Benchmarksatz angezeigt wurde.

Falls der Ausweichsatz gemäß diesem § 3(7)(ii) zur Anwendung kommt, wird § 3(7) erneut angewendet, um den Referenzzinssatz für den nächsten nachfolgenden Reset Zeitraum zu bestimmen.

(iii) Falls die Berechnungsstelle nach billigem Ermessen feststellt,

(A) dass es einen Nachfolge-Benchmarksatz gibt, dann ist dieser Nachfolge-Benchmarksatz anstelle des Ursprünglichen Benchmarksatzes maßgeblich; oder

(B) dass es keinen Nachfolge-Benchmarksatz aber einen Alternativ-Benchmarksatz gibt, dann ist dieser Alternativ-Benchmarksatz an Stelle des Ursprünglichen Benchmarksatzes maßgeblich.

In beiden Fällen (A) und (B) ist der "**Referenzzinssatz**" für den unmittelbar nachfolgenden Reset Zeitraum und alle folgenden Reset Zeiträume vorbehaltlich § 3(7)(vii) (x) der betreffende Neue Benchmarksatz an dem betreffenden Zinsfestlegungstag zuzüglich (y) der Anpassungsspanne gemäß § 3(7)(iv).

(iv) Die Anpassungsspanne (wie in § 3(7)(x) definiert) wird auf den Neuen Benchmarksatz angewendet, um den betreffenden Referenzzinssatz zu

accordance with this § 3(7) prior to the relevant Interest Determination Date, the Reference Interest Rate applicable to the immediately following Reset Period shall be the Original Benchmark Rate determined on the last preceding Interest Determination Date.

If this §3(7)(ii) is to be applied on the Interest Determination Date in respect of the Reset Period, commencing on the First Call Date, the Reference Interest Rate applicable to such first Reset Period shall be the Original Benchmark Rate on the Screen Page on the last day preceding such Interest Determination Date on which such Original Benchmark Rate was displayed.

If the fallback rate determined in accordance with this § 3(7)(ii) is to be applied, § 3(7) will be operated again to determine the Reference Interest Rate applicable to the next subsequent Reset Period.

(iii) If the Calculation Agent determines in its reasonable discretion that:

(A) there is a Successor Benchmark Rate, then such Successor Benchmark Rate shall subsequently be used in place of the Original Benchmark Rate; or

(B) there is no Successor Benchmark Rate but that there is an Alternative Benchmark Rate, then such Alternative Benchmark Rate shall subsequently be used in place of the Original Benchmark Rate,

In both cases (A) and (B) the "**Reference Interest Rate**" for the immediately following Reset Period and all following Reset Periods, subject to § 3(7)(vii), will be (x) the relevant New Benchmark Rate on the relevant Interest Determination Date, plus (y) the Adjustment Spread in accordance with § 3(7)(iv).

(iv) The Adjustment Spread (as defined in § 3(7)(x)) shall be applied to the New Benchmark Rate in order to determine

bestimmen.

- (v) Wenn ein Neuer Benchmarksatz und die entsprechende Anpassungsspanne gemäß diesem § 3(7) festgelegt werden, und wenn die Berechnungsstelle feststellt, dass Änderungen hinsichtlich dieser Anleihebedingungen notwendig sind, um die ordnungsgemäße Anwendung des Neuen Benchmarksatzes und der entsprechenden Anpassungsspanne zu gewährleisten (diese Änderungen, die "**Benchmark-Änderungen**"), dann wird die Berechnungsstelle die Benchmark-Änderungen feststellen und diese durch eine Mitteilung gemäß § 3(7)(vi) bekanntmachen.

Diese Benchmark-Änderungen können insbesondere folgende Regelungen erfassen:

- (A) den Referenzzinssatz und/oder (in Ersetzung von § 3(2)(ii) und (iii)) die Methode zur Bestimmung des Ausweichsatzes für den Referenzzinssatz einschließlich des Referenzbankensatzes; und/oder
- (B) die Definitionen der Begriffe 'Bildschirmseite', 'Geschäftstag', 'Geschäftstag für US-Staatstitel', 'Zinszahlungstag', 'Zinsperiode', 'Reset Zeitraum', 'Zinstagequotient' und/oder 'Zinsfestlegungstag' (einschließlich der Festlegung ob der Referenzzinssatz vorwärts- oder rückwärtsgerichtet bestimmt wird); und/oder
- (C) der Bestimmung des Zahltags gemäß § 4(5).
- (vi) Die Berechnungsstelle wird einen Neuen Benchmarksatz, die Anpassungsspanne und etwaige Benchmark-Änderungen gemäß diesem § 3(7) der Emittentin, den Zahlstellen und gemäß § 11 den Gläubigern mitteilen, und zwar sobald eine solche Mitteilung (nach Ansicht der Berechnungsstelle) nach deren Feststellung praktikabel ist. Eine solche Mitteilung ist unwiderruflich und

the relevant Reference Interest Rate.

- (v) If any relevant New Benchmark Rate and the applicable Adjustment Spread are determined in accordance with this § 3(7), and if the Calculation Agent determines that amendments to these Terms and Conditions are necessary to ensure the proper operation of such New Benchmark Rate and the applicable Adjustment Spread (such amendments, the "**Benchmark Amendments**"), then the Calculation Agent will determine the Benchmark Amendments and give notice thereof in accordance with § 3(7)(vi).

The Benchmark Amendments may include without limitation:

- (A) the Reference Interest Rate and/or (in replacement of § 3(2)(ii) and (iii)) the method for determining the fallback rate in relation to the Reference Interest Rate, including the Reference Bank Rate; and/or
- (B) the definitions of the terms 'Screen Page', 'Business Day', 'U.S. Government Securities Business Day', 'Interest Payment Date', 'Interest Period', 'Reset Period', 'Day Count Fraction' and/or 'Interest Determination Date' (including the determination whether the Reference Interest Rate will be determined on a forward looking or a backward looking basis); and/or
- (C) the determination of the payment day in accordance with §4(5).
- (vi) The Calculation Agent will notify any New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this § 3(7) to the Issuer, the Paying Agents and, in accordance with § 11, the Holders as soon as such notification is (in the Calculation Agent's view) practicable following the determination thereof. Such notice shall be irrevocable and shall specify

hat den Stichtag zu benennen.

Der Neue Benchmarksatz, die Anpassungsspanne und etwaige Benchmark-Änderungen, die jeweils in der Mitteilung benannt werden, sind für die Emittentin, die Berechnungsstelle, die Zahlstellen und die Gläubiger bindend. Diese Anleihebedingungen gelten ab dem Stichtag als durch den Neuen Benchmarksatz, die Anpassungsspanne und die etwaigen Benchmark-Änderungen (zusammen die "Ersatzrate-Anpassungen") geändert.

(vii) Der Stichtag für die Anwendung des Neuen Benchmarksatzes, der Anpassungsspanne und der etwaigen Benchmark-Änderungen gemäß diesem § 3(7) (der "Stichtag") ist:

(A) der Tag des Eintritts des Benchmark-Ereignisses, falls das Benchmark-Ereignis aufgrund des Absatzes (1) der Definition des Begriffs 'Benchmark-Ereignis' eingetreten ist; oder

(B) der Tag, an dem die Veröffentlichung des Ursprünglichen Benchmarksatzes eingestellt wird bzw. an dem der Ursprüngliche Benchmarksatz eingestellt wird, wenn das Benchmark-Ereignis aufgrund der Absätze (2), (3) oder (4) der Definition des Begriffs 'Benchmark-Ereignis' eingetreten ist; oder

(C) der Tag, ab dem der Ursprüngliche Benchmarksatz nicht mehr verwendet werden darf, wenn das Benchmark-Ereignis aufgrund des Absatzes (5) der Definition des Begriffs 'Benchmark-Ereignis' eingetreten ist.

(viii) Wenn ein Benchmark-Ereignis in Bezug auf einen Neuen Benchmarksatz eintritt, gilt dieser § 3(7) entsprechend für die Ersetzung des Neuen Benchmarksatzes durch einen neuen Nachfolge-Benchmarksatz bzw. Alternativ-Benchmarksatz.

the Effective Date.

The New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any), each as specified in such notice, will be binding on the Issuer, the Calculation Agent, the Paying Agents and the Holders. These Terms and Conditions shall be deemed to have been amended by the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (together the "Replacement Rate Adjustments") with effect from the Effective Date.

(vii) The effective date for the application of the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this § 3(7) (the "Effective Date") will be:

(A) if the Benchmark Event has occurred as a result of clause (1) of the definition of the term 'Benchmark Event', the date of the occurrence of the Benchmark Event; or

(B) if the Benchmark Event has occurred as a result of clause (2), (3) or (4) of the definition of the term 'Benchmark Event', the date of cessation of publication of the Original Benchmark Rate or of the discontinuation of the Original Benchmark Rate, as the case may be; or

(C) if the Benchmark Event has occurred as a result of clause (5) of the definition of the term 'Benchmark Event', the date from which the prohibition applies.

(viii) If a Benchmark Event occurs in relation to any New Benchmark Rate, § 3(7) shall apply mutatis mutandis to the replacement of such New Benchmark Rate by any new Successor Benchmark Rate or Alternative Benchmark Rate, as the case may be.

(ix) Eine Anpassung des Referenzzinssatzes gemäß diesem § 3(7) darf nicht durchgeführt werden, wenn und soweit (i) diese Anpassung dazu führen würde, dass die Emittentin berechtigt wäre, die Schuldverschreibungen aus regulatorischen Gründen gemäß § 5(3) zurückzuzahlen, und/oder (ii) diese Anpassung die Einstufung der Schuldverschreibungen als berücksichtigungsfähige Verbindlichkeiten oder als Instrumente mit Verlustabsorptionskapazität für die Zwecke einer Bankenabwicklung nach den Anwendbaren Aufsichtsrechtlichen Vorschriften beeinträchtigen würde.

(x) Zur Verwendung in § 3(7):

Die "**Anpassungsspanne**", die positiv, negativ oder gleich Null sein kann, wird in Basispunkten ausgedrückt und bezeichnet entweder (a) die Spanne oder (b) das Ergebnis der Anwendung der Formel oder Methode zur Berechnung der Spanne,

(1) die im Fall eines Nachfolge-Benchmarksatzes formell im Zusammenhang mit der Ersetzung des Ursprünglichen Benchmarksatzes durch den Nachfolge-Benchmarksatz vom Nominierungsgremium empfohlen wird; oder

(2) die (sofern keine Empfehlung abgegeben wurde oder im Fall eines Alternativ-Benchmarksatzes) bei internationalen Anleihekapitalmarkttransaktionen (oder, hilfsweise, an den internationalen Swapmärkten) auf den Neuen Benchmarksatz angewendet wird, um einen industrieweit akzeptierten Ersatz-Benchmarksatz für den Ursprünglichen Benchmarksatz zu erzeugen, wobei sämtliche Feststellungen durch die Berechnungsstelle nach billigem Ermessen vorgenommen werden.

**"Alternativ-Benchmarksatz"**

bezeichnet eine alternative Benchmark oder einen alternativen Bildschirmsatz, die bzw. der üblicherweise bei internationalen Anleihekapitalmarkttransaktionen

(ix) No adjustment to the Reference Interest Rate will be made in accordance with this § 3(7) if and to the extent that (i) as a result of such adjustment the Issuer would be entitled to redeem the Notes for regulatory reasons in accordance with § 5(3) and/or (ii) such adjustment would prejudice the qualification of the Notes as eligible liabilities or loss absorbing capacity instruments for the purposes of a bank resolution under the Applicable Supervisory Regulations.

(x) As used in this § 3(7):

The "**Adjustment Spread**", which may be positive, negative or zero, will be expressed in basis points and means either (a) the spread, or (b) the result of the operation of the formula or methodology for calculating the spread,

(1) which in the case of a Successor Benchmark Rate, is formally recommended in relation to the replacement of the Original Benchmark Rate with the Successor Benchmark Rate by any Relevant Nominating Body; or

(2) which (if no such recommendation has been made, or in the case of an Alternative Benchmark Rate) is applied to the New Benchmark Rate in international debt capital markets transactions (or, alternatively, the international swap markets) to produce an industry-accepted replacement benchmark rate for the Original Benchmark Rate, provided that all determinations will be made by the Calculation Agent in its reasonable discretion.

**"Alternative Benchmark Rate"**

means an alternative benchmark or screen rate which is customarily applied in international debt capital markets transactions (or, alternatively, the international swap markets) for the

(oder, hilfsweise, an den internationalen Swapmärkten) zur Bestimmung von Zinssätzen (oder, hilfsweise, Mid-Swapsätzen) in der festgelegten Währung angewendet wird, wobei sämtliche Feststellungen durch die Berechnungsstelle vorgenommen werden.

**"Benchmark-Ereignis"** bezeichnet:

- (1) der Ursprüngliche Benchmarksatz wird nicht mehr regelmäßig veröffentlicht oder wird nicht mehr erstellt; oder
- (2) eine öffentliche Bekanntmachung des Administrators des Ursprünglichen Benchmarksatzes dahingehend, dass dieser die Berechnung des Ursprünglichen Benchmarksatzes dauerhaft oder auf unbestimmte Zeit eingestellt hat oder einstellen wird (in Fällen in denen kein Nachfolgeadministrator ernannt worden ist, der die Veröffentlichung des Ursprünglichen Benchmarksatzes vornehmen wird); oder
- (3) eine öffentliche Bekanntmachung der Aufsichtsbehörde des Administrators des Ursprünglichen Benchmarksatzes, dass der Ursprüngliche Benchmarksatz dauerhaft oder auf unbestimmte Zeit nicht mehr fortgeführt wird oder fortgeführt werden wird; oder
- (4) eine öffentliche Bekanntmachung der Aufsichtsbehörde des Administrators des Ursprünglichen Benchmarksatzes infolgedessen der Ursprüngliche Benchmarksatz allgemein oder in Bezug auf die Schuldverschreibungen nicht mehr verwendet wird bzw. verwendet werden darf; oder
- (5) den Umstand, dass die Verwendung des Ursprünglichen Benchmarksatzes zur

purposes of determining rates of interest (or, alternatively, mid swap rates) in the Specified Currency, provided that all determinations will be made by the Calculation Agent.

**"Benchmark Event"** means:

- (1) the Original Benchmark Rate ceasing to be published on a regular basis or ceasing to exist; or
- (2) a public statement by the administrator of the Original Benchmark Rate that it has ceased or that it will cease publishing the Original Benchmark Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue the publication of the Original Benchmark Rate); or
- (3) a public statement by the supervisor of the administrator of the Original Benchmark Rate, that the Original Benchmark Rate has been or will be permanently or indefinitely discontinued; or
- (4) a public statement by the supervisor of the administrator of the Original Benchmark Rate as a consequence of which the Original Benchmark Rate has been or will be prohibited from being used either generally, or in respect of the relevant Notes; or
- (5) it has become unlawful for any Paying Agent, the Calculation Agent, the Issuer or any other

Berechnung oder Bestimmung des Referenzzinssatzes für die Zahlstellen, die Berechnungsstelle, die Emittentin oder jeden Dritten rechtswidrig geworden ist;

wobei für die Zwecke von (1)–(3) eine wesentliche Änderung der bei Verzinsungsbeginn gültigen Methode für die Feststellung des Ursprünglichen Benchmarksatzes durch den Administrator der Einstellung bzw. Nichtfortführung des Ursprünglichen Benchmarksatzes gleichsteht.

**"Nachfolge-Benchmarksatz"**

bezeichnet einen Nachfolger oder Ersatz des Ursprünglichen Benchmarksatzes, der formell durch das Nominierungsgremium empfohlen wurde.

**"Neuer Benchmarksatz"** bezeichnet den jeweils gemäß § 3(7) bestimmten Nachfolge-Benchmarksatz bzw. Alternativ-Benchmarksatz.

**"Nominierungsgremium"** bezeichnet in Bezug auf die Ersetzung des Ursprünglichen Benchmarksatzes:

- (1) die Zentralbank für die Währung in der die Benchmark oder der Bildschirmsatz dargestellt wird oder eine Zentralbank oder andere Aufsichtsbehörde, die für die Aufsicht des Administrators der Benchmark oder des Bildschirmsatzes zuständig ist; oder
- (2) jede Arbeitsgruppe oder jedes Komitee gefördert durch, geführt oder mitgeführt von oder gebildet von (a) der Zentralbank für die Währung in der die Benchmark oder der Bildschirmsatz dargestellt wird, (b) einer Zentralbank oder anderen Aufsichtsbehörde, die für die Aufsicht des Administrators der Benchmark oder des Bildschirmsatzes zuständig ist, (c) einer Gruppe der zuvor genannten Zentralbanken oder anderer Aufsichtsbehörden oder (d) dem Finanzstabilitätsrat (Financial Stability Board) oder Teilen

party to calculate or determine any Reference Interest Rate using the Original Benchmark Rate;

provided that, for the purposes of (1) through (3), a material alteration of the methodology used by the administrator on the Interest Commencement Date for the determination of the Original Benchmark Rate will be deemed as cessation and discontinuation, respectively, of the Original Benchmark Rate.

**"Successor Benchmark Rate"** means a successor to or replacement of the Original Benchmark Rate which is formally recommended by any Relevant Nominating Body.

**"New Benchmark Rate"** means the Successor Benchmark Rate or, as the case may be, the Alternative Benchmark Rate determined in accordance with § 3(7).

**"Relevant Nominating Body"** means, in respect of the replacement of the Original Benchmark Rate:

- (1) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable); or
- (2) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable), (c) a group of the aforementioned central banks or other supervisory authorities or (d) the Financial Stability Board or any part thereof.

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(8) *Ausschluss der Zinszahlung.*

(a) Die Emittentin hat das Recht, jederzeit die Zinszahlung nach freiem Ermessen ganz oder teilweise entfallen zu lassen. Sie teilt den Gläubigern unverzüglich, spätestens jedoch am betreffenden Zinszahlungstag gemäß § 11 mit, wenn sie von diesem Recht Gebrauch macht. Ein Unterlassen der Benachrichtigung der Gläubiger berührt nicht die Wirksamkeit der Entscheidung über das Entfallen der Zinszahlungen, führt in keinem Fall zu einer Pflicht der Emittentin, eine entfallene Zinszahlung zu einem späteren Zeitpunkt nachzuholen, und stellt in keinem Fall eine Pflichtverletzung dar. Eine bis zum betreffenden Zinszahlungstag nicht erfolgte Benachrichtigung ist unverzüglich nachzuholen.

(b) Eine Zinszahlung auf die Schuldverschreibungen ist für die betreffende Zinsperiode ausgeschlossen und entfällt (ohne Einschränkung des Rechts der Emittentin nach § 3(8)(a)):

(i) soweit eine solche Zinszahlung zusammen mit

(1) dem Betrag einer etwaigen Hochschreibung nach § 5 (8)(c), die zu dem betreffenden Zinszahlungstag durchgeführt werden soll,

(2) den an dem selben Tag geplanten oder erfolgenden und den in dem laufenden Geschäftsjahr der Emittentin bereits erfolgten weiteren Ausschüttungen (wie in § 3(9) definiert) auf andere Kernkapitalinstrumente (wie in § 3(9) definiert) und

(3) dem Gesamtbetrag etwaiger Hochschreibungen auf andere AT1 Instrumente, die zu dem betreffenden Zinszahlungstag durchgeführt werden sollen oder in dem laufenden Geschäftsjahr der Emittentin durchgeführt wurden

die Ausschüttungsfähigen Posten (wie in § 3(9) definiert) übersteigen würde, wobei die Ausschüttungsfähigen Posten für diesen Zweck um einen Betrag erhöht werden, der bereits als Aufwand für Ausschüttungen in Bezug auf Kernkapitalinstrumente (zur Klarstellung: einschließlich

(8) *Cancellation of Interest Payment.*

(a) The Issuer has the right to cancel all or part of any payment of interest in its sole discretion and at any time. If the Issuer exercises such right, it shall give notice to the Holders in accordance with § 11 without undue delay but no later than on the relevant Interest Payment Date. Any failure to give such notice shall not affect the validity of the decision on the cancellation, shall in no event result in an obligation of the Issuer to make a cancelled interest payment at a later date and shall not constitute a default for any purpose. A notice which has not been given until the relevant Interest Payment Date shall be given without undue delay thereafter.

(b) Payment of interest on the Notes for the relevant Interest Period shall be excluded and cancelled (without prejudice to the right of the Issuer pursuant to § 3(8)(a)):

(i) to the extent that such payment of interest together with

(1) the amount of a write-up, if any, in accordance with § 5 (8)(c) to be effected as of the relevant Interest Payment Date,

(2) any additional Distributions (as defined in § 3(9)) that are scheduled to be made or have been made on the same day or that have been made by the Issuer on other Tier 1 Instruments (as defined in § 3(9)) in the then current financial year of the Issuer and

(3) the total amount of write-ups, if any, on any other AT1 Instruments which shall be effected as of the relevant Interest Payment Date or have been effected in the then current financial year of the Issuer

would exceed the Available Distributable Items (as defined in § 3(9)), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (for the

Zinszahlungen auf die Schuldverschreibungen) in die Ermittlung des Gewinns, der den Ausschüttungsfähigen Posten zugrunde liegt, eingegangen ist; oder

- (ii) wenn und soweit eine zuständige Behörde anordnet, dass diese Zinszahlung insgesamt oder teilweise entfällt, oder ein anderes gesetzliches oder behördliches Ausschüttungsverbot oder irgendeine andere Beschränkung von Ausschüttungen unter den Anwendbaren Aufsichtsrechtlichen Vorschriften besteht (einschließlich, jedoch nicht ausschließlich, der Berechnung und der Einhaltung des Maximal Ausschüttungsfähigen Betrags); oder
- (iii) wenn die Emittentin am betreffenden Zinszahlungstag überschuldet im Sinne von § 19 InsO oder zahlungsunfähig im Sinne von § 17 InsO ist oder soweit diese Zinszahlung zu einer Überschuldung oder Zahlungsunfähigkeit der Emittentin führen würde.

Die Emittentin teilt den Gläubigern unverzüglich, spätestens jedoch am betreffenden Zinszahlungstag gemäß § 11 mit, wenn und in welcher Höhe eine Zinszahlung nach § 3(8)(b) ausgeschlossen ist und entfällt. Ein Unterlassen der Benachrichtigung der Gläubiger berührt nicht die Wirksamkeit des Ausfalls der Zinszahlungen und stellt in keinem Fall eine Pflichtverletzung dar. Eine bis zum betreffenden Zinszahlungstag nicht erfolgte Benachrichtigung ist unverzüglich nachzuholen.

- (c) Die Emittentin ist berechtigt, die Mittel aus entfallenen Zinszahlungen uneingeschränkt zur Erfüllung ihrer eigenen Verpflichtungen bei deren Fälligkeit zu nutzen. Soweit Zinszahlungen entfallen, schließt dies sämtliche gemäß § 7 zahlbaren zusätzlichen Beträge (wie in § 7(1) definiert) ein. Entfallene Zinszahlungen werden nicht nachgezahlt.
- (d) Das Entfallen von Zinszahlungen stellt in keinem Fall eine Pflichtverletzung dar.
- (9) *Bestimmte Definitionen.*

**"Anwendbare Aufsichtsrechtliche Vorschriften"** bezeichnet die jeweils gültigen,

avoidance of doubt, including payments of interest on the Notes) in the determination of the profit on which the Available Distributable Items are based; or

- (ii) if and to the extent that a competent authority orders that all or part of the relevant payment of interest be cancelled or another prohibition of Distributions is imposed by law or an authority or any other restriction to make Distributions exists under the Applicable Supervisory Regulations (including, but not limited to, the calculation of, and the compliance with, the Maximum Distributable Amount); or
- (iii) if the Issuer is over-indebted within the meaning of § 19 InsO or illiquid within the meaning of § 17 InsO on the relevant Interest Payment Date or to the extent that the relevant payment of interest would result in an over-indebtedness or illiquidity of the Issuer.

The Issuer shall give notice to the Holders in accordance with § 11 without undue delay but no later than on the relevant Interest Payment Date if, and to the extent, a payment of interest is excluded and cancelled pursuant to § 3(8)(b). Any failure to give such notice shall not affect the validity of the cancellation and shall not constitute a default for any purpose. A notice which has not been given until the relevant Interest Payment Date shall be given without undue delay thereafter.

- (c) The Issuer is entitled to use the funds from cancelled payments of interest without restrictions for the fulfilment of its own obligations when due. To the extent that payments of interest are cancelled, such cancellation includes all Additional Amounts (as defined in § 7(1)) payable pursuant to § 7. Any payments of interest which have been cancelled will not be made at any later date.
- (d) The cancellation of interest payment shall not constitute a default for any purpose.
- (9) *Certain Definitions.*

**"Applicable Supervisory Regulations"** means the provisions of bank supervisory



sich auf die Kapitalanforderungen, die Solvabilität, andere Aufsichtsanforderungen und/oder Abwicklung der Emittentin und/oder der jeweiligen Institutgruppe, zu der die Emittentin gehört, beziehenden Vorschriften des Bankaufsichtsrechts und der darunter fallenden Verordnungen (einschließlich, jedoch nicht ausschließlich, der jeweils geltenden Leitlinien und Empfehlungen der Europäischen Bankaufsichtsbehörde und/oder der Europäischen Zentralbank, der Verwaltungspraxis einer zuständigen Behörde, den einschlägigen Entscheidungen der Gerichte und den anwendbaren Übergangsbestimmungen).

**"Ausschüttung"** bezeichnet jede Art der Auszahlung von Dividenden oder Zinsen.

**"Ausschüttungsfähige Posten"** bezeichnet in Bezug auf eine Zinszahlung die ausschüttungsfähigen Posten wie in Artikel 4 Absatz 1 Nr. 128 CRR definiert; zum Zeitpunkt der Begebung der Schuldverschreibungen bezeichnet dieser Begriff den Gewinn am Ende des dem betreffenden Zinszahlungstag unmittelbar vorhergehenden Geschäftsjahres der Emittentin, für das ein testierter Jahresabschluss vorliegt, zuzüglich etwaiger vorgetragener Gewinne und für diesen Zweck verfügbarer Rücklagen, vor der Ausschüttung an die Eigner von Eigenmittelinstrumenten, jedoch abzüglich vorgetragener Verluste und gemäß anwendbarer Rechtsvorschriften der Europäischen Union oder Deutschlands oder der Satzung der Emittentin nicht ausschüttungsfähiger Gewinne und in die gemäß anwendbarer Rechtsvorschriften Deutschlands oder der Satzung der Emittentin nicht ausschüttungsfähigen Rücklagen eingestellter Beträge, jeweils in Bezug auf die spezifische Eigenmittelkategorie der Schuldverschreibungen als AT1 Instrumente, auf die sich die anwendbaren Rechtsvorschriften der Europäischen Union oder Deutschlands oder die Satzung der Emittentin beziehen, wobei die ausschüttungsfähigen Posten und die betreffenden Gewinne, Verluste und Rücklagen ausgehend von dem handelsrechtlichen Einzelabschluss der Emittentin und nicht auf der Basis des Konzernabschlusses festgestellt werden.

Die Ausschüttungsfähigen Posten sind jeweils nach den dann Anwendbaren Aufsichtsrechtlichen Vorschriften zu bestimmen; entsprechend sind nur solche Beträge hinzuzurechnen oder abzuziehen,

laws and any regulations and other rules thereunder applicable from time to time (including, but not limited to, the guidelines and recommendations of the European Banking Authority and/or the European Central Bank, the administrative practice of any competent authority, any applicable decision of a court and any applicable transitional provisions) relating to capital adequacy, solvency, other prudential requirements and/or resolution and applicable to the Issuer and/or the banking group to which the Issuer belongs from time to time.

**"Distribution"** means any kind of payment of dividends or interest.

**"Available Distributable Items"** means, with respect to any payment of interest, the distributable items as defined in Article 4(1) no. 128 CRR; at the time of the issuance of the Notes, such term refers to the profit as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date, for which audited annual financial statements are available, plus any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments, less any losses brought forward and any profits which are non-distributable pursuant to the applicable laws of the European Union or Germany or the Articles of Association of the Issuer and any sums placed in non-distributable reserves in accordance with the applicable laws of Germany or the Articles of Association of the Issuer, in each case with respect to the specific category of own funds of the Notes as AT1 Instruments to which the applicable laws of the European Union or Germany or the Articles of Associations of the Issuer relate, provided that the distributable items and the relevant profits, losses and reserves shall be determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law and not on the basis of its consolidated financial statements.

The determination of the Available Distributable Items shall be based on the Applicable Supervisory Regulations at the time of the determination and, accordingly, only those amounts shall be added or

wie sie nach den Anwendbaren Aufsichtsrechtlichen Vorschriften für diesen Zweck oder für die Ermittlung der auf AT1 Instrumente ausschüttbaren Beträge hinzugerechnet werden dürfen bzw. abzuziehen sind.

"**CRD**" bezeichnet die Richtlinie 2013/36/EU des Europäischen Parlaments und des Rates vom 26. Juni 2013 über den Zugang zur Tätigkeit von Kreditinstituten und die Beaufsichtigung von Kreditinstituten und Wertpapierfirmen, zur Änderung der Richtlinie 2002/87/EG und zur Aufhebung der Richtlinien 2006/48/EG und 2006/49/EG, in der Fassung wie jeweils geändert oder ersetzt, insbesondere durch die Richtlinie (EU) 2019/878 des Europäischen Parlaments und des Rates vom 20. Mai 2019 zur Änderung der Richtlinie 2013/36/EU im Hinblick auf von der Anwendung ausgenommene Unternehmen, Finanzholdinggesellschaften, gemischte Finanzholdinggesellschaften, Vergütung, Aufsichtsmaßnahmen und -befugnisse und Kapitalerhaltungsmaßnahmen; soweit Bestimmungen der CRD geändert oder ersetzt werden, bezieht sich der Verweis auf Bestimmungen der CRD in diesen Anleihebedingungen auf die jeweils geänderten Bestimmungen bzw. die Nachfolgeregelungen.

"**Kernkapitalinstrumente**" bezeichnet Kapitalinstrumente, die im Sinne der CRR zu den Instrumenten des harten Kernkapitals oder zu den AT1 Instrumenten zählen.

"**Maximal Ausschüttungsfähiger Betrag**" bezeichnet den (in gegenwärtiger Umsetzung von Artikel 141(2) CRD in deutsches Recht) nach § 10 Abs. 1 Satz 1 Nr. 5 e) KWG i.V.m. § 37 SolvV ermittelten maximal ausschüttungsfähigen Betrag für die kombinierte Kapitalpufferanforderung nach § 10i KWG.

"**SolvV**" bezeichnet die Verordnung zur angemessenen Eigenmittelausstattung von Instituten, Institutsgruppen, Finanzholding-Gruppen und gemischten Finanzholding-Gruppen (Solvabilitätsverordnung – SolvV), in der Fassung wie jeweils geändert oder ersetzt; soweit Bestimmungen der SolvV geändert oder ersetzt werden, bezieht sich der Verweis auf Bestimmungen der SolvV in diesen Anleihebedingungen auf die jeweils geänderten Bestimmungen bzw. die Nachfolgeregelungen.

deducted that may be added or have to be deducted (as the case may be) for purposes of determining the amounts distributable on AT1 Instruments under the Applicable Supervisory Regulations.

"**CRD**" means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended or replaced from time to time, in particular by the Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures; to the extent that any provisions of the CRD are amended or replaced, the reference to provisions of the CRD as used in these Terms and Conditions shall refer to such amended provisions or successor provisions from time to time.

"**Tier 1 Instruments**" means capital instruments which, according to the CRR, qualify as common equity tier 1 capital or AT1 Instruments.

"**Maximum Distributable Amount**" means the maximum distributable amount determined in accordance with § 10(1) sentence 1 no. 5 (e) KWG in connection with § 37 SolvV for the combined capital buffer requirement in accordance with § 10i KWG (currently transposing Article 141(2) CRD into German law).

"**SolvV**" means the regulation on the capital adequacy of institutions, groups of institutions, financial holding groups and mixed financial holding groups (*Solvabilitätsverordnung – SolvV*), as amended or replaced from time to time; to the extent that any provisions of the SolvV are amended or replaced, the reference to provisions of the SolvV as used in these Terms and Conditions shall refer to such amended provisions or successor provisions from time to time.

#### § 4 Zahlungen

- (1) *Allgemeines.*
- (a) *Zahlungen auf Kapital.* Zahlungen auf Kapital in Bezug auf die Schuldverschreibungen erfolgen nach Maßgabe von § 4(2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems außerhalb der Vereinigten Staaten.
- (b) *Zahlungen von Zinsen.* Die Zahlung von Zinsen auf Schuldverschreibungen erfolgt nach Maßgabe von § 4(2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems.

Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe von § 4(2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems, und zwar nach ordnungsgemäßer Bescheinigung gemäß § 1(3)(b).

- (2) *Zahlungsweise.* Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in der festgelegten Währung.
- (3) *Vereinigte Staaten.* Für die Zwecke des § 1(3) und des § 4(1) bezeichnet "**Vereinigte Staaten**" die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Rico, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).
- (4) *Erfüllung.* Die Emittentin wird durch Leistung der Zahlung an das Clearing System oder dessen Order von ihrer Zahlungspflicht befreit.
- (5) *Zahltag.* Fällt der Fälligkeitstag für eine Zahlung von Kapital oder Zins in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Geschäftstag ist, dann haben die Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Geschäftstag und sind nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verschiebung zu verlangen.

#### § 4 Payments

- (1) *General.*
- (a) *Payment of Principal.* Payment of principal in respect of the Notes shall be made in accordance with § 4(2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States.
- (b) *Payment of Interest.* Payment of interest on Notes shall be made in accordance with § 4(2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.

Payment of interest on Notes represented by the Temporary Global Note shall be made in accordance with § 4(2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System, upon due certification as provided in § 1(3)(b).

- (2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.
- (3) *United States.* For purposes of § 1(3) and § 4(1), "**United States**" means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).
- (4) *Discharge.* The Issuer shall be discharged by payment to, or to the order of, the Clearing System.
- (5) *Payment Day.* If the date for payment of any principal or interest in respect of any Note is not a Business Day then the Holders shall not be entitled to payment until the next Business Day and shall not be entitled to further interest or other payment in respect of such delay.

"**Geschäftstag**" bezeichnet jeden Tag (außer einem Samstag oder Sonntag), an dem das Trans-European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET2) geöffnet ist und Geschäftsbanken und Devisenmärkte in London und New York und das Clearing-System Zahlungen in U.S.-Dollar abwickeln.

"**Business Day**" means any day (other than Saturday or Sunday) on which the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET2) is open and commercial banks and foreign exchange markets in London and New York and the Clearing System settle payments in U.S. dollars.

(6) *Bezugnahmen auf Kapital und Zinsen.* Bezugnahmen in diesen Anleihebedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Aktuellen Nennbetrag der Schuldverschreibungen sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf Schuldverschreibungen schließen, soweit anwendbar, sämtliche gemäß § 7 zahlbaren zusätzlichen Beträge (wie in § 7(1) definiert) ein.

(6) *References to Principal and Interest.* References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable, the following amounts: the Current Nominal Amount of the Notes and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7 (as defined in § 7(1)).

(7) *Hinterlegung von Kapital und Zinsen.* Die Emittentin ist berechtigt, beim Amtsgericht Frankfurt am Main Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt und auf das Recht der Rücknahme verzichtet wird, erlöschen die jeweiligen Ansprüche der Gläubiger gegen die Emittentin.

(7) *Deposit of Principal and Interest.* The Issuer may deposit with the local court in Frankfurt am Main amounts of interest or principal not claimed by the Holders within twelve months after the due date, even though such Holders may not be in default of acceptance of payment. If and to the extent that such deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

## § 5

### Rückzahlung; Herabschreibungen; Hochschreibungen

- (1) *Keine Endfälligkeit.* Die Schuldverschreibungen haben keinen Endfälligkeitstag.
- (2) *Rückzahlung nach Wahl der Emittentin.* Die Emittentin kann die Schuldverschreibungen insgesamt, jedoch nicht teilweise, vorbehaltlich der vorherigen Zustimmung der zuständigen Behörde und gemäß § 5(5), zu jedem Optionalen Rückzahlungstag (wie nachstehend definiert) kündigen und zu ihrem Rückzahlungsbetrag (wie in § 5(6) definiert) zuzüglich (vorbehaltlich eines Ausschlusses der Zinszahlung nach § 3(8)) bis zu dem betreffenden Optionalen Rückzahlungstag (ausschließlich) aufgelaufener Zinsen zurückzahlen.

"**Optionaler Rückzahlungstag**" bezeichnet den Ersten Optionalen Rückzahlungstag und jeden darauf folgenden Zinszahlungstag.

## § 5

### Redemption; Write-downs; Write-ups

- (1) *No Scheduled Maturity.* The Notes have no scheduled maturity date.
- (2) *Redemption at the Option of the Issuer.* The Issuer may redeem the Notes, in whole but not in part, at any time, subject to the prior permission of the competent authority and in accordance with § 5(5), with effect as of any Optional Redemption Date (as defined below) at their Redemption Amount (as defined in § 5(6)) together with interest (if any, and subject to a cancellation of the interest payment pursuant to § 3(8)) accrued to (but excluding) the relevant Optional Redemption Date.

"**Optional Redemption Date**" means the First Call Date and each Interest Payment Date thereafter.

**"Erster Optionaler Rückzahlungstag"**  
bezeichnet den 9. April 2025.

**"First Call Date"** means 9 April 2025.

- (3) *Rückzahlung aus regulatorischen Gründen.* Die Emittentin kann die Schuldverschreibungen insgesamt, jedoch nicht teilweise, mit der vorherigen Zustimmung der zuständigen Behörde und gemäß § 5(5) kündigen und zu ihrem Rückzahlungsbetrag zuzüglich (vorbehaltlich eines Ausschlusses der Zinszahlung nach § 3(8)) bis zu dem für die Rückzahlung festgesetzten Tag (ausschließlich) aufgelaufener Zinsen zurückzahlen, falls sich die aufsichtsrechtliche Einstufung der Schuldverschreibungen ändert, was wahrscheinlich zu (i) ihrem vollständigen oder teilweisen Ausschluss von den Eigenmitteln der Emittentin im Sinne der CRR oder (ii) ihrer Neueinstufung als Eigenmittel geringerer Qualität als am Begebungstag führen würde, vorausgesetzt, dass bei einer Rückzahlung vor dem fünften Jahrestag des Tags der Begebung der Schuldverschreibungen die Bedingungen in Artikel 78(4)(a) CRR erfüllt sind, nach denen die zuständige Behörde eine solche Rückzahlung nur gestatten kann, wenn (i) sie es für ausreichend sicher hält, dass eine Änderung der aufsichtsrechtlichen Einstufung stattfindet und (ii) die Emittentin ihr hinreichend nachgewiesen hat, dass die aufsichtsrechtliche Neueinstufung am Begebungstag nicht vorherzusehen war.

Zur Klarstellung: Der vollständige oder teilweise Ausschluss von den Eigenmitteln infolge einer Herabschreibung nach § 5(8)(b) begründet kein Kündigungsrecht nach § 5(3).

- (4) *Rückzahlung aus steuerlichen Gründen.* Die Emittentin kann die Schuldverschreibungen jederzeit insgesamt, jedoch nicht teilweise, mit der vorherigen Zustimmung der zuständigen Behörde und gemäß § 5(5) kündigen und zu ihrem Rückzahlungsbetrag zuzüglich (vorbehaltlich eines Ausschlusses der Zinszahlung nach § 3(8)) bis zum für die Rückzahlung festgesetzten Tag (ausschließlich) aufgelaufener Zinsen zurückzahlen, falls sich die steuerliche Behandlung der Schuldverschreibungen in Folge einer nach dem Verzinsungsbeginn eingetretenen Rechts- oder Rechtsprechungsänderung, einschließlich (jedoch nicht ausschließlich) einer Änderung von steuerrechtlichen Gesetzen, Regelungen oder Verfahrensweisen, ändert (insbesondere, jedoch nicht ausschließlich, im Hinblick auf die steuerliche Abzugsfähigkeit der unter den Schuldverschreibungen zu zahlenden Zinsen

- (3) *Redemption for Regulatory Reasons.* The Issuer may redeem the Notes in whole, but not in part, at any time, with the prior permission of the competent authority and in accordance with § 5(5), at their Redemption Amount together with interest (if any, subject to a cancellation of interest payment pursuant to § 3(8)) accrued to the date fixed for redemption (exclusive), if there is a change in the regulatory classification of the Notes that would be likely to result in (i) their exclusion in full or in part from the Issuer's own funds under the CRR or (ii) a reclassification as a lower quality form of the Issuer's own funds as of the issue date, provided that in respect of a redemption prior to the fifth anniversary of the issue date of the Notes the conditions in Article 78(4)(a) CRR are met, pursuant to which the competent authority may approve such redemption only if (i) it considers the change in the regulatory classification to be sufficiently certain and (ii) the Issuer demonstrated to its satisfaction that the regulatory reclassification of the Notes was not reasonably foreseeable at the issue date.

For the avoidance of doubt: The exclusion in full or in part from the own funds due to a write-down pursuant to § 5(8)(b) does not constitute a right to redeem under § 5(3).

- (4) *Redemption for Reasons of Taxation.* The Issuer may redeem the Notes in full, but not in part, at any time, with the prior permission of the competent authority and in accordance with § 5(5), at their Redemption Amount together with interest (if any, and subject to a cancellation of the interest payment pursuant to § 3(8)) accrued to the date fixed for redemption (exclusive), if the tax treatment of the Notes, due to a change in applicable legislation or relevant jurisprudence, including (but not limited to) a change in any fiscal legislation, rules or practices, which takes effect after the Interest Commencement Date, changes (including but not limited to the tax deductibility of interest payable on the Notes or the obligation to pay Additional Amounts (as defined in § 7(1))) and, in respect of a redemption prior to the fifth anniversary of the issue date of the Notes, the conditions in Article 78(4)(b) CRR are met, pursuant to

oder die Verpflichtung zur Zahlung von zusätzlichen Beträgen (wie in § 7(1) definiert)) und, bei einer Rückzahlung vor dem fünften Jahrestag des Tags der Begebung der Schuldverschreibungen, die Bedingungen in Artikel 78(4)(b) CRR erfüllt sind, nach denen die zuständige Behörde eine solche Rückzahlung nur gestatten kann, wenn sich die geltende steuerliche Behandlung der Schuldverschreibungen ändert und die Emittentin ihr hinreichend nachgewiesen hat, dass die Änderung der steuerlichen Behandlung wesentlich ist und am Begebungstag nicht vorherzusehen war.

Eine Änderung der steuerlichen Behandlung der Schuldverschreibungen, die zu einem Einbehalt oder Abzug von Steuern auf die auf die Schuldverschreibungen zu zahlenden Beträge führt, die jedoch zu keiner Verpflichtung der Emittentin zur Zahlung von zusätzlichen Beträgen (wie in § 7(1) definiert) führt, begründet kein Kündigungsrecht gemäß diesem § 5(4).

- (5) *Einholung der Zustimmung der Behörde, Kündigungserklärung und Rückzahlung/Rückkauf.*
- (a) Im Falle einer Kündigung nach § 5(2), § 5(3) und § 5(4) oder eines Rückkaufs nach § 10(2) ist die Emittentin verpflichtet, die vorherige Zustimmung der zuständigen Behörde gemäß Artikel 78 CRR einzuholen. Zum Zeitpunkt der Begebung der Schuldverschreibungen setzt eine Zustimmung gemäß Artikel 78 CRR voraus, dass eine der folgenden Bedingungen erfüllt ist:
- (i) die Emittentin ersetzt die Schuldverschreibungen vor oder gleichzeitig mit der Rückzahlung oder dem Rückkauf durch Eigenmittelinstrumente zumindest gleicher Qualität zu Bedingungen, die im Hinblick auf die Ertragsmöglichkeiten der Emittentin nachhaltig sind; oder
  - (ii) die Emittentin hat der zuständigen Behörde hinreichend nachgewiesen, dass ihre Eigenmittel und berücksichtigungsfähigen Verbindlichkeiten nach der Rückzahlung oder dem Rückkauf die Anforderungen nach den Anwendbaren Aufsichtsrechtlichen Vorschriften um eine Spanne übersteigen, die die zuständige Behörde für erforderlich hält;

which the competent authority may approve such redemption only if there is a change in the applicable tax treatment of the Notes which the Issuer demonstrated to its satisfaction is material and was not reasonably foreseeable at the issue date.

Any changes in the tax treatment of the Notes resulting in a withholding or deduction of taxes on amounts payable in respect of the Notes which, however, do not create an obligation of the Issuer to pay Additional Amounts (as defined in § 7(1)), will not constitute a reason to call the Notes for redemption pursuant to this § 5(4).

- (5) *Obtaining of permission of competent authority, Redemption Notice and Redemption/Repurchase.*
- (a) In the event of a redemption of the Notes pursuant to § 5(2), § 5(3) or § 5(4) or any repurchase of the Notes pursuant to § 10(2) the Issuer is required to obtain prior permission of the competent authority in accordance with Article 78 CRR. At the time of the issuance of the Notes, permission pursuant to Article 78 CRR requires that either of the following conditions is met:
- (i) before or at the same time as the redemption or the repurchase, the Issuer replaces the Notes with own fund instruments of equal or higher quality at terms that are sustainable for the income capacity of the Issuer; or
  - (ii) the Issuer has demonstrated to the satisfaction of the competent authority that the own funds and eligible liabilities of the Issuer would, following such redemption or repurchase, exceed the requirements laid down in the Applicable Supervisory Regulations by a margin that the competent authority considers necessary;

wobei die zuständige Behörde der Emittentin für eine Rückzahlung oder einen Rückkauf eine allgemeine vorherige Zustimmung für einen bestimmten Zeitraum, der auf ein Jahr begrenzt ist und danach verlängert werden kann, und einen vorab von der zuständigen Behörde festgelegten Betrag erteilen kann, die Kriterien unterliegt, die sicherstellen, dass jede derartige künftige Rückzahlung bzw. jeder derartige künftige Rückkauf im Einklang mit den oben unter (i) und (ii) festgelegten Bedingungen vonstattengeht, wenn die Emittentin ausreichende Vorkehrungen hinsichtlich ihrer Fähigkeit trifft, mit Eigenmitteln, die in den Anwendbaren Aufsichtsrechtlichen Vorschriften vorgeschriebenen Beträge übersteigen, tätig zu sein.

Zusätzlich gilt bei einer Rückzahlung bzw. einem Rückkauf vor dem fünften Jahrestag des Tags der Begebung der Schuldverschreibungen: (i) im Falle einer Kündigung aus regulatorischen oder steuerlichen Gründen müssen die in § 5(3) bzw. § 5(4) genannten Bedingungen erfüllt sein, und (ii) Rückkäufe dürfen nur zum Zwecke der Marktpflege und innerhalb der von der zuständigen Behörde genehmigten Grenzen erfolgen.

Ungeachtet der oben genannten Bedingungen, falls die zum Zeitpunkt der Rückzahlung oder des Rückkaufs Anwendbaren Aufsichtsrechtlichen Vorschriften eine Rückzahlung oder einen Rückkauf nur zulassen, wenn eine solche Rückzahlung oder ein solcher Rückkauf im Einklang mit zumindest einer alternativen oder weiteren Voraussetzung steht, dann muss die Emittentin jeder dieser etwaigen anderen und/oder zusätzlichen Voraussetzungen (wie jeweils anwendbar) entsprechen.

Zur Klarstellung: Die Nichterteilung der Zustimmung gemäß Artikel 78 CRR durch die zuständige Behörde stellt in keinem Fall eine Pflichtverletzung dar.

- (b) Eine Kündigung nach § 5(2), § 5(3) und § 5(4) hat gemäß § 11 unter Einhaltung einer Kündigungsfrist von nicht weniger als 30 Kalendertagen zu erfolgen. Sie ist vorbehaltlich § 5(5)(c) und (d) unwiderruflich, muss den für die Rückzahlung festgelegten Termin, den Rückzahlungsbetrag (vorbehaltlich einer Herabschreibung nach § 5(8)(b)) und im Falle einer Kündigung nach § 5(3) oder (4) den Grund für die Kündigung nennen.

provided that the competent authority may grant the Issuer a general prior permission to make a redemption or a repurchase for a specified period, which shall not exceed one year, after which it may be renewed, and for a certain predetermined amount as set by the competent authority, subject to criteria that ensure that any such future redemption or repurchase will be in accordance with the conditions set out in points (i) and (ii) above, if the Issuer provides sufficient safeguards as to its capacity to operate with own funds above the amounts required in the Applicable Supervisory Regulations.

Additionally, in the event of a redemption or, as the case may be, a repurchase prior to the fifth anniversary of the issue date of the Notes (i) in case of a redemption for regulatory reasons or reasons of taxation the conditions in § 5(3) or, as the case may be, § 5(4) have to be met, and (ii) repurchases may be made only for market making purposes and within the limits permitted by the competent authority.

Notwithstanding the above conditions, if, at the time of any redemption or repurchase, the Applicable Supervisory Regulations permit the redemption or repurchase only after compliance with one or more alternative or additional pre-conditions to those set out above, the Issuer shall comply with such other and/or, as applicable, additional pre-conditions, if any.

For the avoidance of doubt, any refusal of the competent authority to grant permission in accordance with Article 78 CRR shall not constitute a default for any purpose.

- (b) Any notice of redemption in accordance with § 5(2), § 5(3) or § 5(4) shall be given in accordance with § 11 observing a notice period of not less than 30 calendar days. Such notice shall be irrevocable (subject to § 5(5)(c) and (d)) and shall state the date fixed for redemption, the Redemption Amount (subject to a write-down pursuant to § 5(8)(b)), and, in case of a notice of redemption pursuant to § 5(3) or (4), the reason for the redemption.

(c) Die Emittentin darf die Kündigung nicht erklären, wenn ein Auslöseereignis (wie in § 5(8)(a) definiert) eingetreten ist und noch fort dauert. Wenn ein Auslöseereignis nach der Erklärung einer Kündigung, jedoch vor dem betreffenden Rückzahlungstag eintritt, wird die Kündigungserklärung automatisch als zurückgenommen sowie nichtig behandelt und darf die betreffende Rückzahlung nicht erfolgen (wie in § 5(5)(d) geregelt); in einem solchen Fall gelten die Rechte und Pflichten aus den Schuldverschreibungen unverändert fort.

(d) Die Emittentin darf die Schuldverschreibungen in jedem Fall nur zurückzahlen, sofern (i) kein Auslöseereignis eingetreten ist und noch fort dauert, (ii) die Emittentin am Rückzahlungstag weder überschuldet im Sinne von § 19 InsO noch zahlungsunfähig im Sinne von § 17 InsO ist, und (iii) die Zahlung des Rückzahlungsbetrages nicht zu einer Überschuldung oder Zahlungsunfähigkeit der Emittentin führt; § 41 InsO bleibt unberührt.

(6) *Kündigung nach erfolgter Hochschreibung; Rückzahlungsbetrag.* Die Emittentin kann ihr Kündigungsrecht nach § 5(2) nur ausüben, wenn etwaige Herabschreibungen nach § 5(8)(b) wieder gemäß § 5(8)(c) vollständig aufgeholt worden sind.

Der "**Rückzahlungsbetrag**" einer Schuldverschreibung entspricht ihrem dann Aktuellen Nennbetrag, soweit nicht zuvor bereits zurückgezahlt oder angekauft und entwertet.

(7) *Kein Kündigungsrecht der Gläubiger.* Die Gläubiger sind zur Kündigung der Schuldverschreibungen nicht berechtigt.

(8) *Herabschreibung und Hochschreibung.*

(a) *Auslöseereignis.* Bei Eintritt eines Auslöseereignisses ist der Aktuelle Nennbetrag jeder Schuldverschreibung um den Betrag der betreffenden Herabschreibung zu reduzieren.

Ein "**Auslöseereignis**" tritt ein, wenn zu irgendeinem Zeitpunkt die in Artikel 92 Absatz 1 Buchstabe a CRR genannte harte Kernkapitalquote der Emittentin (die "**Harte Kernkapitalquote**") (i) auf konsolidierter Basis oder (ii) auf Einzelinstitutsbasis unter 5,125% (die "**Mindest-CET1-Quote**") fällt, wobei (i) ein Auslöseereignis wegen Unterschreitens der Mindest-CET1-Quote auf konsolidierter Basis jederzeit eintreten kann, (ii) jedoch ein Auslöseereignis wegen

(c) The Issuer shall not give a notice of redemption if a Trigger Event (as defined in § 5(8)(a)) has occurred and is continuing. If a Trigger Event occurs after a notice of redemption was given but prior to the relevant date of redemption, the relevant notice of redemption shall automatically be deemed revoked and null and void, the corresponding redemption shall not be made, as set forth in § 5(5)(d), and the rights and obligations in respect of the Notes shall remain unchanged.

(d) In any event, the Issuer may only redeem the Notes if (i) no Trigger Event has occurred and is continuing, (ii) the Issuer is neither over-indebted within the meaning of § 19 InsO nor illiquid within the meaning of § 17 InsO on the date of redemption and (iii) the payment of the Redemption Amount does not result in an over-indebtedness or illiquidity of the Issuer; § 41 InsO remains unaffected.

(6) *Redemption after Write-Up; Redemption Amount.* The Issuer may exercise its redemption right pursuant to § 5(2) only if any write-downs pursuant to § 5(8)(b) have been fully written up in accordance with § 5(8)(c).

"**Redemption Amount**" of each Note, unless previously redeemed or repurchased and cancelled, shall be the then Current Nominal Amount of such Note.

(7) *No Call Right of the Holders.* The Holders shall have no right to call the Notes for redemption.

(8) *Write-down and write-up.*

(a) *Trigger Event.* Upon the occurrence of a Trigger Event, the Current Nominal Amount of each Note shall be reduced by the amount of the relevant write-down.

A "**Trigger Event**" occurs if, at any time, the common equity tier 1 capital ratio pursuant to Article 92(1)(a) CRR of the Issuer (the "**Common Equity Tier 1 Capital Ratio**"), determined on either (i) a consolidated basis or (ii) an individual basis, falls below 5.125 per cent. (the "**Minimum CET1 Ratio**"), provided that (i) while the Trigger Event in respect of the Minimum CET1 Ratio determined on a consolidated basis may occur at any time, (ii) a Trigger Event in



Unterschreitens der Mindest-CET1-Quote auf Einzelinstitutsbasis nur eintreten kann, wenn die Emittentin künftig nach den Anwendbaren Aufsichtsrechtlichen Vorschriften oder aufgrund behördlicher Anordnung verpflichtet sein sollte, die Aufsichtsanforderungen auch auf Einzelinstitutsbasis einzuhalten und zu diesem Zweck die Harte Kernkapitalquote auf Einzelinstitutsbasis zu ermitteln. Ob ein Auslöseereignis eingetreten ist, wird von der Emittentin, der zuständigen Behörde oder einem für diesen Zweck von der zuständigen Behörde Beauftragten festgestellt; diese Feststellung ist für die Gläubiger bindend.

Zur Klarstellung: Ein Auslöseereignis kann zu jeder Zeit festgestellt werden und mehrfach eintreten.

- (b) *Herabschreibung.* Im Falle eines Auslöseereignisses ist eine Herabschreibung *pro rata* mit sämtlichen anderen AT1 Instrumenten, die eine Herabschreibung (gleichviel ob permanent oder temporär) oder eine Wandlung in Instrumente des harten Kernkapitals bei Eintritt dieses Auslöseereignisses vorsehen, vorzunehmen. Wenn im Falle eines Auslöseereignisses auch andere AT1 Instrumente herabzuschreiben oder in Instrumente des harten Kernkapitals zu wandeln sind, die nach ihren jeweiligen Bedingungen als Auslöseereignis das Unterschreiten einer Harten Kernkapitalquote vorsehen, die auf oder über der Mindest-CET1-Quote liegt (zusammen mit den Schuldverschreibungen die "**Relevanten AT1 Instrumente**"), richtet sich das Verhältnis bzw. die Reihenfolge, in welcher für die jeweils herabzuschreibenden oder in Instrumente des harten Kernkapitals zu wandelnden Instrumente eine Herabschreibung oder Wandlung vorzunehmen ist, nach den Anwendbaren Aufsichtsrechtlichen Vorschriften. Wird dieses Verhältnis bzw. diese Reihenfolge nicht durch die Anwendbaren Aufsichtsrechtlichen Vorschriften vorgegeben, so gilt Folgendes:

- (i) Eine Herabschreibung gemäß diesem § 5(8)(b) erfolgt, vorbehaltlich der Regelung des nachstehenden Satzes, *pro rata* mit sämtlichen anderen Relevanten AT1 Instrumenten.

Dabei werden die Schuldverschreibungen und sämtliche andere Relevante AT1 Instrumente jeweils nur insoweit an einer Herabschreibung bzw. einer Wandlung in Instrumente des harten Kernkapitals

respect of the Minimum CET1 Ratio determined on an individual basis shall only occur if the Issuer should, in the future pursuant to the Applicable Supervisory Regulations or an administrative order, be required to comply with the prudential requirements on an individual basis as well and, for this purpose, to determine the Minimum CET1 Ratio on an individual basis. Whether a Trigger Event has occurred shall be determined by the Issuer, the competent authority or any agent appointed for such purpose by the competent authority, and such determination will be binding on the Holders.

For the avoidance of doubt, a Trigger Event may be determined at any time and may occur on more than one occasion.

- (b) *Write-down.* Upon the occurrence of a Trigger Event, a write-down shall be effected *pro rata* with all of the Issuer's other AT1 Instruments which provide for a write-down (whether permanent or temporary) or a conversion into common equity tier 1 capital instruments upon the occurrence of such Trigger Event. If upon the occurrence of a Trigger Event other AT1 Instruments are also subject to a write-down or are subject to conversion into common equity tier 1 capital instruments, where the respective conditions provide for a trigger event on a level for the Common Equity Tier 1 Capital Ratio at or above the Minimum CET1 Ratio (together with the Notes the "**Relevant AT1 Instruments**"), any such write-down or conversion will occur in such order of application or ratio as required in accordance with the Applicable Supervisory Regulations. If no such order or ratio is required by the Applicable Supervisory Regulations, the following applies:

- (i) Any write-down pursuant to this § 5(8)(b) will, subject to the provision set out in the following sentence, be effected *pro rata* with all other Relevant AT1 Instruments.

The Notes and all other Relevant AT1 Instruments will only participate in a write-down or (as the case may be) a conversion into common equity tier 1 capital instruments to the extent required in aggregate to restore the

beteiligt, wie dies insgesamt erforderlich ist, damit die Harte Kernkapitalquote (i) auf konsolidierter Basis und (ii) auf Einzelinstitutsbasis (jeweils nur wenn und solange die Emittentin nach den Anwendbaren Aufsichtsrechtlichen Vorschriften oder aufgrund behördlicher Anordnung verpflichtet ist, die Harte Kernkapitalquote insoweit zu bestimmen) diejenige Quote wieder erreicht, die in deren jeweiligen Bedingungen als Quote für das die Herabschreibung und/oder die Wandlung in Instrumente des harten Kernkapitals auslösende Ereignis festgelegt ist; wobei die Summe der Herabschreibungen und Wandlungen insgesamt auf den gesamten, im Zeitpunkt des Eintritts des Auslöseereignisses ausstehenden Nennbetrag der Relevanten AT1 Instrumente beschränkt ist.

- (ii) Jedes andere Relevante AT1 Instrument, das insgesamt jedoch nicht teilweise herabgeschrieben oder gewandelt werden kann, wird für den Zweck der Bestimmung der relevanten *pro rata*-Beträge für eine Herabschreibung und die Berechnung des Betrags der Herabschreibung so behandelt, als ob seine Bedingungen eine teilweise Herabschreibung oder Wandlung vorsehen würden.

Die Vornahme von Herabschreibungen in Bezug auf die Schuldverschreibungen hängt nicht von der Wirksamkeit oder Durchführung einer Herabschreibung oder Wandlung anderer Instrumente ab und ist unabhängig davon gemäß diesem § 5(8)(b) vorzunehmen. Zur Klarstellung: Soweit die Herabschreibung oder die Wandlung in Instrumente des harten Kernkapitals unter einem oder mehreren der anderen AT1 Instrumente der Emittentin aus irgendeinem Grund nicht wirksam ist oder nicht durchgeführt wird, wird diese unwirksame oder nicht durchgeführte Herabschreibung oder Wandlung bei der Bestimmung des Betrags der Herabschreibung der Schuldverschreibungen nach diesem § 5(8)(b) nicht berücksichtigt.

Die Summe der in Bezug auf die Schuldverschreibungen vorzunehmenden Herabschreibungen ist auf die Summe der Aktuellen Nennbeträge aller zum Zeitpunkt des Eintritts des jeweiligen Auslöseereignisses ausstehenden

Common Equity Tier 1 Capital Ratio determined on (i) a consolidated basis and (ii) an individual basis (in each case only if and as long as the Issuer is required pursuant to the Applicable Supervisory Regulations or an administrative order to determine the ratio on such level) to the ratio provided for in their respective terms as the ratio triggering the event resulting in such write-down and/or conversion into common equity tier 1 capital instruments; provided that the total amount of the write-downs and conversions shall not exceed the sum of the outstanding principal amounts of the Relevant AT1 Instruments at the time of occurrence of the Trigger Event.

- (ii) Any other Relevant AT1 Instrument that may be written down or converted in full but not in part will, for the purposes of determining the relevant *pro rata* amounts for a write-down and calculation of the written-down amount, be treated as if its terms permit a partial write-down or conversion.

The performance of any write-downs in respect of the Notes is not dependent on the effectiveness or implementation of a write-down or conversion of other instruments and will be effected in any event pursuant to this § 5(8)(b). For the avoidance of doubt: to the extent that the write-down or the conversion into common equity tier 1 capital instruments of one or more of the other AT1 Instruments of the Issuer is not effective or is not implemented for any reason, such non-effective or non-implemented write-down or conversion will not be taken into account when determining the written-down amount in respect of the Notes under this § 5(8)(b).

The sum of the write-downs to be effected with respect to the Notes shall be limited to the aggregate Current Nominal Amount of all Notes outstanding at the time of occurrence of the relevant Trigger Event.

Schuldverschreibungen beschränkt.

Im Falle des Eintritts eines Auslöseereignisses wird die Emittentin:

- (1) unverzüglich die für sie zuständige Behörde sowie gemäß § 11 die Gläubiger der Schuldverschreibungen von dem Eintritt dieses Auslöseereignisses sowie des Umstandes, dass eine Herabschreibung vorzunehmen ist, unterrichten, und
- (2) unverzüglich, spätestens jedoch innerhalb eines Monats (soweit die für sie zuständige Behörde diese Frist nicht verkürzt) die bezogen auf die jeweilige Schuldverschreibung vorzunehmende Herabschreibung und den daraus resultierenden neuen Aktuellen Nennbetrag feststellen und (i) der zuständigen Behörde, (ii) den Gläubigern der Schuldverschreibungen gemäß § 11, (iii) der Berechnungsstelle und der Zahlstelle sowie (iv) jeder Börse, an der die betreffenden Schuldverschreibungen auf Veranlassung der Emittentin zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, mitteilen.

Die Herabschreibung ist vorgenommen (und der jeweilige Aktuelle Nennbetrag der Schuldverschreibungen ist reduziert wie in der Mitteilung angegeben), wenn die Abgabe der Mitteilungen an die Gläubiger gemäß § 11 erfolgt ist.

Ein Unterlassen der Mitteilungen nach (b)(2)(i) und/oder (b)(2)(ii) berührt nicht die Wirksamkeit einer Herabschreibung und diese gilt jedenfalls spätestens ein Monat (soweit die zuständige Behörde diese Frist nicht verkürzt) nach Eintritt des betreffenden Auslöseereignisses in der Höhe des von der Emittentin festgestellten Betrags als vorgenommen. Eine nicht erfolgte Mitteilung ist unverzüglich nachzuholen.

- (c) *Hochschreibung.* Nach der Vornahme einer Herabschreibung können der Aktuelle Nennbetrag jeder Schuldverschreibung in jedem der Geschäftsjahre der Emittentin nach der Herabschreibung bis zur vollständigen Höhe des Ursprünglichen Nennbetrags (soweit nicht zuvor zurückgezahlt oder angekauft und entwertet) nach Maßgabe der folgenden Regelungen

Upon the occurrence of a Trigger Event, the Issuer shall:

- (1) inform the competent authority of the Issuer and, in accordance with § 11, the Holders of the Notes without undue delay about the occurrence of such Trigger Event and the fact that a write-down will have to be effected, and
- (2) determine the write-down to be effected without undue delay, but not later than within one month (unless the competent authority of the Issuer shortens such period), and notify such write-down in relation to each Note together with the resultant new Current Nominal Amount (i) to the competent authority, (ii) to the Holders of the Notes in accordance with § 11, (iii) to the Calculation Agent and the Paying Agent and (iv), if required by the rules of any stock exchange on which the Notes are listed from time to time at the request of the Issuer, to such stock exchange.

The write-down shall be deemed effected at the time when the notice to the Holders is given in accordance with § 11 and the Current Nominal Amount of each Note shall be reduced at such time in the amount as specified in the notice.

Any failure to give notices pursuant to (b)(2)(i) and/or (b)(2)(ii) will not affect the effectiveness of, or otherwise invalidate, any write-down and such write-down shall be deemed effected, on the basis of the written-down amount determined by the Issuer, in any event no later than one month (unless the competent authority of the Issuer shortens such period) after the occurrence of the relevant Trigger Event. A notice which has not been given shall be given without undue delay.

- (c) *Write-up.* After a write-down has been effected, the Current Nominal Amount of each Note, unless previously redeemed or repurchased and cancelled, may be written up in accordance with the following provisions of § 5(8)(c) in each of the financial years of the Issuer subsequent to the occurrence of such write-down until the full Original Nominal Amount has been reached,

dieses § 5(8)(c) wieder hochgeschrieben werden, soweit ein entsprechender Jahresüberschuss nach dem handelsrechtlichen Einzelabschluss der Emittentin (der "**Jahresüberschuss**") zur Verfügung steht und mithin hierdurch kein Jahresfehlbetrag entsteht oder erhöht würde. Die Hochschreibung erfolgt mit Wirkung ab dem Zinszahlungstag (einschließlich), der unmittelbar auf das Geschäftsjahr der Emittentin folgt, für das der zuvor genannte Jahresüberschuss festgestellt wurde.

Die Hochschreibung erfolgt gleichrangig mit der Hochschreibung anderer AT1 Instrumente.

Die Vornahme einer Hochschreibung steht vorbehaltlich der nachfolgenden Vorgaben (i) bis (v) im Ermessen der Emittentin. Insbesondere kann die Emittentin auch dann ganz oder teilweise von einer Hochschreibung absehen, wenn ein entsprechender Jahresüberschuss zur Verfügung steht und die Vorgaben (i) bis (v) erfüllt wären.

(i) Soweit der festgestellte bzw. festzustellende Jahresüberschuss für die Hochschreibung der Schuldverschreibungen und anderer, mit einem vergleichbaren Auslöseereignis (ggf. mit einer abweichenden harten Kernkapitalquote als Auslöser) ausgestatteter AT1 Instrumente (einschließlich der Schuldverschreibungen die "**Herabgeschriebenen AT1 Instrumente**"; zur Klarstellung: dieser Begriff schließt solche Instrumente aus, die nur nach den Übergangsbestimmungen der CRR als Instrumente des zusätzlichen Kernkapitals qualifizieren) verwendet werden soll und nach Maßgabe von (ii) und (iii) zur Verfügung steht, erfolgt die Hochschreibung *pro rata* nach Maßgabe der ursprünglichen Nennbeträge der Herabgeschriebenen AT1 Instrumente.

(ii) Der Höchstbetrag, der insgesamt für die Hochschreibung der Schuldverschreibungen und anderer, Herabgeschriebener AT1 Instrumente sowie die Zahlung von Zinsen und anderen Ausschüttungen auf Herabgeschriebene AT1 Instrumente verwendet werden kann, errechnet sich nach den technischen Regulierungsstandards und den im Übrigen im Zeitpunkt der Berechnung

to the extent that a corresponding annual profit (*Jahresüberschuss*) is recorded on the basis of the financial statements of the Issuer prepared in accordance with German commercial law (the "**Annual Profit**") and the write-up will not give rise to or increase an annual loss (*Jahresfehlbetrag*). The write-up will occur with effect as of the Interest Payment Date (including) immediately following the financial year of the Issuer for which the abovementioned Annual Profit was determined.

The write-up shall be effected *pari passu* with write-ups of other AT1 Instruments.

Subject to the conditions (i) to (v) below, it shall be at the discretion of the Issuer to effect a write-up. In particular, the Issuer may effect a write-up only in part or effect no write-up at all even if a corresponding Annual Profit is recorded and the conditions (i) to (v) are fulfilled.

(i) To the extent that the Annual Profit determined or to be determined is to be used for a write-up of the Notes and of other AT1 Instruments, the terms of which provide for a similar Trigger Event (also if such terms provide for a different common equity tier 1 capital ratio as trigger) (together with the Notes, the "**Written Down AT1 Instruments**"; for the avoidance of doubt: such term excludes instruments that qualify as additional tier 1 instrument solely pursuant to transitional provisions under the CRR), and is available in accordance with (ii) and (iii) below, such write-up shall be effected *pro rata* in proportion to the original nominal amounts of the Written Down AT1 Instruments.

(ii) The maximum total amount that may be used for a write-up of the Notes and of other Written Down AT1 Instruments and for the payment of interest and other Distributions on Written Down AT1 Instruments shall be calculated in accordance with the regulatory technical standards and the other requirements applicable at the time of the calculation of the maximum total amount for write-ups. At the time of the

des Höchstbetrags für Hochschreibungen anwendbaren Anforderungen. Zum Zeitpunkt der Begebung der Schuldverschreibungen gilt für die Berechnung folgende Formel:

$$H = \frac{J \cdot S}{T1}$$

'H' bezeichnet den für die Hochschreibung der Herabgeschriebenen AT1 Instrumente und Ausschüttungen auf Herabgeschriebene AT1 Instrumente zur Verfügung stehenden Höchstbetrag;

'J' bezeichnet den festgestellten bzw. festzustellenden Jahresüberschuss des Vorjahres;

'S' bezeichnet die Summe der ursprünglichen Nennbeträge der Herabgeschriebenen AT1 Instrumente (d.h. vor Vornahme von Herabschreibungen infolge eines Auslöseereignisses);

'T1' bezeichnet den Betrag des Kernkapitals der Emittentin unmittelbar vor Vornahme der Hochschreibung.

Der Höchstbetrag 'H' ist von der Emittentin nach den technischen Regulierungsstandards und den im Übrigen im Zeitpunkt der Bestimmung anwendbaren Anforderungen zu bestimmen und der so bestimmte Betrag der Hochschreibung zugrunde zu legen, ohne dass es einer Änderung dieses Absatzes (ii) bedürfte.

- (iii) Insgesamt darf die Summe der Beträge der Hochschreibungen auf Herabgeschriebene AT1 Instrumente zusammen mit etwaigen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin (einschließlich auch der Zinszahlungen und anderen Ausschüttungen auf Herabgeschriebene AT1 Instrumente) in Bezug auf das betreffende Geschäftsjahr den Maximal Ausschüttungsfähigen Betrag oder einen anderen nach den Anwendbaren Aufsichtsrechtlichen Vorschriften für diesen Zweck zu beachtenden

issuance of the Notes, the calculation is based on the following formula:

$$H = \frac{J \times S}{T1}$$

'H' means the maximum amount available for the write-up of the Written Down AT1 Instruments and Distributions on Written Down AT1 Instruments;

'J' means the Annual Profit determined or to be determined for the previous year;

'S' means the sum of the original nominal amounts of the Written Down AT1 Instruments (i.e. before write-downs due to a Trigger Event have been effected);

'T1' means the amount of the tier 1 capital of the Issuer immediately before the write-up is effected.

The maximum amount 'H' shall be determined by the Issuer in accordance with the regulatory technical standards and the other requirements applicable at the time of determination, and the write-up shall be based on the amount so determined without requiring any amendment to this subparagraph (ii).

- (iii) In total, the sum of the amounts of the write-ups of Written Down AT1 Instruments together with the amounts of any dividend payments and other Distributions on shares and other common equity tier 1 capital instruments of the Issuer (including also payment of interests and other Distributions on Written Down AT1 Instruments) for the relevant financial year must not exceed the Maximum Distributable Amount or any other maximum amount that may have to be observed for this purpose under the Applicable Supervisory Regulations.

Höchstbetrag nicht überschreiten.

- (iv) Hochschreibungen der Schuldverschreibungen gehen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin nicht vor, d.h. diese können auch dann vorgenommen werden, solange keine vollständige Hochschreibung erfolgt ist.
- (v) Zum Zeitpunkt einer Hochschreibung darf kein Auslöseereignis fortbestehen. Eine Hochschreibung ist zudem ausgeschlossen, soweit diese zu dem Eintritt eines Auslöseereignisses führen würde.

Wenn sich die Emittentin für die Vornahme einer Hochschreibung nach den Bestimmungen dieses § 5 (8)(c) entscheidet, wird sie bis spätestens 10 Kalendertage vor dem betreffenden Zinszahlungstag gemäß § 11 die Gläubiger der Schuldverschreibungen, die Berechnungsstelle, die Zahlstelle sowie jede Börse, an der die betreffenden Schuldverschreibungen auf Veranlassung der Emittentin zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, von der Vornahme der Hochschreibung zum betreffenden Zinszahlungstag (durch Mitteilung des Hochschreibungsbetrags als Prozentsatz des Ursprünglichen Nennbetrags der Schuldverschreibungen, des neuen Aktuellen Nennbetrags und des Tags, an dem die Hochschreibung bewirkt werden soll (jeweils ein "**Hochschreibungstag**")) unterrichten. Die Hochschreibung ist vorgenommen (und der jeweilige Aktuelle Nennbetrag der Schuldverschreibungen ist mit Wirkung zum Hochschreibungstag erhöht wie in der Mitteilung angegeben), wenn die Abgabe der Mitteilung an die Gläubiger gemäß § 11 erfolgt ist.

## § 6

### Die Zahlstelle und die Berechnungsstelle

- (1) *Bestellung; bezeichnete Geschäftsstelle.* Die anfänglich bestellte Zahlstelle, die anfänglich bestellte Berechnungsstelle und deren jeweilige anfänglich bezeichnete Geschäftsstelle lauten wie folgt:

*Zahlstelle:*

Commerzbank Aktiengesellschaft  
Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main

- (iv) Write-ups of the Notes do not have priority over dividend payments and other Distributions on shares and other common equity tier 1 capital instruments of the Issuer, i.e. such payments and Distributions are permitted even if no full write-up has been effected.
- (v) At the time of a write-up, there must not exist any Trigger Event that is continuing. A write-up is also excluded if such write-up would give rise to the occurrence of a Trigger Event.

If the Issuer elects to effect a write-up in accordance with the provisions of this § 5(8)(c), it shall notify the write-up as of the relevant Interest Payment Date (i.e., the amount of the write-up as a percentage of the Original Nominal Amount of the Notes, the new Current Nominal Amount and the effective date of the write-up (in each case a "**Write-up Date**")) no later than 10 calendar days prior to the relevant Interest Payment Date to the Holders of the Notes in accordance with § 11, to the Calculation Agent, to the Paying Agent and, if required by the rules of any stock exchange on which the Notes are listed from time to time at the request of the Issuer, to such stock exchange. The write-up shall be deemed to be effected at the time when the notice to the Holders is given in accordance with § 11 and the Current Nominal Amount of each Note shall be increased in the amount as specified in the notice with effect as of the Write-up Date.

## § 6

### Paying Agent and Calculation Agent

- (1) *Appointment; Specified Office.* The initial Paying Agent and the initial Calculation Agent and their respective initial specified offices are:

*Paying Agent:*

Commerzbank Aktiengesellschaft  
Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main

Deutschland

Germany

*Berechnungsstelle:*

*Calculation Agent:*

Commerzbank Aktiengesellschaft  
Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Deutschland

Commerzbank Aktiengesellschaft  
Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Germany

Die Zahlstelle und die Berechnungsstelle behalten sich das Recht vor, jederzeit ihre jeweilige bezeichnete Geschäftsstelle durch eine andere bezeichnete Geschäftsstelle in derselben Stadt zu ersetzen.

The Paying Agent and the Calculation Agent reserve the right at any time to change their respective specified office to some other specified offices in the same city.

- (2) *Änderung der Bestellung oder Abberufung.* Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Berechnungsstelle oder einer Zahlstelle zu ändern oder zu beenden und eine andere Berechnungsstelle oder zusätzliche oder andere Zahlstellen zu bestellen. Die Emittentin wird zu jedem Zeitpunkt eine Zahlstelle und eine Berechnungsstelle unterhalten. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß § 11 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden.
- (3) *Beauftragte der Emittentin.* Die Berechnungsstelle und die Zahlstelle handeln ausschließlich als Beauftragte der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern, und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.

- (2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the appointment of the Calculation Agent or the Paying Agent and to appoint another Calculation Agent or additional or other Paying Agents. The Issuer shall at all times maintain a Paying Agent and a Calculation Agent. 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 Holders in accordance with § 11.
- (3) *Agents of the Issuer.* The Calculation Agent and the Paying Agent act solely as agents of the Issuer and do not have any obligations towards, or relationship of agency or trust to, any of the Holders.

**§ 7  
Steuern**

**§ 7  
Taxation**

- (1) *Quellensteuern und Zusätzliche Beträge.* Sämtliche auf die Schuldverschreibungen zu zahlenden Beträge sind ohne Einbehalt oder Abzug von oder aufgrund von gegenwärtigen oder zukünftigen Steuern oder sonstigen Abgaben gleich welcher Art zu leisten, die von oder in der Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer politischen Untergliederung oder Steuerbehörde der oder in der Bundesrepublik Deutschland auferlegt oder erhoben werden, es sei denn, dieser Einbehalt oder Abzug ist gesetzlich vorgeschrieben. Im Fall des Einbehalts oder Abzugs in Bezug auf Zinszahlungen (nicht jedoch Zahlungen auf Kapital) wird die Emittentin (vorbehaltlich § 3(8)) diejenigen zusätzlichen Beträge (die "**zusätzlichen**

- (1) *Withholding Taxes and Additional Amounts.* All amounts payable in respect of the Notes shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or in or for the account of the Federal Republic of Germany or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In the event of such withholding or deduction on payments of interest (but not in respect of the payment of any principal in respect of the Notes), the Issuer shall (subject to § 3(8)) pay such additional amounts ("**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders,

**Beträge**") zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern empfangen worden wären; die Verpflichtung zur Zahlung solcher zusätzlichen Beträge besteht jedoch nicht im Hinblick auf Steuern und Abgaben, die:

- (a) von einer als depotführende Stelle oder Inkassobeauftragter des Gläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen einen Abzug oder Einbehalt vornimmt; oder
- (b) wegen einer gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung des Gläubigers zu Deutschland zu zahlen sind, und nicht allein deshalb, weil Zahlungen auf die Schuldverschreibungen aus Quellen in Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind; oder
- (c) denen der Gläubiger nicht unterläge, wenn er seine Gläubigerstellung binnen 30 Tagen nach Fälligkeit oder, falls die notwendigen Beträge der Zahlstelle bei Fälligkeit nicht zur Verfügung gestellt worden sind, binnen 30 Tagen nach dem Tag, an dem diese Mittel der Zahlstelle zur Verfügung gestellt worden sind und dies gemäß § 11 bekannt gemacht wurde, der Zahlstelle hinreichend nachgewiesen hätte; oder
- (d) von einer Zahlstelle abgezogen oder einbehalten werden, wenn die Zahlung von einer anderen Zahlstelle ohne den Abzug oder Einbehalt hätte vorgenommen werden können; oder
- (e) nicht zu entrichten wären, wenn die Schuldverschreibungen bei einem Kreditinstitut verwahrt und die Zahlungen von diesem eingezogen worden wären, oder
- (f) wegen einer Rechtsänderung oder einer Änderung in der Rechtsanwendung zu zahlen sind, welche später als 30 Tage nach Fälligkeit der betreffenden Zahlung oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller

after such withholding or deduction, shall equal the respective amounts which would otherwise have been receivable by the Holders in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments made by it; or
- (b) are payable by reason of the Holder having, or having had, some personal or business connection with Germany and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Germany; or
- (c) to which the Holder would not be subject if he had sufficiently demonstrated to the Paying Agent his status as a Holder within 30 days from the due date for payment, or, if the necessary funds were not provided to the Paying Agent when due, within 30 days from the date on which such funds are provided to the Paying Agent and a notice to that effect has been published in accordance with § 11; or
- (d) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or
- (e) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or
- (f) are payable by reason of a change in a law or administrative practice that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with



fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß § 11 wirksam wird; oder

(g) durch die Erfüllung von gesetzlichen Anforderungen oder durch die Vorlage einer Nichtansässigkeitserklärung oder durch die sonstige Geltendmachung eines Anspruchs auf Befreiung gegenüber der betreffenden Steuerbehörde vermeidbar sind oder gewesen wären; oder

(h) wegen Festsetzung von Steuern auf den Erwerb von Todes wegen, den Erbanfall, die schenkweise Übertragung, den Umsatz, einen Übertragungsvorgang, das Vermögen oder einen vergleichbaren steuerbaren Vorgang oder wegen einer anderen von einer staatlichen Stelle wegen eines solchen Vorgangs festgesetzten Geldleistungspflicht zu zahlen sind; oder

(i) abgezogen oder einbehalten werden, weil der wirtschaftliche Eigentümer der Schuldverschreibungen nicht selbst rechtlicher Eigentümer (Gläubiger) der Schuldverschreibungen ist und der Abzug oder Einbehalt bei Zahlungen an den wirtschaftlichen Eigentümer nicht erfolgt wäre oder eine Zahlung zusätzlicher Beträge bei einer Zahlung an den wirtschaftlichen Eigentümer nach Maßgabe der vorstehenden Regelungen hätte vermieden werden können, wenn dieser zugleich rechtlicher Eigentümer (Gläubiger) der Schuldverschreibungen gewesen wäre.

(2) *FATCA*. Die Verpflichtung der Emittentin zur Zahlung von zusätzlichen Beträgen soll keine Anwendung finden auf Steuern, die nur zu zahlen sind auf Grund einer Nichteinhaltung von Anforderungen durch den Gläubiger oder den wirtschaftlichen Eigentümer (oder ein Finanzinstitut, durch das der Gläubiger oder der wirtschaftliche Eigentümer die Schuldverschreibungen hält oder durch die eine Zahlung auf die Schuldverschreibungen zu leisten ist) in Bezug auf eine Zertifizierung, Information, Identifikation, Dokumentation oder andere Mitteilungen (einschließlich dem Abschluss und der Einhaltung von Vereinbarungen mit dem U.S. Internal Revenue Service) gemäß Sections 1471 bis 1474 des U.S. Internal Revenue Code (in der am Tag der Ausgabe der Schuldverschreibungen geltenden Fassung oder gemäß geänderter oder nachfolgender

§ 11, whichever occurs later; or

(g) are avoidable or would have been avoidable through compliance with statutory requirements or through the submission of a declaration of non-residence or by otherwise enforcing a claim for exemption at the relevant tax authority; or

(h) by reason of any estate, inheritance, gift, sales, transfer, personal property or any similar tax assessment or other governmental charge; or

(i) are deducted or withheld because the beneficial owner of the Notes is not itself their legal owner (Holder) and the deduction or withholding in respect of payments to the beneficial owner would not have been made or the payment of Additional Amounts in respect of a payment to the beneficial owner in accordance with the above provisions could have been avoided if the latter had also been the legal owner (Holder) of the Notes.

(2) *FATCA*. The obligation of the Issuer to pay Additional Amounts shall not apply to any tax that would not have been imposed but for a failure by the Holder or beneficial owner (or any financial institution through which the Holder or beneficial owner holds any Note or through which payment on the Note is made) to comply with any certification, information, identification, documentation or other reporting requirements (including entering into and complying with an agreement with the U.S. Internal Revenue Service) imposed pursuant to, or under an intergovernmental agreement entered into between the United States and the government of another country in order to implement the requirements of, Sections 1471 through 1474 of the U.S. Internal Revenue Code as in effect on the date of issuance of the Notes or any successor or amended version of these

Bestimmungen, soweit diese geänderten oder nachfolgenden Bestimmungen nicht wesentlich beschwerlicher sind als jene am am Tag der Ausgabe geltenden Fassung) oder gemäß zwischenstaatlicher Abkommen zwischen den Vereinigten Staaten und einem anderen Staat zur Umsetzung der Anforderungen aus diesen Normen.

### § 8 Vorlegungsfrist

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

### § 9 Änderung der Anleihebedingungen, Gemeinsamer Vertreter

- (1) *Änderung der Anleihebedingungen.* Die Gläubiger können vorbehaltlich der Einhaltung der aufsichtsrechtlichen Voraussetzungen für die Anerkennung der Schuldverschreibungen als AT1 Instrumente und (falls aufsichtsrechtlich erforderlich) der Zustimmung der zuständigen Behörde entsprechend den Bestimmungen des Gesetzes über Schuldverschreibungen aus Gesamtemissionen (*Schuldverschreibungsgesetz – "SchVG"*) durch einen Beschluss mit der in § 9(2) bestimmten Mehrheit über einen im SchVG zugelassenen Gegenstand eine Änderung der Anleihebedingungen mit der Emittentin vereinbaren. Die Emittentin wird die zuständige Behörde vor Durchführung der Abstimmung von den zur Abstimmung vorzulegenden Änderungen der Anleihebedingungen unterrichten. Zur Klarstellung: Die Anleihebedingungen können nicht ohne Zustimmung der Emittentin geändert werden.

Die Mehrheitsbeschlüsse der Gläubiger sind für alle Gläubiger gleichermaßen verbindlich. Ein Mehrheitsbeschluss der Gläubiger, der nicht gleiche Bedingungen für alle Gläubiger vorsieht, ist unwirksam, es sei denn, die benachteiligten Gläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

- (2) *Mehrheitserfordernisse.* Die Gläubiger entscheiden mit einer Mehrheit von 75% der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen nicht geändert wird und die keinen Gegenstand des § 5 Absatz 3, Nr. 1 bis 9 SchVG betreffen, bedürfen zu ihrer Wirksamkeit einer einfachen Mehrheit der an der Abstimmung teilnehmenden

provisions, to the extent such successor or amended version is not materially more onerous than these provisions as enacted on such date.

### § 8 Term of presentation

The presentation period provided in § 801(1) sentence 1 of the German Civil Code (BGB) is reduced to ten years for the Notes.

### § 9 Amendments to the Terms and Conditions, Holders' Joint Representative

- (1) *Amendment to the Terms and Conditions.* In accordance with the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen – "SchVG"*), the Holders may, subject to compliance with the requirements of regulatory law for the recognition of the Notes as AT1 Instruments and (if necessary under applicable regulatory laws) the permission of the competent authority, agree with the Issuer on amendments to the Terms and Conditions with regard to matters permitted by the SchVG by resolution with the majority specified in § 9(2). The Issuer will notify the competent authority of changes to the Terms and Conditions to be submitted for voting prior to the voting. For the avoidance of doubt: The Terms and Conditions may not be amended without the consent of the Issuer.

Majority resolutions shall be binding on all Holders. A majority resolution which does not provide for identical conditions for all Holders is void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.

- (2) *Majority.* Resolutions shall be passed by a majority of not less than 75 per cent. of the votes cast. Resolutions relating to amendments to the Terms and Conditions which are not material and which do not relate to the matters listed in § 5(3) nos. 1 to 9 SchVG require a simple majority of the votes cast.

Stimmrechte.

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| <p>(3) <i>Abstimmung ohne Versammlung.</i> Alle Abstimmungen werden ausschließlich im Wege der Abstimmung ohne Versammlung durchgeführt. Eine Gläubigerversammlung und eine Übernahme der Kosten für eine solche Versammlung durch die Emittentin findet ausschließlich im Fall des § 18 Absatz 4 Satz 2 SchVG statt.</p> <p>(4) <i>Leitung der Abstimmung.</i> Die Abstimmung wird von einem von der Emittentin beauftragten Notar oder, falls der gemeinsame Vertreter der Gläubiger (wie gemäß § 9(6) bestellt) zur Abstimmung aufgefordert hat, vom gemeinsamen Vertreter der Gläubiger geleitet.</p> <p>(5) <i>Stimmrecht.</i> An Abstimmungen der Gläubiger nimmt jeder Gläubiger nach Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil. Das Stimmrecht ruht, solange die Schuldverschreibungen der Emittentin oder einem mit ihr verbundenen Unternehmen (§ 271 Absatz 2 HGB) zustehen oder für Rechnung der Emittentin oder eines mit ihr verbundenen Unternehmen gehalten werden.</p> <p>(6) <i>Gemeinsamer Vertreter.</i> Die Gläubiger können durch Mehrheitsbeschluss zur Wahrnehmung ihrer Rechte einen gemeinsamen Vertreter für alle Gläubiger bestellen. Der gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Gläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Gläubiger zu befolgen. Soweit er zur Geltendmachung von Rechten der Gläubiger ermächtigt ist, sind die einzelnen Gläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn, der Mehrheitsbeschluss sieht dies ausdrücklich vor. Über seine Tätigkeit hat der gemeinsame Vertreter den Gläubigern zu berichten. Für die Abberufung und die sonstigen Rechte und Pflichten des gemeinsamen Vertreters gelten die Vorschriften des SchVG.</p> | <p>(3) <i>Vote without a meeting.</i> All votes will be taken exclusively by vote taken without a meeting. A meeting of Holders and the assumption of the fees by the Issuer for such a meeting will only take place in the circumstances of § 18(4) sentence 2 SchVG.</p> <p>(4) <i>Chair of the vote.</i> The vote will be chaired by a notary appointed by the Issuer or, if the Holders' joint representative (as appointed pursuant to § 9(6)) has convened the vote, by the Holders' joint representative.</p> <p>(5) <i>Voting rights.</i> Each Holder participating in any vote shall cast votes in accordance with the principal amount or the notional share of its entitlement to the outstanding Notes. The voting right is suspended as long as the Notes of the Issuer or an affiliate (within the meaning of § 271(2) German Commercial Code (<i>HGB</i>)) or are held for the account of the Issuer or an affiliate.</p> <p>(6) <i>Holders' Joint Representative.</i> The Holders may by majority resolution appoint a joint representative to exercise the Holders' rights on behalf of each Holder. The Holders' joint representative shall have the duties and powers provided by law or granted by majority resolution of the Holders. The Holders' joint representative shall comply with the instructions of the Holders. To the extent that the Holders' joint representative has been authorised to assert certain rights of the Holders, the Holders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Holders' joint representative shall provide reports to the Holders on its activities. The regulations of the SchVG apply with regard to the recall and the other rights and obligations of the Holders' joint representative.</p> |
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#### **§ 10**

#### **Begebung weiterer Schuldverschreibungen, Rückkauf und Entwertung**

- (1) *Begebung weiterer Schuldverschreibungen.* Die Emittentin ist berechtigt, jederzeit ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (gegebenenfalls mit Ausnahme des Tags der Begebung, des

#### **§ 10**

#### **Further Issues, Repurchases and Cancellation**

- (1) *Further Issues.* The Issuer may from time to time, without the consent of the Holders, issue further notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue

Verzinsungsbeginns und/oder des Ausgabekurses) in der Weise zu begeben, dass sie mit diesen Schuldverschreibungen eine einheitliche Serie bilden.

- (2) *Rückkauf.* Die Emittentin ist berechtigt, mit der vorherigen Zustimmung der zuständigen Behörde und vorbehaltlich § 5(5) Schuldverschreibungen im regulierten Markt oder anderweitig zu jedem beliebigen Kurs zurückzukaufen. Im Falle eines Auslöseereignisses darf die Emittentin keine Schuldverschreibungen nach diesem § 10(2) zurück kaufen, solange eine hieraus folgende Herabschreibung noch nicht erfolgt ist. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Zahlstelle zwecks Entwertung eingereicht werden. Sofern diese Käufe durch öffentliches Rückkaufangebot erfolgen, muss dieses Rückkaufangebot allen Gläubigern gemäß § 11 gemacht werden.
- (3) *Entwertung.* Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

#### **§ 11 Mitteilungen**

- (1) *Bekanntmachung.* Alle die Schuldverschreibungen betreffenden Mitteilungen, außer den in § 9 vorgesehenen Bekanntmachungen, die ausschließlich gemäß den Bestimmungen des SchVG erfolgen, werden im Bundesanzeiger und solange die Schuldverschreibungen an der Luxemburger Börse zum Handel am geregelten Markt zugelassen sind und die Regeln der Luxemburger Börse dies verlangen, auch auf der Internetseite der Luxemburger Börse ([www.bourse.lu](http://www.bourse.lu)) veröffentlicht. Eine Mitteilung gilt mit dem Tag ihrer Veröffentlichung (oder bei mehreren Mitteilungen mit dem Tage der ersten Veröffentlichung) als erfolgt.
- (2) Sofern die Regularien der Börse, an der die Schuldverschreibungen notiert sind, dies zulassen, ist die Emittentin berechtigt, Bekanntmachungen auch durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger oder durch eine schriftliche Mitteilung direkt an die Gläubiger zu bewirken. Bekanntmachungen über das Clearing System gelten sieben Tage nach der Mitteilung an das Clearing System, direkte Mitteilungen an die Gläubiger mit ihrem Zugang als bewirkt.

price) so as to form a single series with the Notes.

- (2) *Repurchases.* The Issuer may, with the prior permission of the competent authority and subject to § 5(5), repurchase Notes in a regulated market or otherwise at any price. Upon the occurrence of a Trigger Event, the Issuer may not repurchase any Notes pursuant to this § 10(2) if and so long as a write-down resulting herefrom has not been effected. Notes repurchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Paying Agent for cancellation. If repurchases are made by public tender, tenders for such Notes must be made available to all Holders of such Notes alike in accordance with § 11.
- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

#### **§ 11 Notices**

- (1) *Publication.* All notices concerning the Notes, other than any notices stipulated in § 9 which shall be made exclusively pursuant to the provisions of the SchVG, shall be published in the Federal Gazette (*Bundesanzeiger*) and for as long as the Notes are admitted to trading on the regulated market of the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). A notice shall be deemed to be effected on the day of its publication (or in the case of more than one publication on the day of the first publication).
- (2) The Issuer shall also be entitled to make notices to the Clearing System for communication by the Clearing System to the Holders or directly to the Holders provided this complies with the rules of the stock exchange on which the Notes are listed. Notices to the Clearing System shall be deemed to be effected seven days after the notification to the Clearing System, direct notices to the Holders shall be deemed to be effected upon their receipt.

## § 12 Fremdwährungen

Sofern Beträge für ein Instrument nicht in der funktionalen Währung der Emittentin ausgedrückt sind, erfolgt für die Anwendung dieser Bedingungen eine Umrechnung in diese funktionale Währung zu dem zu diesem Zeitpunkt geltenden vorherrschenden und durch die Emittentin nach billigem Ermessen festgestellten Wechselkurs oder gemäß einem anderen Verfahren, das in den für die Emittentin jeweils geltenden Eigenkapitalvorschriften vorgesehen ist.

## § 13 Anwendbares Recht und Gerichtsstand

- (1) *Anwendbares Recht.* Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Gläubiger und der Emittentin bestimmen sich in jeder Hinsicht nach deutschem Recht.
- (2) *Gerichtsstand.* Nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren ("**Rechtsstreitigkeiten**") ist das Landgericht Frankfurt am Main, Bundesrepublik Deutschland.

Für Entscheidungen gemäß § 9 Absatz 2, § 13 Absatz 3 und § 18 Absatz 2 SchVG ist gemäß § 9 Absatz 3 S. 1 1. Alt. SchVG das Amtsgericht Frankfurt am Main, Bundesrepublik Deutschland zuständig. Für Entscheidungen über die Anfechtung von Beschlüssen der Gläubiger ist gemäß § 20 Absatz 3 S. 3 1. Alt. SchVG das Landgericht Frankfurt am Main, Bundesrepublik Deutschland ausschließlich zuständig.

- (3) *Gerichtliche Geltendmachung.* Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage zu schützen oder geltend zu machen: (i) indem er eine Bescheinigung der Depotbank (wie nachfolgend definiert) beibringt, bei der er für die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c)

## § 12 Other Currencies

If any amounts with respect to any instrument are not expressed in the functional currency of the Issuer, for the application of these Terms and Conditions such amounts will be converted into such functional currency at the then-prevailing exchange rate, as determined by the Issuer in its reasonable discretion, or such other procedure as provided by capital regulations applicable to the Issuer from time to time.

## § 13 Applicable Law and Place of Jurisdiction

- (1) *Applicable Law.* The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed by German law.
- (2) *Submission to Jurisdiction.* The regional court (*Landgericht*) in Frankfurt am Main, Federal Republic of Germany, shall have non-exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes.

Pursuant to § 9(3) sentence 1 1st alternative SchVG, the local court (*Amtsgericht*) Frankfurt am Main, Federal Republic of Germany shall have jurisdiction to decide on any matters pursuant to § 9(2), § 13(3) and § 18(2) SchVG. Pursuant to § 20(3) sentence 3 1st alternative SchVG, the regional court (*Landgericht*) Frankfurt am Main, Federal Republic of Germany shall have exclusive jurisdiction to decide on the challenge of resolutions of the Holders.

- (3) *Enforcement.* Any Holder of Notes may in any Proceedings against the Issuer, or to which such Holder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by the Custodian (as defined below) with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate nominal amount of Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Note in global form certified as being a true copy by a duly authorized officer of the Clearing System, without the need for

bestätigt, dass die Depotbank gegenüber dem Clearing System eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält; und (ii) indem er eine Kopie der die betreffenden Schuldverschreibungen verbriefenden Globalurkunde vorlegt, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearing Systems bestätigt hat, ohne dass eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbriefenden Globalurkunde in einem solchen Verfahren erforderlich wäre. Für die Zwecke des Vorstehenden bezeichnet "**Depotbank**" jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält, einschließlich des Clearing Systems. Unbeschadet des Vorstehenden kann jeder Gläubiger seine Rechte aus den Schuldverschreibungen auch auf jede andere Weise schützen oder geltend machen, die im Land der Rechtsstreitigkeit prozessual zulässig ist.

#### **§ 14 Sprache**

Diese Anleihebedingungen sind in deutscher Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigefügt. Der deutsche Text ist bindend und maßgeblich. Die Übersetzung in die englische Sprache ist unverbindlich.

production in such proceedings of the actual records or the global note representing the Notes. For purposes of the foregoing, "**Custodian**" means any bank or other financial institution of recognized standing authorized to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and includes the Clearing System. Each Holder of Notes may, without prejudice to the foregoing, protect or enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

#### **§ 14 Language**

These Terms and Conditions are written in the German language and provided with an English language translation. The German text shall be controlling and binding. The English language translation is provided for convenience only.

## 4 INTEREST PAYMENTS AND DISTRIBUTABLE ITEMS OF THE ISSUER

Pursuant to the Terms and Conditions of the Notes, Interest Payments in respect of the Notes are entirely discretionary (*i.e.* interest will not accrue if the Issuer has elected, at its sole discretion, to cancel payments of interest (non-cumulative), in whole or in part, on any Interest Payment Date) and subject to the fulfillment of certain conditions.

In particular, the Notes will not bear interest, in whole or in part, on any Interest Payment Date if and to the extent that the competent authority orders that all or part of the relevant payment of interest be cancelled or another prohibition of Distribution is imposed by law or by authority.

Further, pursuant to § 3 (8)(b)(i) of the Terms and Conditions of the Notes, the Notes will not bear interest, in whole or in part, on any Interest Payment Date

"to the extent that such payment of interest together with (1) the amount of a write-up, if any, in accordance with § 5 (8)(c) to be effected as of the relevant Interest Payment Date, (2) any additional Distributions (as defined in § 3(9)) that are scheduled to be made or have been made on the same day or that have been made by the Issuer on other Tier 1 Instruments (as defined in § 3(9)) in the then current financial year of the Issuer and (3) the total amount of write-ups, if any, on any other AT1 Instruments which shall be effected as of the relevant Interest Payment Date or have been effected in the then current financial year of the Issuer would exceed the Available Distributable Items (as defined in § 3(9)), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (for the avoidance of doubt, including payments of interest on the Notes) in the determination of the profit on which the Available Distributable Items are based".

In order to determine whether the Issuer will be permitted, pursuant to the preceding sentence, to make an Interest Payment on the Notes on any Interest Payment Date, the Issuer will first determine the Available Distributable Items in accordance with the Terms and Conditions of the Notes by:

- determining the profit (*Jahresüberschuss*) as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law for the financial year of the Issuer immediately preceding the relevant Interest Payment Date;
- adding, as applicable, any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law for the financial year of the Issuer immediately preceding the relevant Interest Payment Date;
- subtracting, as applicable, any losses brought forward and any profits which are non-distributable pursuant to the applicable laws of the European Union or Germany or the Articles of Association of the Issuer and any sums placed in non-distributable reserves in accordance with the applicable laws of Germany or the Articles of Association of the Issuer;

in each case with respect to the specific category of own funds of the Notes as AT1 Instruments to which the applicable laws of the European Union or Germany or the Articles of Associations of the Issuer relate and as determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law for the financial year of the Issuer immediately preceding the relevant Interest Payment Date.

The Issuer will then increase such amount by the aggregate amount of interest accounted for as expenses in respect of Tier 1 Instruments (*i.e.* capital instruments which, according to CRR, qualify as Common Equity Tier 1 instruments or Additional Tier 1 instruments, which will include the Notes) in the unconsolidated financial statements of the Issuer for the financial year of the Issuer immediately preceding the relevant Interest Payment Date.

In addition, the determination of the Available Distributable Items (substantially the 'distributable items' as defined in Article 4 (1) no. 128 CRR from time to time) shall be based on the Applicable Supervisory Regulations at the time of the determination and, accordingly, only those amounts shall be added or deducted that may be added or have to be deducted (as the case may be) for purposes of determining the amounts distributable on AT1

Instruments under the Applicable Supervisory Regulations (see "2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items."). For example, under the former CRR framework applicable until 26 June 2019, amounts blocked for distribution under § 268 (8) or § 253 (6) of the German Commercial Code had to be deducted from the distributable amounts when determining the Available Distributable Items as the determination of the Available Distributable Items was by and large synchronised with the determination of the profits distributable to shareholders.

As part of the Banking Reform Package (see "2.1.2.1 Ever stricter regulatory capital and liquidity standards and procedural and reporting requirements may call into question the business model of a number of the Group's activities, adversely affect the Group's competitive position, reduce the Group's profitability, or make the raising of additional equity capital necessary."), the former definition of 'distributable items' in Article 4 (1) no. 128 CRR was amended. The Issuer takes the view that these amounts previously blocked for distribution are no longer blocked under the CRR II framework for purposes of the determination of the Available Distributable Items under the Notes. In addition, the Issuer takes the view that the amendment of the 'distributable items' under the CRR II allows the inclusion of capital reserves for purposes of determining the Available Distributable Items. For the avoidance of doubt, however, these restrictions will continue to apply to distributions to shareholders. The amendment to Article 4 (1) no. 128 under the CRR II framework applies since 27 June 2019.

Furthermore, the interpretation of the amended definition of 'distributable items' and its exact scope are, in the absence of an established supervisory practice, difficult to predict and there can be no assurance that the Issuer may in practice be permitted to calculate the Available Distributable Items for the purpose of distributions under the Notes as currently assumed by the Issuer. Hence, no assurance can be made as to, and investors should not rely on, the availability of the capital reserve and the amounts blocked for distributions under § 268 (8) or § 253 (6) of the German Commercial Code or any other amounts for increasing the Available Distributable Items in the future when determining whether Interest Payments will or will not accrue in light of the Available Distributable Items at that time.

The Issuer will then count against such sum every Distribution on other Tier 1 Instruments (including ordinary shares (*Stammaktien*) of the Issuer) that have already been made by the Issuer in the then-current financial year. From the remaining amount the Issuer would be permitted to make an Interest Payment on the Notes, to the extent such amount exceeds Distributions on other Tier 1 Instruments that are scheduled to be made on the same day or that have been made on the relevant Interest Payment Date and the total amount of write-ups which shall be effected as of the relevant Interest Payment Date or have been effected in the then-current financial year.

For illustrative purposes, the following table sets forth, for the financial years ended 31 December 2018 and 2017 based on both, the former CRR framework (as applicable prior to 27 June 2019) and the amendment under the CRR II framework (as applicable since 27 June 2019), the items derived from the Issuer's unconsolidated income statement and balance sheet for the respective financial year as well as from the notes to the balance sheet of the respective audited financial statements that affect the calculation of the Issuer's Available Distributable Items as well as interest expenses on Tier 1 Instruments that relate to the foregoing discussion:

#### Available Distributable Items of Commerzbank Aktiengesellschaft

	As of and for the financial year ended December 31,			
	2018 based on the former CRR framework	2018 based on the CRR II framework <sup>(1,2)</sup>	2017 based on the former CRR framework	2017 based on the CRR II framework <sup>(1,2)</sup>
	(in EUR million)			
<b>Distributable profit (<i>Bilanzgewinn</i>)</b>	<b>262</b>	<b>262</b>	<b>88</b>	<b>88</b>
Net profit ( <i>Jahresüberschuss</i> )	262	262	176	176
Profit carried forward from previous year ( <i>Gewinnvortrag aus dem Vorjahr</i> )	—	—	—	—
Transfer to other retained earnings ( <i>Einstellung in andere Gewinnrücklagen</i> )	—	—	(88)	(88)
<b>Other retained earnings (after transfer to other retained earnings) (<i>Andere Gewinnrücklagen (nach Einstellung in</i></b>	<b>3,575</b>	<b>3,575</b>	<b>3,487</b>	<b>3,487</b>



	As of and for the financial year ended December 31,			
	2018 based on the former CRR framework	2018 based on the CRR II framework <sup>1),2)</sup>	2017 based on the former CRR framework	2017 based on the CRR II framework <sup>1),2)</sup>
	(in EUR million)			
<i>andere Gewinnrücklagen)</i>				
<b>= Total amount potentially distributable before amounts blocked<sup>3)</sup></b>	3,837	3,837	3,575	3,575
<b>./. Non-distributable amounts (ausschüttungsgesperrte Beträge), i.e. amounts blocked for distribution under § 268 (8) or § 253 (6) of the German Commercial Code<sup>4)</sup></b>	(2,597)	not applicable	(2,923)	not applicable
<b>Capital reserve (Kapitalrücklage)<sup>5)</sup></b>	not available	17,192	not available	17,192
<b>= Available Distributable Items<sup>3)</sup></b>	1,240	21,029	652	20,767
<b>Increase by aggregated amount of interest expenses relating to Distributions on Tier 1 Instruments<sup>3)</sup></b>	0	0	0	0
<b>= Amount referred to in § 3 (8)(b)(i) of the Terms and Conditions of the Notes as being available to cover Interest Payments on the Notes and Distributions on other Tier 1 Instruments<sup>3),6)</sup></b>	1,240	21,029	652	20,767

<sup>1)</sup> "CRR II" refers to the Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 as amended by the Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 and, in particular, with regard to the amendment of Article 4 (1) no. 128 CRR into force from 27 June 2019.

<sup>2)</sup> Figures have been computed on the basis of a retrospective application of the new provisions based on CRR II, are shown for illustrative purposes only and are unaudited.

<sup>3)</sup> Unaudited.

<sup>4)</sup> Amounts blocked for distribution to shareholders under § 268 (8) or § 253 (6) of the German Commercial Code do not form part of the 'distributable items' under the former CRR framework and must be deducted from the distributable profits (see former Article 4 (1) no. 128 CRR). However, the Issuer takes the view that these amounts are no longer blocked under CRR II for purposes of the distributable items referring to AT1 instruments such as the Notes under the revised Article 4 (1) no. 128 under the CRR II framework (see also "2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items.").

<sup>5)</sup> Capital reserve pursuant to § 272 (2) no. 1 to 3 of the German Commercial Code (*Kapitalrücklage*) does not form part of the 'distributable items' under the former CRR framework (see former Article 4 (1) no. 128 CRR). However, the Issuer takes the view that the capital reserve is captured and constitutes an eligible distributable item under the revised Article 4 (1) no. 128 CRR under the CRR II framework (see also "2.2.4 Interest Payments depend, among other things, on the Issuer's Available Distributable Items."). The capital reserve (*Kapitalrücklage*) as of 31 December 2018 and 31 December 2017 (as shown in the audited unconsolidated financial statements of COMMERZBANK as of and for the financial year ended 31 December 2018 which are incorporated by reference into, and form part of, this Prospectus, see "9 Documents Incorporated by Reference") amounted to EUR 17,192 million and EUR 17,192 million, respectively.

<sup>6)</sup> The amounts are calculated on the basis of the figures as at the end of the financial years 2018 and 2017, respectively, and do not take into account dividends paid out in respect of such years. For example, in respect of the financial year ended 31 December 2018, the annual general meeting of the Issuer passed on 22 May 2019 the resolution to distribute a dividend of EUR 0.20 for each ordinary share of the Issuer entitled to a dividend (totalling EUR 250 million) and allocating the remaining amount of EUR 12 million to the other retained earnings. Under the Terms and Conditions of the Notes, the Available Distributable Items will be calculated as of the relevant Interest Payment Dates (falling on 9 April in each year, commencing in 2020) for the respective Interest Payments on such dates.

When making distributions (including Interest Payments on the Notes) from Available Distributable Items, if any, the Issuer presently intends to give due consideration to the capital hierarchy and to preserve the seniority of claims. However, the Issuer may, at its full discretion, cancel payments in respect of the Notes at any time even if sufficient Available Distributable Items are available and despite the Issuer making payments on claims that rank

*pari passu* or even junior to the claims under the Notes (see "2.2.3 Interest Payments are entirely discretionary and subject to the fulfillment of certain conditions. If the Issuer elects to cancel an Interest Payment or is legally prevented to pay interest, such deferral will be non-cumulative, i.e. the Issuer will be under no obligation to compensate for such non-payment at any later point in time. There will be no circumstances under which an Interest Payment will be compulsory for the Issuer."). Furthermore, no assurance can be made as to, and investors should not rely on, the availability of Available Distributable Items in the future.

## 5 COMMERZBANK AKTIENGESELLSCHAFT

### 5.1 Name, registered office, corporate purpose and financial year

COMMERZBANK was founded in Hamburg as "Commerz- und Disconto-Bank" in 1870. Following a temporary decentralization, COMMERZBANK was re-established on 1 July 1958 after a re-merger of successor institutions created as part of the post-war breakup in 1952. COMMERZBANK's registered office is in Frankfurt am Main and its head office is at Kaiserstraße 16 (Kaiserplatz), 60311 Frankfurt am Main, Germany, Tel. +49-69-136-20. It is registered in the commercial register of the Local Court of Frankfurt am Main under the number HRB 32000. The Bank's legal name is COMMERZBANK Aktiengesellschaft. In its business dealings, the Bank uses the name COMMERZBANK. The Bank was established under German law for an indefinite period and operates under German law.

In accordance with Article 2 of the Articles of Association, COMMERZBANK's corporate purpose is to engage in banking transactions and to offer all types of financial services and other related services and transactions, including acquiring, holding and disposing of interests in other entities. The Bank may realize its corporate purpose itself, through affiliated companies and equity participations or through the conclusion of affiliation and cooperation agreements with third parties. It is entitled to have recourse to all transactions and measures which are suitable for promoting its corporate purpose, in particular the establishment of branches in Germany and abroad and the acquisition, management and disposal of interests in other enterprises.

COMMERZBANK's financial year is the calendar year.

The Legal Entity Identifier ("LEI") of the Issuer is 851WYGNLUQLFZBSYGB56.

### 5.2 Description of the Business of the COMMERZBANK Group

#### 5.2.1 Overview

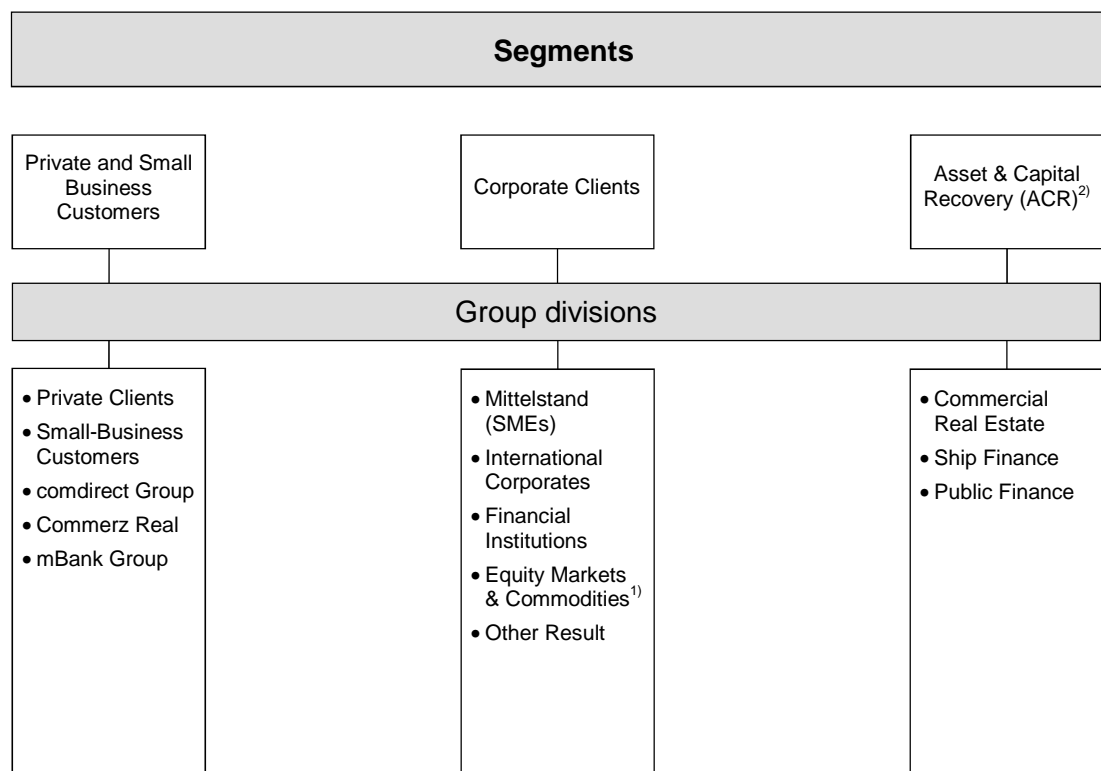
COMMERZBANK sees itself as one of Germany's leading banks for private and corporate clients as measured by total assets and an internationally active commercial bank. It has one of the densest branch networks of all German private-sector banks, serving all customer groups. With two core segments, "Private and Small-Business Customers" and "Corporate Clients", COMMERZBANK offers a comprehensive portfolio of banking and capital market services. Alongside its business in Germany, the Bank is also active internationally through its subsidiaries, branches and investments. However, the focus of its international activities is on Europe.

#### 5.2.2 Segments

##### 5.2.2.1 Overview

Until 30 June 2019, COMMERZBANK had three operating segments; Private and Small-Business Customers, Corporate Clients and the run-off segment Asset & Capital Recovery (ACR), plus the Others and Consolidation division for reporting purposes. Its business is focused on two customer segments, Private and Small-Business Customers and Corporate Clients. As of 1 July 2019, the segment Asset & Capital Recovery (ACR) was closed and the remaining portfolios were transferred to the core business and the Others and Consolidation division.

Structure of the COMMERZBANK Group until 30 June 2019:



<sup>1)</sup> On 8 November 2018, COMMERZBANK and Société Générale signed a purchase agreement for the Equity Markets & Commodities division (see also "5.2.2.3.1 Overview" below).

<sup>2)</sup> As of 1 July 2019, the segment was closed (see also "5.2.2.1 Overview" above).

## 5.2.2.2 Private and Small-Business Customers segment

### 5.2.2.2.1 Overview

The Private and Small-Business Customers segment comprises the Private Clients, Small-Business Customers, comdirect Group, Commerz Real and mBank Group divisions.

#### 5.2.2.2.2 Private Clients and Small-Business Customers Group divisions

The Private Clients Group division comprises the German branch operations of COMMERZBANK for private and wealth management customers. The Small-Business Customers Group division brings together the activities relating to corporate and smaller SME customers with annual turnover of up to EUR 15 million in the German branch bank.

The German branch bank offers the services of a universal bank for private customers, wealth management customers and small-business customers, both in person and digitally. The Bank has a local presence with some 1,000 branches, over 100 locations for wealth management customers and around 330 locations for small-business customers. Digital banking is provided via a modern, user-friendly online banking service, supplemented by applications permitting banking transactions on mobile devices such as smartphones.

Customers are offered needs-oriented advice. The "Customer Compass", an IT-based advisory tool for private and small-business customers, and the "Strategy Dialogue" in wealth management ensure advice is consistent and structured nationally. The "ONE" application allows sales staff and customers to see information and process transactions at any time on a single technical platform.

The Bank's product offering for private and small-business customers comprises solutions for accounts and payments, investments, financing and retirement savings. The free current account is an anchor product for gaining new customers; further account models for various customer needs are also available. With investments, COMMERZBANK customers can select the right custody account for them from a range of several models.

Mandate business includes wealth management and asset management. The product range also includes various solutions for individual and consumer loans and retail mortgage financing.

The Bank provides independent advice on investments and retail mortgage financing, so it does not solely offer its own products. The Bank's investment advisory services are based on an open fund architecture. It cooperates with strategic partners chosen according to fixed criteria in an independent fund selection process. In retail mortgage financing the customer receives the best offer from a selection of over 250 providers. The Bank also offers its customers an app that allows all steps of retail mortgage financing to be conveniently carried out on a mobile device. Should the customer still require personal advisory services, these can be arranged at any time directly at a branch or via the Service Centre.

The Bank also offers specific products and services for particular customer groups. Wealth Management serves affluent private customers with liquid assets of over EUR 0.5 million. These customers are offered specialized advice and a broad portfolio of individual products and services. They can also use a wide range of services (including securities, real estate and credit management, asset management, wealth planning, family office solutions, and inheritance and trust management). Customers have access to specialists in securities, real estate and loans, in addition to a relationship manager who functions as the customer's permanent contact. In addition, the Bank has specialists who can advise customers on asset management, and inheritance and trust management.

COMMERZBANK offers advice to small-business customers on matters related to both private and business banking based on a business model tailored to meet their needs. The specific range of products and services offered to small-business customers includes tailored account models, international business, swift and easy granting of loans as well as a selection of direct banking services. Specialized software solutions for online and electronic banking facilitate payment transaction processing for small-business customers.

The Private Clients Group division also includes the central customer centre services of Commerz Direktservice GmbH, a wholly owned subsidiary of COMMERZBANK. This offers private and small-business customers personal dialogue and quality management services 24 hours a day, seven days a week.

#### 5.2.2.2.3 comdirect Group division

With its products and services, comdirect bank AG ("**comdirect**") considers itself one of the leading direct banks in Germany. The objective of comdirect is to support customers as a financial advisor. At the same time, comdirect aims to be one of the top providers for saving, investing and securities trading activities.

comdirect is the parent company of the comdirect Group, which comprises the European Bank for Financial Services GmbH ("**ebase**"), onvista media GmbH and comdirect Versicherungsmakler AG. comdirect is currently managed through two business segments: Business-to-Customer (B2C) and Business-to-Business (B2B). The B2C business segment mainly consists of retail banking while the B2B business segment primarily conducts business with institutional partners and their clients. In July 2018, comdirect agreed to sell ebase GmbH to the FNZ Group in order to focus on its core business with private customers in future. The transaction is expected to be completed in the third quarter of 2019 and is still subject to the approval of the banking supervisory authorities, among other things.

The B2C segment comprises comdirect, including the onvista bank business division and its five special funds, as well as onvista media GmbH and comdirect Versicherungsmakler AG. In the banking area, comdirect generates interest income by reinvesting customer deposits in the money and capital market and with instalment loans, bank overdraft facilities and overdraft interest. It also generates commission income related to issued payment transaction cards. In the brokerage area, which consists of trading and investing activities, comdirect mainly generates commission income from securities trading and related services and from upfront and trail commission in the fund business. This is supplemented by interest income, in particular from securities loans and deposits in deposit accounts.

#### 5.2.2.2.4 Commerz Real Group division

The Commerz Real Group division focuses on locating and managing tangible asset investments for investors and for the financing side. The core product of the fund offering is the hausInvest open-ended real estate fund. Its real estate portfolio has a wide geographic diversification and comprises offices, shopping centres and hotels.

The spectrum of investment products also includes alternative investment funds for private and institutional investors in the real estate, renewable energies and infrastructure asset classes. As the leasing provider of the COMMERZBANK Group, Commerz Real also develops tailored solutions for equipment leasing concepts that

represent an alternative to traditional loan financing. The range of services also comprises tailored financing solutions for assets such as real estate, large moveable assets and infrastructure projects.

Commerz Real is part of the Private and Small-Business Customers segment, but also provides products for the Corporate Clients segment. In addition to linking itself closely with COMMERZBANK in terms of distribution, Commerz Real also cooperates with third-party distributors in the area of investment products.

#### 5.2.2.2.5 mBank Group division

The mBank Group ("**mBank**") comprises the Group's universal banking and direct banking activities in Central and Eastern Europe. It is active in the private and corporate business and in investment banking in Poland and also offers its customers other financial services such as leasing and factoring, the financing of commercial real estate, brokerage transactions, asset management, corporate financing and consulting services for capital market products. In addition, mBank is represented in the Czech Republic and Slovakia in the area of retail banking.

The aim of mBank is to be able to offer its customers tailored products and services. In the corporate customer business, the focus is on medium-sized companies and large corporate customers. mBank also concentrates on the individual needs of entrepreneurs and small companies. In addition, mBank has an extensive range of products and services for private customers. It wants to reinforce its position as a leading innovator, in its own view, for modern banking offerings in the private customer business.

Distribution is conducted over the internet and through the branches of mBank.

### 5.2.2.3 *Corporate Clients segment*

#### 5.2.2.3.1 Overview

The Corporate Clients segment is divided into three operating areas: Mittelstand, International Corporates and Financial Institutions. On 8 November 2018, COMMERZBANK and Société Générale signed a purchase agreement for the Equity Markets & Commodities division. The transaction has been approved by the employee representative committees in Germany and the EU commission but remains subject to the approval of some local regulatory authorities. The staff integration and the transfer of trading books as well as its associated assets and liabilities are anticipated to take place gradually and started in the first quarter of 2019.

The Other Result division handles all business that falls outside the strategic focus of the Corporate Clients segment. This mainly consists of assets transferred from former run-off segments and the effects of hedging positions and measurement of own liabilities.

The segment offers its customers the complete range of products of an international full-service bank, from traditional credit products, individually tailored financing solutions, investment and hedging products and products in the areas of cash management and trade finance, investment and hedging products and international business. Customers also have access to customised capital market products and investment banking solutions.

The segment distribution model is tailored to the needs of customers. Corporate customer advisers are specialised in the core customer segment of their area. Corporate banking and investment banking product specialists are called in for relevant transactions.

Customers are serviced both by customer advisors in a broad nationwide branch network and by specialists and customer advisors based in Frankfurt am Main, London, New York and Singapore. Customers' international activities are also covered by the foreign branches in Western Europe, Eastern Europe, Asia and North America, and by the subsidiary in Brazil.

#### 5.2.2.3.2 Mittelstand Group division

The Mittelstand Group division comprises the business with corporate clients with turnover over EUR 15 million and domestic large corporates with turnover over EUR 250 million and a corresponding requirement for capital market products. Business with public-sector companies and regional and mid-sized institutional customers in Germany is also reported here.

#### 5.2.2.3.3 International Corporates Group division

The International Corporates Group division looks after corporate customers headquartered abroad, large German multinational companies, and international insurance companies.

#### 5.2.2.3.4 Financial Institutions Group division

The Financial Institutions Group division is responsible for relationships with banks in Germany and abroad and with central banks. The Group division assists its customers throughout the world with (foreign) payment transactions, hedging of foreign trade risks and funding for foreign trade deals. The Group division also uses a worldwide network of correspondent banks and established connections in emerging markets around the world to promote the COMMERZBANK Group's foreign trade activities throughout the world. It also assists other divisions with their international activities and strategies. The Group division works on the basis of a global service approach, in which customer advisers based centrally at COMMERZBANK's head office work together with a worldwide network of representative offices and local Financial Institution units.

#### 5.2.2.4 Asset & Capital Recovery (ACR) segment

The run-off segment Asset & Capital Recovery (ACR) segment comprised the complex financings of the portfolios in the areas Commercial Real Estate (CRE), Ship Finance (SF) and Public Finance (PF).

The aim of the segment was to systematically reduce the individual segment portfolios in a way that preserves value and minimises risk. As of 1 July 2019, the segment was closed and the remaining portfolios were transferred to the core business and the Others and Consolidation division.

#### 5.2.2.5 Others and Consolidation

Others and Consolidation brings together the staff, management and support functions. The staff and management functions are combined in Group Management, which has the following functional units: Group Audit, Group Communications, Group Compliance, Group Development & Strategy, Group Finance, Group Human Resources, Group Investor Relations, Group Legal, Group Tax, Group Treasury, Big Data & Advanced Analytics and the central risk functions. The support functions are provided by Group Services. These include Group Digital Transformation & Strategy, Group Banking Operations, Group Markets Operations, Group Information Technology, Group Organisation & Security and Group Delivery Center.

### 5.3 Trademark rights

COMMERZBANK holds various German trademarks, Community trademarks and international registrations. The "COMMERZBANK" trademark in particular is protected in Germany and several other countries for financial services and associated goods and services, among other things.

COMMERZBANK has had the internet domains that it regards as important for its business activities in Germany and abroad registered on its behalf. In particular, the domains "commerzbank.de" and "commerzbank.com" are protected.

### 5.4 Group structure and corporate investments

COMMERZBANK is the parent company of the COMMERZBANK Group. The following table provides an overview of the main subsidiaries held by the Bank, both directly and indirectly, as of the date of this Prospectus:

<b>Company</b>	<b>Registered office</b>
comdirect bank AG .....	Quickborn
Commerz Real AG .....	Wiesbaden
mBank S.A. ....	Warsaw
Commerz Markets LLC .....	Wilmington, Delaware
Commerzbank (Eurasija) AO .....	Moscow
Commerzbank Brasil S.A. – Banco Múltiplo .....	São Paulo
Commerzbank Zrt.....	Budapest
Commerzbank Finance & Covered Bond S.A.....	Luxembourg

## 5.5 Rating

The following table shows COMMERZBANK's long-term and short-term issuer ratings as of the date of this Prospectus:

Rating agency	Long-term rating					Short-term rating
	Issuer Credit Rating (long-term debt)	Preferred senior unsecured debt	Non-preferred senior unsecured debt	Subordinated debt (Tier 2)	Public Sector Pfandbriefe/ Mortgage Pfandbriefe	
Moody's Investors Service, Inc. (" <b>Moody's</b> ")	A1	A1	Baa2	Baa3	Aaa	P-1
Standard & Poor's Financial Services LLC (" <b>S&amp;P</b> ")	A-	A-	BBB	BBB-	–	A-2
Fitch Ratings, Inc. (" <b>Fitch</b> ")	BBB+	A-	BBB+	BBB	–	F2
Scope Ratings GmbH (" <b>Scope</b> ")	A	A	A-	BBB	–	S-1

The rating agencies define the ratings as follows:

**Moody's:** Aaa: Obligations rated Aaa are judged to be of the highest quality, subject to the lowest level of risk.

A: Obligations rated A are judged to be upper-medium grade and are subject to low credit risk.

Baa: Obligations rated Baa are judged to be medium-grade and subject to moderate credit risk and as such may possess certain speculative characteristics.

Rating categories defined by Moody's rank from "Aaa" (highest category) to "C" (lowest category). 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 modifier 2 indicates a mid-range ranking; and the modifier 3 indicates a ranking in the lower end of that generic rating category.

P-1: Issuers (or supporting institutions) rated Prime-1 have a superior ability to repay short-term debt obligations.

Moody's categorizes issuers according to their relative ability to repay short-term debt obligations in the rating categories "P-1" (superior) to "P-3" (acceptable).

**S&P:** A: 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 commitments on the obligation is still strong.

BBB: An obligation rated 'BBB' exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to weaken the obligor's capacity to meet its financial commitments on the obligation.

Rating categories defined by S&P rank from "AAA" (highest category) to "D" (default). The ratings from "AA" to "CCC" may be modified by the addition of a plus (+) or minus (-) sign to show the relative standing within the major rating categories.

A-2: A short-term obligation rated 'A-2' is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher rating categories. However, the obligor's capacity to meet its financial commitments on the obligation is satisfactory.

Rating categories defined by S&P rank from "A-1" (highest category) to "D" (default).



Fitch: A: 'A' ratings denote expectations of low default risk. The capacity for payment of financial commitments is considered strong. This capacity may, nevertheless, be more vulnerable to adverse business or economic conditions than is the case for higher ratings.

BBB: "BBB" ratings indicate that expectations of default risk are currently low. The capacity for payment of financial commitments is considered adequate, but adverse business or economic conditions are more likely to impair this capacity.

Rating categories defined by Fitch rank from "AAA" (highest category) to "D" (default). The modifiers "+" or "-" may be appended to a rating to denote relative status within major rating categories. Such suffices are not added to the "AAA" Long-Term IDR category or to Long-Term IDR categories below "B".

F2: Good short-term credit quality: Good intrinsic capacity for timely payment of financial commitments.

Rating categories defined by Fitch rank from "F-1" (highest category) to "D" (default).

Scope: A: Ratings at the A level reflect an opinion of strong credit quality.

BBB: Ratings at the BBB level reflect an opinion of good credit quality.

Rating categories defined by Scope rank from "AAA" (highest category) to "D" (default), with "+" and "-" as additional sub-categories for each category from AA to B (inclusive).

S-1: Ratings at the S-1 level reflect an opinion of very low credit risk with high capacity to repay short-term obligations.

Rating categories defined by Scope rank from "S-1+" (highest category) to "S-4" (moderate-to-high credit risk).

The ratings from S&P, Moody's and Fitch were issued by subsidiaries of these agencies. These subsidiaries, S&P Global Ratings Europe Ltd. (Niederlassung Deutschland) with its registered office in Frankfurt am Main, Moody's Deutschland GmbH with its registered office in Frankfurt am Main, Fitch Deutschland GmbH with its registered office in Frankfurt am Main and Scope Ratings GmbH with its registered office in Berlin, are registered with ESMA in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, as amended from time to time, and are included in the list of registered credit rating agencies published on the website of the European Securities and Markets Authority (<https://www.esma.europa.eu/supervision/credit-rating-agencies/risk>).

Each rating reflects the opinion of the particular rating agency at the given reported point in time. Investors should consider each rating individually and obtain additional information and a more detailed understanding of the significance of the credit rating provided by the relevant rating agency. Rating agencies may change their ratings at any time if they are of the opinion that specific circumstances require such a change. Investors should not regard the long-term ratings as a recommendation to buy, hold or sell securities.

## 5.6 Board of Managing Directors and Supervisory Board

### 5.6.1 Board of Managing Directors

The Bank's Board of Managing Directors currently consists of seven members.

The following overview shows the members of the Board of Managing Directors of COMMERZBANK, their responsibilities, and the names of all companies and partnerships outside the COMMERZBANK Group of which they are currently a member of the administrative, management or supervisory bodies or a partner.

<b>Name</b>	<b>Responsibility</b>	<b>External mandates</b>
Martin Zielke..... <i>Chairman of the Board of Managing Directors</i>	Group Audit Group Communications	None
Dr. Marcus Chromik .....	Segment Asset & Capital Recovery	None

<b>Name</b>	<b>Responsibility</b>	<b>External mandates</b>
	Big Data & Advanced Analytics Group Credit Risk Management Group Intensive Care Group Market Risk Management Group Risk Controlling & Capital Management	
Stephan Engels .....	Group Finance Group Tax Group Treasury mBank	<ul style="list-style-type: none"> <li>Chairman of the Advisory Board of EIS Einlagensicherungsbank GmbH, Berlin</li> </ul>
Jörg Hessenmüller .....	Group Banking Operations Group Delivery Center Group Development & Strategy Group Digital Transformation Group Information Technology Group Markets Operations Group Organisation & Security	None
Michael Mandel .....	Private and Small-Business Customers segment comdirect bank Commerz Real	None
Dr. Bettina Orlopp.....	Group Compliance Group Human Resources Group Legal	None
Michael Reuther <sup>1</sup> .....	Corporate Clients segment	<ul style="list-style-type: none"> <li>Member of the Board of Supervisory Directors of Landwirtschaftliche Rentenbank, Frankfurt am Main</li> <li>Member of the Advisory Board of Verlagsbeteiligungs- und Verwaltungsgesellschaft mbH, Frankfurt am Main</li> </ul>

The members of the Board of Managing Directors may be reached at the Bank's business address: Kaiserstraße 16 (Kaiserplatz), 60311 Frankfurt am Main, Germany.

### 5.6.2 Supervisory Board

In accordance with the Bank's Articles of Association, the Supervisory Board comprises twenty members.

The following overview shows the members of the Bank's Supervisory Board together with, if applicable, their other administrative, management and supervisory board mandates and mandates on similar supervisory bodies both in Germany and abroad or their partnership stakes in enterprises and companies outside COMMERZBANK:

<sup>1</sup> On 5 December 2018, Michael Reuther notified the Supervisory Board that he does not wish to extend his contract, which runs to the end of September 2019.

<b>Name</b>	<b>Main activity</b>	<b>Other administrative, management or supervisory board mandates and partnerships both in Germany and abroad</b>
Dr. Stefan Schmittmann .....	Chairman of the Supervisory Board	<ul style="list-style-type: none"> <li>• Chairman of the Supervisory Board of Commerz Real AG, Wiesbaden</li> <li>• Chairman of the Supervisory Board of Commerz Real Investment mbH, Wiesbaden</li> <li>• Deputy Chairman of the Supervisory Board and Chairman of the Audit Committee of HETA Asset Resolution AG, Klagenfurt</li> </ul>
Uwe Tschäge .....	Employee of COMMERZBANK (works council member) and Chairman of the Central Works Council of COMMERZBANK Deputy Chairman of the Supervisory Board	None
Heike Anscheit .....	COMMERZBANK employee	None
Alexander Boursanoff	COMMERZBANK employee	None
Gunnar de Buhr .....	COMMERZBANK employee	<ul style="list-style-type: none"> <li>• Member of the Supervisory Board of BVV Pensionsfonds des Bankgewerbes AG, Berlin</li> <li>• Member of the Supervisory Board of BVV Versicherungsverein des Bankgewerbes a.G., Berlin</li> <li>• Member of the Supervisory Board of BVV Versorgungskasse des Bankgewerbes e.V., Berlin</li> </ul>
Stefan Burghardt .....	COMMERZBANK employee  Branch Manager Mittelstandsbank, COMMERZBANK Bremen	None
Sabine U. Dietrich .....	Former Member of the Board of Management of BP Europa SE	None
Monika Fink .....	COMMERZBANK employee	None
Dr. Tobias Guldemann .....	Independent consultant in the financial sector	<ul style="list-style-type: none"> <li>• Member of the Board of Directors of Edmond de Rothschild Holding S.A., Chambésy</li> <li>• Member of the Board of Directors of Edmond de Rothschild (Suisse) S.A., Geneva</li> <li>• Member of the Board of Directors of Edmond de Rothschild (Monaco) S.A., Principality of Monaco</li> <li>• Chairman of the Board of Directors of Fedafin AG, Widnau</li> </ul>
Dr. Rainer Hillebrand.....	Deputy Chairman of the Executive Board of Otto Group.	<ul style="list-style-type: none"> <li>• Member of the Supervisory Board of Vorwerk &amp; Co. KG, Wuppertal</li> </ul>
Christian Höhn.....	COMMERZBANK	None

<b>Name</b>	<b>Main activity</b>	<b>Other administrative, management or supervisory board mandates and partnerships both in Germany and abroad</b>
	employee	
Kerstin Jerchel.....	Head of Co-determination ver.di National Administration	<ul style="list-style-type: none"> <li>Member of the Supervisory Board of Allianz Deutschland AG, Munich</li> </ul>
Dr. Markus Kerber .....	State Secretary at the Federal Ministry of the Interior, Building and Community	None
Alexandra Krieger.....	Head of Business Administration/Corporate Strategy Industrial Union Mining, Chemical and Energy (IG BCE)	<ul style="list-style-type: none"> <li>Member of the Supervisory Board of AbbVie Komplementär GmbH, Wiesbaden</li> <li>Deputy Chair of the Supervisory Board of Evonik Resource Efficiency GmbH, Essen</li> </ul>
Anja Mikus.....	Chief Executive Officer/Chief Investment Officer, Nuclear Waste Disposal Fund (Public Endowment)	None
Dr. Victoria Ossadnik.....	Chief Executive Officer of the Board of Managing Directors of E.ON Energie Deutschland GmbH	<ul style="list-style-type: none"> <li>Member of the Supervisory Board of Linde AG, Munich</li> <li>Member of the Supervisory Board of Linde Intermediate Holding AG, Munich</li> <li>Director of Linde plc, Guildford</li> </ul>
Robin J. Stalker .....	Former member of the Executive Board of adidas AG	<ul style="list-style-type: none"> <li>Member of the Supervisory Board and Audit Committee of Schaeffler AG, Herzogenaurach</li> <li>Deputy Chairman of the Supervisory Board of Schmitz Cargobull AG, Horstmar</li> </ul>
Nicholas R. Teller .....	Chairman of the Advisory Board of E.R. Capital Holding GmbH & Cie. KG	None
Dr. Gertrude Tumpel-Gugerell.....	Former Member of the Executive Board of the European Central Bank	<ul style="list-style-type: none"> <li>Member of the Supervisory Board of Vienna Insurance Group AG, Vienna</li> <li>Deputy Chairman of the Supervisory Board of OMV AG, Vienna</li> </ul>
Stefan Wittmann.....	Trade Union Secretary ver.di National Administration	None

### **Honorary Chairman of the Supervisory Board**

Klaus-Peter Müller

The members of the Supervisory Board may be reached at the Bank's business address: Kaiserstraße 16 (Kaiserplatz), 60311 Frankfurt am Main, Germany.

### **5.6.3 Potential conflicts of interest**

With respect to potential conflicts of interest between the obligations of the members of the Board of Managing Directors or the Supervisory Board to COMMERZBANK and their private interests or outside obligations, it is to be

noted that members of the Board of Managing Directors and the Supervisory Board currently hold shares of COMMERZBANK. Altogether, these shares amount to a holding of less than 1% of the issued shares of COMMERZBANK. Beyond this, there are no conflicts of interest or potential conflicts of interest between the obligations of the members of the Board of Managing Directors or the Supervisory Board to the Bank on the one hand, and their private interests or outside obligations on the other.

## 5.7 Major shareholders

As of the date of this Prospectus the share capital of COMMERZBANK is divided into 1,252,357,634 no-par-value shares. Based on the voting rights notifications pursuant to §§ 33 *et seqq.* of the German Securities Trading Act (*Wertpapierhandelsgesetz – WpHG*) that the Bank has received, the following shareholders own more than 3% of the Bank's ordinary shares:

Shareholder	Percentage of voting rights <sup>1) 2)</sup>		
	Direct (in %)	Attributed	Total
Federal Republic of Germany .....	15.60		15.60
Cerberus.....	5.01		5.01
BlackRock, Inc.....	4.88	0.11	4.99

<sup>1)</sup> Percentages have been rounded.

<sup>2)</sup> Based on the last voting rights notification dated 28 May 2013 (Federal Republic of Germany), 26 July 2017 (Cerberus) and 29 May 2018 (BlackRock, Inc.).

Each share in COMMERZBANK is entitled to one vote at the Annual General Meeting.

COMMERZBANK has not submitted its management to any other company or person, for example on the basis of a domination agreement, nor is it controlled by any other company or any other person within the meaning of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz – WpÜG*).

## 5.8 Historical financial information

The audited annual financial statements of COMMERZBANK for the financial year ended 31 December 2018 and the audited consolidated financial statements of COMMERZBANK for the financial years ended 31 December 2017 and 31 December 2018 are incorporated by reference into, and form part of, this Prospectus (see "9 Documents Incorporated by Reference").

## 5.9 Interim financial information

COMMERZBANK's reviewed interim condensed consolidated financial statements for the three-month period ended 31 March 2019 are incorporated by reference into, and form part of, this Prospectus (see "9 Documents Incorporated by Reference").

## 5.10 Trend information

There has been no material adverse change in the prospects of the COMMERZBANK Group since 31 December 2018.

## 5.11 Significant change in the financial position

There has been no significant change in the financial position of the COMMERZBANK Group since 31 March 2019.

## 5.12 Auditors

The Bank's auditors for financial year 2017 were PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft ("**PwC**"), Friedrich-Ebert-Anlage 35-37, 60327 Frankfurt am Main, Germany. PwC audited the German language consolidated financial statements for the 2017 financial year, which were prepared in accordance with the International Financial Report Standards ("**IFRS**") as adopted by the European Union and the additional

requirements of German commercial law pursuant to § 315e(1) of the German Commercial Code (HGB) and issued an unqualified independent auditor's report.

Since financial year 2018 the Bank's auditors are Ernst & Young GmbH, Wirtschaftsprüfungsgesellschaft ("EY"), Stuttgart, office Eschborn/Frankfurt am Main, Mergenthalerallee 3-5, 65760 Eschborn/Frankfurt am Main, Germany. EY audited the German language consolidated financial statements for the 2018 financial year, which were prepared in accordance with IFRS as adopted by the European Union and the additional requirements of German commercial law pursuant to § 315e(1) of the German Commercial Code (HGB), and also audited the German language annual financial statements for the 2018 financial year, which were prepared in accordance with German generally accepted accounting principles, and issued an unqualified independent auditor's report in each case. COMMERZBANK's German language interim condensed consolidated financial statements for the three-month period ended 31 March 2019, which were prepared in accordance with IFRS on interim financial reporting, have been subject to a review by EY and provided with a review report.

PwC and EY are members of the German *Wirtschaftsprüferkammer* (Chamber of Public Accountants).

## **5.13 Material agreements**

### **5.13.1 Silent participation by HT1 Funding GmbH**

Effective with the merger of Dresdner Bank and COMMERZBANK, the silent participation in Dresdner Bank of originally EUR 1 billion held by HT1 Funding GmbH since 20 July 2006 was transferred to COMMERZBANK. COMMERZBANK is obliged to pay HT1 Funding GmbH a profit share equal to 12-month EURIBOR plus 2.688% of the capital loaned for all financial years. The payment obligation is subordinated to the claims of all present and future creditors of COMMERZBANK, other funds in the supplementary capital and other subordinated liabilities. No profit participation is permitted (1) if and to the extent that there is not enough distributable profit to make such payment in the financial year concerned, (2) if there has been a reduction in the nominal amount of the silent participation and the silent participation has not yet been fully credited, (3) if an application has been made to initiate insolvency proceedings with respect to the assets of COMMERZBANK or BaFin has exercised its authority under §§ 45, 46, 46a or 47 of the German Banking Act, or (4) if COMMERZBANK's total capital ratio at company or Group level is less than 9% and payment would result in a net loss for the year.

The silent participation has been granted for an indefinite period. Termination by HT1 Funding GmbH is not possible. COMMERZBANK may terminate the underlying participation agreement under certain conditions by giving notice of ordinary termination of at least two years, unless the relevant regulatory authority has consented to a shorter notice period. COMMERZBANK has so far not made use of its first right to issue notice of termination to HT1 Funding GmbH on 31 December 2016. Under an amendment agreement dated 15 April 2009, COMMERZBANK is further entitled on payment of compensation to reduce the nominal amount of the participation by transferring certain securities with a total nominal value of EUR 1 billion to HT1 Funding GmbH which the latter had issued in 2006 to refinance the participation. In this event HT1 Funding GmbH is obliged under the amendment agreement to redeem these securities.

Using this option, COMMERZBANK has in the meantime reduced the nominal value of the silent participation to EUR 415,885,000.00.

## **5.14 Legal and arbitration proceedings**

The companies in the Group are involved as defendant, claimant or in another capacity in court, arbitration and regulatory proceedings in both Germany and other countries (including the United States). There are also other legal disputes in which the Bank or its subsidiaries are not directly involved, but which could have an impact on the Group due to their fundamental importance for the banking industry.

The Group recognizes provisions for potential losses from contingent liabilities in accordance with the relevant accounting rules. However, the Group's final actual liability may differ from the provisions that have been recognised, as a high degree of judgement is involved in assessing the probability of uncertain liabilities in such legal proceedings and quantifying them. These estimates may turn out to be inaccurate at a later stage of the proceedings.

Apart from proceedings described below, COMMERZBANK is not currently aware of any government interventions, lawsuits, or arbitration proceedings which have arisen or been concluded in the past twelve months (including proceedings which to COMMERZBANK's knowledge are pending or could be initiated) in which COMMERZBANK or one of its subsidiaries is involved as defendant or in any other capacity and which are

currently having or have recently had a material impact on the financial position or profitability of the Bank or the Group.

#### **5.14.1 Flawed investment advice**

COMMERZBANK and its subsidiaries are especially active in the area of investment advisory within the Private and Small-Business Customers segment. Several years ago, case law significantly (retrospectively) tightened the requirements for the suitability of product and investor advice. COMMERZBANK and its subsidiaries were and are therefore involved in numerous judicial and non-judicial proceedings where investors are claiming they were given flawed investment advice, primarily in connection with corporate equity holdings, and are seeking damages.

#### **5.14.2 Cancellation of loan agreements**

COMMERZBANK is exposed to claims from customers owing to "cancellation joker" ("*Widerrufsjoker*") issues. Following a change in the law, according to which any right to cancel loan agreements concluded between 2002 and 2010 would lapse no later than on 21 June 2016, many borrowers cancelled their agreements and asserted that the information given to them about cancellation when they concluded the agreement had been deficient. When the Bank rejected their cancellations, some of the customers lodged claims, with the object of repaying the loans at once before the fixed interest rates expired without having to compensate the Bank for its losses resulting from the early repayment. The Bank contests these actions.

#### **5.14.3 Claims against a subsidiary of COMMERZBANK, inter alia, in connection with former holdings in South American banks**

A subsidiary of COMMERZBANK had holdings in two South American banks whose assets are now the subject of bankruptcy proceedings. A number of investors and creditors of these banks have launched various legal actions in Uruguay and Argentina against the subsidiary, and in some cases COMMERZBANK as well, alleging liability as shareholders of the bankrupt companies as well as breaches of duties by the persons nominated by the subsidiary for the banks' supervisory boards. In addition, the subsidiary participated in two funds that acquired monies and allowed them to be managed by Bernhard L. Madoff. The liquidators of these funds have launched court proceedings in the USA demanding the repayment of amounts received by the subsidiary from the funds.

#### **5.14.4 Prospectus liability suit**

An investor is claiming damages from COMMERZBANK and other defendants because of an alleged defective prospectus in connection with a company's IPO. The company's insolvency administrator also filed recourse claims against the Bank arising out of joint and several liability and other legal grounds. After the Regional Court of Hamburg had fully dismissed the action against COMMERZBANK, during the appellate proceedings before the Higher Regional Court of Hamburg the action was brought to a close by a settlement in May 2018 between the claimant and COMMERZBANK.

#### **5.14.5 Anti-money laundering ("AML") and sanctions-related matters**

In June 2012, COMMERZBANK and COMMERZBANK AG New York branch (the "**New York Branch**") entered into a written agreement with the Federal Reserve Bank of New York ("**FRBNY**") requiring COMMERZBANK and the New York Branch to ensure (i) compliance with all applicable requirements under the U.S. Bank Secrecy Act of 1970 and anti-money laundering regulation ("**BSA/AML**") for bulk cash transactions and (ii) the implementation of effective procedures for monitoring and reporting suspicious activity in respect of bulk cash transactions (the "**2012 Written Agreement**").

In October 2013, COMMERZBANK and the New York Branch also entered into a consent cease-and-desist order (the "**2013 C&D**") with the Board of Governors of the Federal Reserve System (the "**FRB**"). The 2013 C&D required the implementation of an effective compliance risk management program across COMMERZBANK's U.S. businesses, including (i) the establishment of enhanced management oversight of the New York Branch's compliance with BSA/AML requirements; (ii) the mitigation of BSA/AML risks associated with the New York Branch's foreign correspondent business; and (iii) improvements to customer due diligence and suspicious activity reporting procedures. The 2013 C&D also requires COMMERZBANK and the New York Branch to conduct a review of U.S. dollar clearing transactions from 1 May 2012 through 31 October 2012. COMMERZBANK is continuing to take steps to address the requirements of the 2012 Written Agreement and the 2013 C&D, which remain in effect until terminated by the FRBNY or the FRB, respectively.

In March 2015, COMMERZBANK and the New York Branch entered into agreements with U.S. government agencies regarding inadequate compliance with the BSA/AML and sanctions laws in prior years (collectively, the "**2015 Settlement**"). Among those agreements, COMMERZBANK and the New York Branch entered into three-

year deferred prosecution agreements with (i) the U.S. Department of Justice, the U.S. Attorney's Office for the District of Columbia and the U.S. Attorney's Office for the Southern District of New York (the "**U.S. DPA**"); and (ii) the New York County District Attorney (the "**DANY DPA**"). The U.S. DPA and the DANY DPA contained extensive cooperation obligations and reporting requirements related to BSA/AML and sanctions laws investigations and to violations of U.S. law. COMMERZBANK and the Branch also consented to a cease-and-desist order with the FRB (the "**2015 C&D**") that requires the implementation of a U.S. Law Compliance Program to ensure compliance with applicable BSA/AML and sanctions laws by COMMERZBANK's global business lines. In addition, COMMERZBANK is required to have an independent consultant acceptable to the FRB verify compliance with U.S. sanctions laws (the "**OFAC Regulations**") on an annual basis. COMMERZBANK and the New York Branch further entered into a consent order under N.Y. Banking Law §§ 39 and 44 with the New York Department of Financial Services ("**DFS**") (the "**DFS Consent Order**"), pursuant to which the Bank agreed to engage for a period of two years an independent monitor (the "**Monitor**") selected by DFS to evaluate the compliance structures, processes and guidelines for implementing the BSA/AML and OFAC Regulations in connection with business activities involving the Branch and monitor any required remedial measures. In addition, COMMERZBANK and the Branch entered into an agreement with the Office of Foreign Assets Control ("**OFAC**") regarding historical transactions involving parties subject to OFAC sanctions (the "**OFAC Settlement**"). Under the 2015 Settlement, COMMERZBANK and the Branch made payments totalling US\$1.452 billion to the U.S. authorities. The 2015 C&D, the DFS Consent Order and the OFAC Settlement remain in effect until terminated by the respective agency. The U.S. DPA and the DANY DPA expired as scheduled on 12 March 2018. Prosecution by the New York County District Attorney terminated with the expiration of the DANY DPA, and the criminal proceeding filed by federal prosecutors in the U.S. District Court for the District of Columbia was dismissed by court order dated 2 May 2018, pursuant to the U.S. prosecutors' motion to dismiss without prejudice.

The Monitor was on site at COMMERZBANK in Frankfurt and New York from the beginning of 2016 to the end of 2018 and was also conducting reviews in selected foreign locations for some of that time. The Monitor's first audit report was submitted to the DFS and COMMERZBANK on 31 October 2016, and the Monitor thereafter submitted quarterly progress reports to the DFS and COMMERZBANK. The Bank has also received separate reports from the Monitor on the international locations in Singapore, Hong Kong and London. The written plans of COMMERZBANK to improve management oversight and the BSA/AML/OFAC compliance function were also submitted to the DFS and the Monitor on time. Implementation of the Monitor's requirements occurred substantially on schedule and is mostly complete. The Monitor's Concluding Report was received on 31 July 2018. Since then the Monitor, *inter alia*, conducted limited testing activity to validate COMMERZBANK's implementation of certain measures. The Monitor submitted the final Addendum to its Concluding Report to the Bank and the DFS on 15 October 2018. Since then, the Monitor has ceased all review activities and other substantive work in connection with the DFS monitorship, and the Monitor has now been instructed to take the appropriate steps for an orderly conclusion of its activities. However the Bank has some continuing obligations going forward: (1) implementation of "Future Bank Action Plans" relating to ongoing Monitor recommendations and quarterly progress reporting to DFS in this regard, and (2) implementation testing by Group Audit and/or the Bank's other external consultants.

#### **5.14.6 Civil legal action in connection with the 2015 Settlement**

Subsequent to and in connection with the agreements with the U.S. authorities, civil lawsuits against COMMERZBANK were also filed with US Federal Courts. A total of seven lawsuits are pending in the US Federal Courts for the Eastern and Southern District of New York.

In April 2015, COMMERZBANK was included in pending litigation that was filed last year in the U.S. District Court for the Eastern District of New York on behalf of U.S. soldiers killed or injured in Iraq between April 2004 and November 2011 or their family members. In July 2016, two further parties were joined and additional facts and circumstances regarding COMMERZBANK were added to the claim. A motion for dismissal is pending in the Eastern District Court of New York, but has not yet been decided. Two similar suits were filed by other claimants in November 2016 and November 2017; one was voluntarily withdrawn without prejudice to the ability to file again on the same grounds, the other is outstanding in dismissal proceedings before the US District Court for the Southern District of New York. At the end of 2018, five more lawsuits were filed in this context, one pending in the Southern District of New York and the other four before the Court in the Eastern District of New York. The five new cases are suspended until the motions for dismissal are decided in the Southern and Eastern District of New York. In addition to COMMERZBANK, the suits also target banks with international operations that had already entered into settlements in respect of breaches of US sanctions and one Iranian bank (collectively the "**Defendants**"). The claimants essentially allege that the Defendants conspired to violate the U.S. Anti-Terrorism Act by altering or falsifying payment messages involving Iran, Iranian parties and Iranian banks for transactions processed through the United States. The statements of claim also contain allegations about a former COMMERZBANK account supposedly indirectly attributable to the financing network of a terrorist organisation. Both sets of outstanding proceedings are still at an early stage. Based on the facts known to date, COMMERZBANK is at present unable to



give any forecast on the outcome of these proceedings. This also applies to the potential timing of any decision and the possible impact on COMMERZBANK.

#### **5.14.7 Customer claim by a former customer for repayment of interest and release of security assets - reserves management**

In April 2016 a client brought a legal action against COMMERZBANK seeking payment of a total of EUR 239 million. The claimant is seeking (i) repayment of interest paid under a settlement agreement with the Bank, (ii) release of collateral (term deposits) securing a claim of the Bank for payment of distribution commission and (iii) a refund of distribution commissions previously paid.

The claim results from the development of a complex tax structure for corporate clients of the Bank ("**Reserves Management**"), implementation of which was driven ahead by the claimant because it anticipated fiscal advantages for itself. In exchange for the promise of a commission the Bank arranged contact with its corporate clients and financed the claimant. When the tax authorities rejected the Reserves Management, the claimant was unable to honour either the loan or the Bank's entitlement to a commission. The claimant engaged in various proceedings before the tax courts seeking to have Reserves Management accepted. During these proceedings the Bank entered into a settlement with the claimant in 2006, the substance of which depended on certain assumptions about the outcome of the tax litigation, and on the basis of which the claimant made certain payments. In 2015 the Federal Tax Court issued its final ruling on the implementation of Reserves Management. The claimant and defendant are now in dispute over how to interpret the settlement reached in 2006.

#### **5.14.8 Legal action against the former Hypothekbank Frankfurt in Hungary regarding alleged violation of contract**

COMMERZBANK has been sued in Hungary for damages in an amount of about EUR 166.7 million in 2016. After a former customer of Hypothekbank Frankfurt (which used to be a subsidiary of COMMERZBANK) had not remedied multiple breaches of contract under the loan agreement, Hypothekbank Frankfurt terminated the loan agreement and did not make any further loan advances. The borrower, now liquidated, is claiming damages from COMMERZBANK of (i) about EUR 86 million as compensation for an alleged loss of the book value of property to be financed by the borrower; (ii) about EUR 38.2 million as compensation for alleged non-material damages; and (iii) about EUR 42.5 million as compensation for alleged lost profit. COMMERZBANK estimates the likelihood of the claim succeeding as low and is fighting the claims vigorously. Due to liquidation of the borrower the legal action in the amount of EUR 38.2 million as compensation for alleged non-material damages was dismissed in February 2019 without the possibility of appeal. In all other respects, the proceedings are currently suspended, but may be continued by the borrower's creditors.

Regardless of the claim against COMMERZBANK described above, in November 2017 a company that is a shareholder in the Hungarian borrower brought legal action against the Bank seeking damages of around EUR 514 million. This amount comprises (i) alleged write-offs on the carrying amount of the shareholding due to the insolvency of the Hungarian borrower amounting to EUR 60.4 million and (ii) alleged lost profit of EUR 453.6 million. In March 2019, the legal action was dismissed; the opposing party appealed.

#### **5.14.9 Claims against mBank following the insolvency of an investment service provider**

Following the insolvency of an investment service provider, a large number of its customers claimed to have incurred damages due to fraudulent activities of the management of the provider in connection with transactions in the foreign exchange market. Besides the claims against the investment service provider, these customers are also claiming damages from mBank, which the investment service provider used to process transactions. The customers argue that mBank participated in the fraudulent activities undertaken by the investment service provider. In the meantime, the claims of a number of customers have been purchased by a company; the company acquiring the claims is now collectively asserting these claims against mBank. The amount at dispute is PLN 275,423,000 including statutory interest and costs of proceedings. mBank has rejected the claims. A further eight clients have also brought actions for damages against mBank. The claims have been rejected in seven cases. The judgments are legally final. The eighth claim for damages has been withdrawn by the claimant, who waived the claim. The outstanding alleged claim being brought against mBank in the amount of PLN 275,423,000 was dismissed in its entirety by the regional court in Warsaw on 7 November 2017. The ruling is not final. The plaintiff appealed.

#### **5.14.10 Cum-ex and cum-cum transactions**

The Frankfurt Prosecutor's Office is investigating in connection with equity transactions after the dividend due date (so-called cum-ex transactions) of COMMERZBANK and former Dresdner Bank. COMMERZBANK is cooperating

closely with the authorities. It had already initiated a forensic analysis of cum-ex transactions at the end of 2015, which was concluded at the start of 2018. The analysis is still ongoing with regard to the equity transactions of the former Dresdner Bank, and is expected to be completed in the third quarter of 2019.

By letter of the Federal Finance Ministry (BMF) of 17 July 2017, the financial administration issued a statement on the treatment of cum-cum transactions. As such, it intends to critically assess the past under the aspect of the abuse of law. According to the opinion stated in the letter from the BMF, an abuse of law within the meaning of § 42 German Fiscal Code can be assumed, insofar as there is no commercially reasonable reason for the transaction conducted and the business case has a tax-induced design (tax arbitrage). The letter contains a non-exhaustive list of case designs, which are tax-assessed by the BMF.

In a letter dated 18 July 2017, the Bundesbank asked COMMERZBANK to assess the financial repercussions of the potential application of the BMF circular by means of a survey form. On the basis of the analyses conducted of cum-cum transactions, the Bank formed provisions as a precaution for any capital gains tax of its own that may need to be refunded.

With respect to cum-cum securities lending transactions, COMMERZBANK is exposed to compensation claims from third parties for crediting entitlements that have been denied. COMMERZBANK estimates the chances of such claims being successful on the basis of the analyses carried out to be rather slim, but does not rule them out. Under these circumstances, COMMERZBANK estimates the potential financial impact in the upper double-digit million range, plus interest on arrears which the Bank classifies as a contingent liability.

For the further cum-cum-relevant transactions, COMMERZBANK concludes that there are no inappropriate legal designs within the meaning of § 42 of the German Fiscal Code for the corresponding transactions.

It cannot be ruled out in full that another assessment may arise within the framework of further developments, for instance from the assessment by the tax authorities and financial / civil courts.

## **5.15 Investigations by supervisory authorities regarding foreign exchange rate fixings**

Several years ago, regulatory authorities and governmental institutions in various countries in which COMMERZBANK and its subsidiaries were or are active began investigations concerning irregularities in connection with foreign exchange rate fixing and foreign exchange transactions in general. In the course of these activities, regulatory authorities and governmental institutions have also instituted audits in relation to COMMERZBANK or have approached COMMERZBANK with requests for information. COMMERZBANK has cooperated fully with these bodies and has also looked into the relevant matters on the basis of its own comprehensive investigations. In one case, the matter was passed from the investigating authority to the national competition tribunal. Financial consequences arising from some of these matters cannot be ruled out.

### **5.15.1 Processing fees in loan agreements**

Following a ruling by the German Federal Court of Justice (BGH) in October 2014 declaring that non-term-related processing fees in preformulated contractual terms and conditions for consumer loans were invalid, a large number of customers have lodged claims with COMMERZBANK for repayment of the processing fees. The corresponding repayment requests are mostly completed. On 4 July 2017, the BGH decided that pre-formulated contract conditions on term-independent processing fees in loan agreements concluded between credit institutions and entrepreneurs shall no longer apply. In the past, the Bank has invoiced term-independent processing fees agreed in pre-formulated contract conditions. However, it established processes some time ago, in which the processing fees are no longer agreed in pre-formulated contract conditions. Following the decisions issued in July 2017 there was an increase in requests for refunds of processing fees paid to the Bank. Based on the decision of the BGH, the Bank assumes that any claims for refunds not yet filed in respect of fees charged before 1 January 2016 are time-barred. It is not currently possible to predict to what extent customers will claim fee refunds. The Bank has recognised a provision which it believes to be appropriate in size.

### **5.15.2 Order by the U.S. Commodity Futures Trading Commission in relation to swap dealer activities**

COMMERZBANK provisionally registered as a swap dealer under U.S. law on 31 December 2012. COMMERZBANK engages in swap dealer business, i.e. trading in OTC forward financial transactions, in Frankfurt, London, New York, Singapore and other foreign branches. As a swap dealer, COMMERZBANK is required to comply with the Commodity Exchange Act ("**CEA**") and the rules of the U.S. Commodity Futures Trading Commission ("**CFTC**") under the Dodd-Frank Act.

On 8 November 2018, CFTC issued an order filing and simultaneously settling charges against COMMERZBANK for numerous violations of the CEA and CFTC regulations, including failing to supervise its swap dealer's activities for more than five years and making misleading statements and material omissions to the CFTC concerning its swap dealer's operations and compliance with the CEA and CFTC regulations. The CFTC order requires COMMERZBANK to pay a USD12 million civil monetary penalty and comply with specified undertakings including retention of an outside consultant to review swap dealer compliance for a period of two years and to generate, during that period, annual reports assessing the swap dealer's compliance with the CEA and CFTC regulations.

### **5.15.3 Class action proceedings against mBank regarding the efficacy of index clauses in loan contracts denominated in foreign currency**

On 4 April 2016 the ombudsman as representative of various private clients of mBank lodged a class action against mBank at the Regional Court in Łódź. The subject of the dispute is the efficacy of the index clause for loan contracts denominated in Swiss francs. In May 2017 the class action was admitted by the Regional Court of Łódź, and a considerable number of claimants joined in the class action. mBank will contest the claims. In October 2018, the court issued a judgment in which it dismissed all claims of the plaintiff. The ruling is not final. The plaintiff appealed.

In addition to the claimants represented in the class action numerous further borrowers are judicially asserting claims against mBank.

### **5.15.4 Prospectus liability claim in connection with involvement in a customer's capital increase and contestation of collateral provision and loan repayments by the customer's insolvency administrator**

A number of shareholders' representatives, among them the Dutch investors' protection association (*Vereniging van Effectenbezitters* – "VEB"), have made claims on COMMERZBANK outside court on account of rights of recourse against the banks which underwrote the capital increases of a customer in 2013 and 2014 and have thus called upon the Bank to enter into negotiations towards a settlement. The VEB justifies its claims to recourse on the grounds that the underwriting banks are responsible for the loss sustained by the investors in the capital increases in 2013 and 2014 due to the inaccuracies in the prospectuses offering the securities. According to the VEB, these prospectuses do not reflect the customer's economic situation at that time. No figure has been put on the claims to recourse, which, together with the proposals for negotiations, the Bank has rejected. Legal action against the banks underwriting the capital increases and hence also against COMMERZBANK cannot be ruled out.

The customer's insolvency administrators have further stated that they regard the provision of collateral in favour of the customer's financial creditors, which include COMMERZBANK, and loan repayments in the years 2013 and 2014 as contestable on the grounds that the customer's management and these creditors could, given the customer's economic circumstances, have foreseen its insolvency. The Bank and the other financial creditors have rejected this contestation. It is possible that the customer's insolvency administrators will bring a legal action against the financial creditors' collateral trustee and the financial creditors in order to give this contestation legal force.

### **5.15.5 Client insolvency proceedings - set-off by the insolvency administrator**

As part of a client's insolvency proceedings the insolvency administrator is claiming roughly EUR 47 million from the Bank, and brought legal action against the Bank in June 2018. In January 2019, COMMERZBANK reached a settlement with the insolvency administrator. The suit has since been withdrawn.

### **5.15.6 Payment order for compensation claim under General Terms and Conditions of Business**

On 22 June 2018 the Bank was served by a payment order (*Mahnbescheid*) for EUR 50 million issued at the request of a former customer. The Bank appealed against this within the time limit. The basis of the claim being made is "compensation claim under the General Terms and Conditions of Business pursuant to § 823 of the German Civil Code (BGB)". The payment order does not provide a detailed justification for the claim being made or details of how it was calculated. As the customer had previously contested the legitimacy of termination of the business relationship by the Bank, the current assumption of the Bank is that this situation is the reason for the claim being enforced by means of a payment order.

## **5.16 Recent Developments**

The European Central Bank has reduced the bank-specific capital requirements (Pillar 2 Requirement) for COMMERZBANK Group by 0.25 percentage points to 2.0% after the 2018 Supervisory Review and Evaluation Process (SREP). The pure Common Equity Tier 1 (CET1) requirement for COMMERZBANK Group now stands at 10.11% for the year 2019. This requirement consists of the Pillar 1 minimum of 4.5%, the Pillar 2 requirement of 2.0%, the capital conservation buffer of 2.5%, the buffer for otherwise systemically important institutions (O-SII) of 1.0% and the countercyclical capital buffer of 0.11%. The CET1 ratio Basel 3 fully phased-in of COMMERZBANK Group stood at 12.9% at the end of 2018. The Bank is targeting a CET1 ratio of at least 12.75% on a consolidated basis by the end of 2019. Furthermore, COMMERZBANK will concentrate on further growth in the core segments, and is forecasting slightly higher income overall for financial year 2019, operating expenses below EUR 6.8 billion and a significantly higher risk result. The Bank is planning to propose a dividend for financial year 2019 comparable to the pay-out ratio for 2018.

## 6 TAXATION

The following is a general discussion of certain selected tax consequences in relation to the acquisition and ownership of the Notes under the tax laws of the Federal Republic of Germany and the Grand Duchy of Luxembourg. This discussion does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to invest into the Notes. The following section only provides some very general information on the possible tax treatment of the Notes. In particular, this discussion does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the laws of the Federal Republic of Germany and the Grand Duchy of Luxembourg currently in force and as applied on the date of this Prospectus, which are subject to change, possibly with retroactive effect.

**PROSPECTIVE PURCHASERS OF THE NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSAL OF THE NOTES, INCLUDING THE EFFECT OF ANY TAXES, UNDER THE TAX LAWS APPLICABLE IN THE FEDERAL REPUBLIC OF GERMANY, IN THE GRAND DUCHY OF LUXEMBOURG AND EACH COUNTRY OF WHICH THEY ARE RESIDENTS.**

### 6.1 Federal Republic of Germany

#### 6.1.1 Income tax

##### 6.1.1.1 Notes held by tax residents as non-business assets

###### 6.1.1.1.1 Taxation of payments of interest

Payments of interest on the Notes to Holders who are individuals and are tax residents of the Federal Republic of Germany (i.e., persons whose residence or habitual abode is located in the Federal Republic of Germany) are subject to German income tax. In each case where German income tax arises, a solidarity surcharge (*Solidarit t zuschlag*) is levied in addition. Furthermore, church tax may be levied, where applicable.

On payments of interest on the Notes to individuals who are tax residents of the Federal Republic of Germany, income tax is generally levied as a flat income tax at a rate of 25% (plus solidarity surcharge in an amount of 5.5% of such tax, resulting in a total tax charge of 26.375%, plus, if applicable, church tax). The total positive investment income of an individual will be decreased by a lump sum deduction (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 for individuals filing jointly), not by a deduction of expenses actually incurred.

If the Notes are held in custody, or are administered, or if their disposal is executed, by a German branch of a German or non-German credit or financial services institution (*Kredit- oder Finanzdienstleistungsinstitut*) or with a German securities trading business (*Wertpapierhandelsunternehmen*) or a German securities trading bank (*Wertpapierhandelsbank*) and such entity credits or pays out the investment income (the "**Disbursing Agent**"), the flat income tax will be levied by way of withholding at the aforementioned rate from the gross interest payment to be made by the Disbursing Agent. The church tax is generally levied by way of withholding unless the Holder has filed a blocking notice (*Sperrvermerk*) with the German Federal Tax Office (*Bundeszentralamt f r Steuern*).

If the Notes are not kept in a custodial account with a Disbursing Agent and interest or proceeds from the disposal of coupons are paid or credited upon delivery of the coupons to the holder of the coupons (other than a non-German bank or financial services institution), withholding tax at the aforementioned rate must also be levied by the Disbursing Agent upon the gross amount of the interest or the proceeds.

In general, no withholding tax will be levied if the Holder is an individual (i) whose Notes do not form part of the property of a trade or business and (ii) who filed a withholding exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent but only to the extent the interest income derived from the Notes together with other investment income does not exceed the maximum exemption amount shown on the withholding exemption certificate. Similarly, no withholding tax will be deducted if the Holder has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) which also includes the tax identification number and which has been issued by the relevant local tax office.

If no withholding tax has been withheld, the Holder will have to include its income on the Notes in its tax return and the tax on its investment income of generally 25% plus solidarity surcharge and, if applicable, church tax will be collected by way of assessment.

Payment of the flat income tax will generally satisfy any income tax liability (including solidarity surcharge and, if applicable, church tax) of the Holder in respect of such investment income. Holders may apply for a tax assessment on the basis of general rules applicable to them if the resulting income tax burden is lower than 25%. In this case as well income-related expenses cannot be deducted from the investment income, except for the aforementioned annual lump sum deduction.

#### 6.1.1.1.2 Taxation of capital gains

Also capital gains realized by individual tax residents of the Federal Republic of Germany from the disposal or redemption of the Notes (including gains from the assignment or hidden contribution of the Notes) will be subject to the flat income tax on investment income at a rate of 25% (plus solidarity surcharge in an amount of 5.5% of such tax, resulting in a total tax charge of 26.375%, plus, if applicable, church tax), irrespective of any holding period. This will also apply to Notes on which the principal is effectively repaid in whole or in part although the repayment was not guaranteed. If coupons or interest claims are disposed of separately (i.e. without the Notes), the gains from the disposal are subject to income tax. The same applies to gains from the redemption of coupons or interest claims realized by the former Holder of the Notes. The separation (e.g. by first-time assignment) of a coupon or interest claim from the Note is treated as a disposal of the Note.

If the Notes are held in custody, or are administered, or if their disposal is executed, by a Disbursing Agent (as defined above) the flat income tax will be levied by way of withholding from the positive difference between the redemption amount or the proceeds from the disposal (after the deduction of actual expenses directly related thereto) and the issue price or the purchase price of the Notes, Church tax is generally levied by way of withholding unless the Holder has filed a blocking notice (*Sperrvermerk*) with the German Federal Tax Office (*Bundeszentralamt für Steuern*). If Notes kept or administered in the same custodial account have been acquired at different points in time, the Notes first acquired will be deemed to have been sold first for the purpose of determining the capital gains. Where the notes are acquired or sold in a currency other than Euro, the acquisition costs and sale proceeds will be converted in Euro on the basis of the exchange rate applicable at the time of sale, respectively, the time of acquisition. If the Notes have been transferred into the custodial account of the Disbursing Agent only after their acquisition, and no evidence on the acquisition data has validly been provided to the Disbursing Agent by the depositary bank which previously kept the Notes in its custodial account, withholding tax will be levied on 30% of the proceeds from the disposal or redemption of the Notes.

If the Notes are not kept in custody by a Disbursing Agent and proceeds from the disposal or redemption of the Notes are paid or credited upon delivery of the Notes to the holder of such Notes (other than a non-German bank or financial services institution), withholding tax at the aforementioned rate must also be levied by the Disbursing Agent upon 30% of the gross amount of the proceeds.

If no withholding tax has been withheld, the Holder will have to include capital gains from the disposal or redemption of the Notes in its tax return and the tax on its investment income of generally 25% plus solidarity surcharge and, if applicable, church tax will be collected by way of assessment.

Payment of the flat income tax will generally satisfy any income tax liability (including solidarity surcharge and, if applicable, church tax) of the Holder in respect of such investment income. Holders may apply for a tax assessment on the basis of general rules applicable to them if the resulting income tax burden is lower than 25%. Further, if the withholding tax on a disposal or redemption has been calculated from 30% of the respective proceeds (rather than from the actual gain), a Holder who is an individual tax resident may and in case the actual gain is higher than 30% of the respective proceeds must also apply for an assessment on the basis of his or her actual acquisition costs. In this case as well income-related expenses cannot be deducted from the investment income, except for the aforementioned annual lump sum deduction.

Any capital loss incurred from the disposal or redemption of the Notes can only be offset against positive income from capital investments. The Disbursing Agent will offset the losses with positive income from capital investments entered into through or with the same Disbursing Agent and carry forward any losses that cannot be offset to the following calendar year. If losses cannot be offset in full against positive investment income by the Disbursing Agent, the Holder can, instead, request that the Disbursing Agent issues a certificate stating the losses in order for them to be offset against other positive income from capital investments or carried forward in the assessment procedure. The request must reach the Disbursing Agent by 15 December of the current year and is irrevocable.

Based on a decision of the German Federal Fiscal Court (*Bundesfinanzhof*) dated 12 June 2018, docket number VIII R 32/16, the tax authorities recently changed their view on the tax deductibility of losses in cases in which the transaction costs exceed or equal the proceeds from the disposal. Pursuant to the amended administrative guidance, a disposal neither depends on the amount of the consideration nor of the transaction costs.

The tax authorities take the view that a disposal shall be disregarded and losses shall not be tax-deductible if (i) losses are incurred by a Holder from bad debt (*Forderungsausfall*), or (ii) losses are incurred from a waiver of a receivable (*Forderungsverzicht*), to the extent the waiver does not qualify as a hidden contribution. Payments based on an insolvency plan shall be a disposal with a capital gain of EUR 0 if the payments are lower than the nominal value of the receivable and the receivable was acquired at the nominal value. The part of the nominal value not being repaid shall be a mere bad debt and therefore irrelevant for income tax purposes. According to a decision dated 24 October 2017 (docket number VIII R 13/15), the German Federal Fiscal Court recognizes disposals and deems losses to be tax-deductible in cases of a bad debt once it has become certain that the principal amount cannot be recovered. The question whether this also applies to a waiver of a receivable has been left open by the court. With respect to a (voluntary) waiver of receivable a lower German fiscal court confirmed the view of German tax authorities in a final decision and another lower fiscal court rejected the jurisdiction of the German Federal Fiscal Court with respect to the tax deductibility of a bad debt loss. Two further decisions in this context are currently still pending with the German Federal Fiscal Court.

Capital losses might further not be recognized by the German tax authorities if no (or only de minimis) payments are made to the individual investors on the maturity or redemption date of the Notes. However, in a recently published decision by the German Federal Fiscal Court (decision dated 20 November 2018, docket number VIII R 37/15) with regard to losses incurred in connection with knock-out certificates due to the fact of exceeding the knock-out threshold the German Federal Fiscal Court took the view that such a case (i.e. no payments on the day of exceeding the knock-out threshold) shall be treated similar to a bad debt loss as a sale at the value zero, so that losses suffered shall also be deductible for tax purposes.

The tax authorities have insofar not adopted the view of the German Federal Fiscal Court. Instead, on 8 May 2019, the German Federal Ministry of Finance published a draft legislation on the further tax promotion of electric mobility and on the amendment of further tax regulations (*Entwurf eines Gesetzes zur weiteren steuerlichen Förderung der Elektromobilität und zur Änderung weiterer steuerlicher Vorschriften*) which provides that – if ultimately adopted – the previous and current views of the German tax authorities on the non-deductibility of capital losses for tax purposes in the scenarios described above shall largely be codified in the German Income Tax Act.

Please note that the coalition agreement between the German Christdemocratic Party and the German Socialdemocratic Party for the formation of a new German federal government provides that the flat tax regime shall be partially abolished for certain capital investment income, in particular interest income. The coalition agreement further provides that the solidarity surcharge shall be abolished in stages provided that the individual income does not exceed certain thresholds. There is however no draft bill available yet and a lot of details are hence still unclear. That means however that income received by investors holding the Notes as private assets may be taxed at individual progressive income tax rates of up to 45 per cent. in the future (plus a 5.5 per cent. solidarity surcharge thereon, unless abolished or reduced in the future, and church tax, if applicable to the individual investor).

#### 6.1.1.2 Notes held by tax residents as business assets

Payments of interest on Notes and capital gains from the disposal or redemption of Notes held as business assets by German tax resident individuals or tax resident corporations (i.e., corporations whose legal domicile or place of effective management is located in the Federal Republic of Germany), including via a partnership, as the case may be, are generally subject to German income tax or corporate income tax (in each case plus solidarity surcharge and, if applicable, church tax). The interest and capital gain will also be subject to trade tax if the Notes form part of the property of a German trade or business.

If the Notes are held in custody, or are administered, or if their disposal is executed, by a Disbursing Agent (as defined above), tax at a rate of 25% (plus a solidarity surcharge of 5.5% of such tax and, if applicable, church tax) will also be withheld from interest payments on Notes and generally also from capital gains from the disposal or redemption of Notes held as business assets. In these cases the withholding tax does not satisfy the income tax liability of the Holder, as in the case of the flat income tax, but will be credited as advance payment against the personal income or corporate income tax liability and the solidarity surcharge (and, if applicable, against the church tax) of the Holder, or, will be refunded in the amount of any excess.

With regard to capital gains from the disposal or redemption of Notes no withholding will generally be required in the case of Notes held by corporations tax resident in Germany, provided that in the case of corporations of certain legal forms the status of corporation has been evidenced by a certificate of the competent tax office. The same applies upon notification by use of the officially prescribed form towards the Disbursing Agent in the case of Notes held by individuals or partnerships as business assets.

### 6.1.1.3 Notes held by non-residents

Payments of interest on Notes and capital gains from the disposal or redemption of Notes are not subject to German taxation in the case of non-residents, i.e. persons having neither their residence nor their habitual abode nor legal domicile nor place of effective management in the Federal Republic of Germany, unless the Notes form part of the business property of a permanent establishment maintained in the Federal Republic of Germany, or for which a permanent representative has been appointed in the Federal Republic of Germany. Interest may, however, also be subject to German income tax if it otherwise constitutes income taxable in Germany, such as income from the letting and leasing of certain German-situs property or income from certain capital investments directly or indirectly secured by German situs real estate.

Non-residents of the Federal Republic of Germany are in general exempt from German withholding tax on interest and capital gains and from solidarity surcharge thereon. However, if the interest or capital gain is subject to German taxation as set forth in the preceding paragraph and the Notes are held in custody, or are administered, or if their disposal is executed, by a Disbursing Agent (as defined above), withholding tax will be levied as explained above at "6.1.1.2 Notes held by tax residents as business assets" or at "6.1.1.1 Notes held by tax residents as non-business assets", respectively.

If the Notes are not kept in custody by a Disbursing Agent and interest or proceeds from the disposal of coupons or proceeds from the disposal or redemption of the Notes are paid or credited to a non-resident (other than a non-German bank or financial services institution) upon delivery of the coupons or the Notes, respectively, such payments will also be subject to withholding tax to the extent and at a rate as explained above at "6.1.1.1 Notes held by tax residents as non-business assets".

### 6.1.2 Inheritance and gift tax

No inheritance or gift taxes with respect to any Note will generally arise under the laws of the Federal Republic of Germany, if, in the case of inheritance tax, neither the decedent nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a tax resident of the Federal Republic of Germany and such Note is not attributable to a German trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in the Federal Republic of Germany. Exceptions from this rule apply to certain German citizens who previously maintained a residence in the Federal Republic of Germany.

### 6.1.3 Other taxes

No stamp, issue, registration or similar taxes or duties will be payable in the Federal Republic of Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax (*Vermögensteuer*) is not levied in the Federal Republic of Germany.

## 6.2 Grand Duchy of Luxembourg

The following information is of a general nature only and is based on the Issuer's understanding of certain aspects of the laws and practice in force in Luxembourg as of the date of this offering circular. It does not purport to be a comprehensive description of all tax implications that might be relevant to an investment decision. It is included herein solely for preliminary information purposes. It is not intended to be, nor should it be construed to be, legal or tax advice. It is a description of the essential material Luxembourg tax consequences with respect to the Notes and may not include tax considerations that arise from rules of general application or that are generally assumed to be known to Holders. This summary is based on the laws in force in Luxembourg on the date of this offering circular and is subject to any change in law that may take effect after such date. Prospective Holders should consult their professional advisors with respect to particular circumstances, the effects of state, local or foreign laws to which they may be subject and as to their tax position.

Please be aware that the residence concept used under the respective headings below applies for Luxembourg income tax assessment purposes only. Any reference in the present section to a tax, duty, levy, impost or other charge or withholding of a similar nature refers to Luxembourg tax law and/ or concepts only. Also, please note that a reference to Luxembourg income tax encompasses corporate income tax (*impôt sur le revenu des collectivités*), municipal business tax (*impôt commercial communal*), a solidarity surcharge (*contribution au fonds pour l'emploi*) as well as personal income tax (*impôt sur le revenu*) generally. Corporate investors may further be subject to net wealth tax (*impôt sur la fortune*) as well as other duties, levies or taxes. Corporate income tax, municipal business tax as well as the solidarity surcharge invariably apply to most corporate taxpayers resident in Luxembourg for tax purposes. Individual taxpayers are generally subject to personal income tax and the solidarity surcharge. Under certain circumstances, where an individual taxpayer acts in the course of the management of a professional or business undertaking, municipal business tax may apply as well.



## **6.2.1 Luxembourg tax residence of the Holders**

A Holder will not become resident, or be deemed to be resident, in Luxembourg by reason only of the holding of the Notes, or the execution, performance, delivery and/or enforcement of the Notes.

## **6.2.2 Withholding Tax**

Under current Luxembourg tax law, payment of interest by the Issuer under the Notes should, with the possible exception of interest payments made to individual Holders be made free of withholding or deduction for or on account of any taxes of whatsoever nature imposed, levied, withheld, or assessed by Luxembourg or any political subdivision or taxing authority thereof or therein to the extent that such interest has been negotiated at arm's length and is not profit participating. There should also be no Luxembourg withholding tax, with the possible exception of interest payments made to individual Holder upon repayment of principal in case of reimbursement, redemption, repurchase or exchange of the Notes by the Issuer.

### *6.2.2.1 Resident Holders*

Under the Luxembourg law dated 23 December 2005 as amended (hereafter, the "**Law**"), a 20% Luxembourg withholding tax is levied on interest payments (or similar income) made by Luxembourg based (or under certain circumstances EU/EEA based) paying agents to or for the immediate benefit of Luxembourg individual residents. This withholding tax also applies on accrued interest received upon disposal, redemption or repurchase of the Notes. Such withholding tax will be in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth.

Further, Luxembourg resident individuals who act in the course of the management of their private wealth and who are the beneficial owners of interest payments made by a paying agent established outside Luxembourg in a Member State of the EU or the European Economic Area may also opt for a final 20% levy. In such case, the 20% levy is calculated on the same amounts as for the payments made by Luxembourg resident paying agents. The option for the 20% final levy must cover all interest payments made by the paying agent to the Luxembourg resident beneficial owner during the entire civil year.

### *6.2.2.2 Non-resident Holders*

Under the Luxembourg tax law currently in effect, there should be no withholding tax on payments of interests (including accrued but unpaid interest, if any) made to a Luxembourg non-resident Holder, repayment of the principal, or redemption or exchange of the Notes.

## **6.2.3 Taxation of the Holders**

### *6.2.3.1 Resident individual Holders*

A Luxembourg resident individual acting in the course of the management of his/her private wealth, is subject to Luxembourg income tax in respect of interest received, redemption premiums or issue discounts under the Notes, except if a withholding tax has been levied by a Luxembourg paying agent on such payments or, in case of a non-resident paying agent, if such individual has opted for the 20% levy, in accordance with the Law.

Under Luxembourg domestic tax law, gains realized upon the sale, disposal or redemption of notes by a Luxembourg resident individual Holder, who acts in the course of the management of his/her private wealth, are not subject to Luxembourg income tax, provided (i) this sale or disposal took place at least six months after the acquisition of the Notes and (ii) the Notes do not constitute zero coupon notes. A Luxembourg resident individual, who acts in the course of the management of his/her private wealth, has further to include the portion of the gain corresponding to accrued but unpaid income in respect of the Notes in his or her taxable income, insofar as the accrued but unpaid interest, if any, is indicated separately in an agreement.

A Luxembourg resident individual, who acts in the course of the management of a professional or business undertaking to which the Notes are attributable, has to include interest derived from, and gains realized upon a sale or disposal, in any form whatsoever of, the Notes in his/her taxable income for Luxembourg income tax assessment purposes. Taxable gains are determined as being the difference between the sale, repurchase or redemption price (including accrued but unpaid interest, if any) and the lower of the cost or book value of the Notes sold or redeemed. If applicable, the tax levied in accordance with the Law will be credited against his or her final tax liability.

### 6.2.3.2 *Resident corporate Holders*

A Luxembourg resident company (*société de capitaux*) must include interest and gains realized on the sale or disposal of the Notes in its taxable income for Luxembourg income tax assessment purposes. Taxable gains are determined as being the difference between the sale, repurchase or redemption price (including accrued but unpaid interest, if any) and the lower of the cost or book value of the Notes sold or redeemed.

### 6.2.3.3 *Resident corporate Holders benefiting from a special tax regime*

Luxembourg resident corporate entities who benefit from a special tax regime, such as, for example (i) undertakings for collective investment governed by the amended law of 17 December 2010, (ii) specialized investment funds governed by the amended law of 13 February 2007, (iii) family wealth management companies governed by the amended law of 11 May 2007 or (iv) reserved alternative investment funds treated as specialized investment funds for Luxembourg tax purposes and governed by the law of 23 July 2016, are exempt from income taxes in Luxembourg and thus income derived from the Notes, as well as gains realized thereon, are not subject to Luxembourg income taxes.

### 6.2.3.4 *Non-resident Holders*

A non-resident, who has neither a permanent establishment nor a permanent representative in Luxembourg to which or to whom the Notes are attributable, should not be subject to Luxembourg income tax, whether he/she receives payments of principal or interest (including accrued but unpaid interest, if any) or realizes capital gains upon redemption, repurchase, sale or exchange of any notes.

A non-resident who has a permanent establishment or a permanent representative in Luxembourg to which or to whom the Notes are attributable, has to include any interest, as well as any capital gain realized on the sale or disposal of the Notes, in his/her taxable income for Luxembourg income tax assessment purposes.

### 6.2.3.5 *Net Wealth Taxation*

A Luxembourg resident or a non-resident who has a permanent establishment or a permanent representative in Luxembourg to which or to whom the Notes are attributable is subject to Luxembourg net wealth tax on such notes, except if the Holder is (i) a resident or non-resident individual taxpayer, (ii) an undertaking for collective investment governed by the amended law of 17 December 2010, (iii) a securitization company governed by the amended law of 22 March 2004 on securitization, (iv) a company governed by the amended law of 15 June 2004 on venture capital vehicles, (v) a specialized investment fund governed by the amended law of 13 February 2007, (vi) a family wealth management company governed by the amended law of May 11, 2007, (vii) a professional pension institution governed by the amended law of 13 July 2005 or (viii) a reserved alternative investment fund governed by the law of 23 July 2016.

However, (i) a securitization company governed by the amended law of 22 March 2004 on securitization, (ii) a company governed by the amended law of 15 June 2004 on venture capital vehicles, (iii) a professional pension institution governed by the amended law of 13 July 2005 and (iv) an opaque Luxembourg reserved alternative investment fund opting to be treated as a venture capital vehicle for Luxembourg tax purposes and governed by the law of 23 July 2016 remain subject to minimum net wealth tax.

## 6.2.4 **Other Taxes**

### 6.2.4.1 *Registration taxes and stamp duties*

There is no mandatory Luxembourg registration tax, stamp duty or any other similar tax or duty payable in Luxembourg by the Holders as a consequence of the issuance of the Notes, nor will any of these taxes be payable as a consequence of a subsequent transfer, redemption or repurchase of the Notes (except where voluntarily presented to the registration formalities or appended to a document that requires mandatory registration).

### 6.2.4.2 *Value Added Tax*

There should be no Luxembourg value added tax payable in respect of payments in consideration for the issue of the Notes or in respect of the payment of interest or principal under the Notes or the transfer of the Notes.

### 6.2.4.3 *Inheritance Tax and Gift Tax*

No estate or inheritance taxes are levied on the transfer of the Notes upon death of a Holder in cases where the deceased was not a resident of Luxembourg for inheritance tax purposes.

Gift tax may be due on a gift or donation of Notes if the gift is recorded in a deed passed in front of a Luxembourg notary or otherwise registered in Luxembourg.

### **6.3 The proposed financial transaction tax**

The European Commission has published a proposal for a Directive for a common financial transaction tax ("**FTT**") in certain participating EU Member States.

The proposed FTT has very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances. However, the issuance and subscription of the Notes should be exempt.

The FTT could apply to persons both within and outside of the participating EU Member States. Generally, it would apply to certain dealings in financial instruments where at least one party is a financial institution, and either (i) at least one party is established or deemed to be established in a participating EU Member State or (ii) the financial instruments are issued in a participating EU Member State. As of 28 June 2018, according to a report by the Council of the European Union, more preparatory work by the Council of the European Union will be required on the proposed FTT.

The proposed Directive remains subject to negotiation between the participating EU Member States and is the subject of legal challenge. It may therefore be altered prior to any implementation, the timing of which remains unclear.

## 7 SUBSCRIPTION AND SALE OF THE NOTES

### 7.1 General

Pursuant to the subscription agreement entered into on 5 July 2019 (the "**Subscription Agreement**"), each Manager has agreed, subject to certain conditions, to subscribe, or to procure subscriptions, for the Notes. The Issuer has agreed to pay each Manager a combined management and underwriting fee as agreed between the parties to the Subscription Agreement.

In the Subscription Agreement, the Issuer has made certain representations and warranties in respect of its legal and financial matters.

The Subscription Agreement entitles each Manager to terminate its obligations thereunder in certain circumstances prior to payment of the purchase price of the Notes.

### 7.2 No public offering

No action has been or will be taken in any country or jurisdiction by the Issuer or the Managers that would permit a public offering of the Notes, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required. Persons who have access to this Prospectus are required by the Issuer and the Managers to comply with all applicable laws and regulations in each country or jurisdictions in or from which they purchase, offer, sell or deliver the Notes or have in their possession or distribution such offering material, in all cases at their own expense.

### 7.3 Selling Restrictions

#### 7.3.1 Prohibition of Sales to EEA retail Investors

Each of the Managers has represented and agreed that it has not offered, sold, or delivered and will not offer, sell or deliver any of the Notes directly or indirectly, or distribute this Prospectus or any other offering material relating to the Notes, (i) to any retail client in the European Economic Area ("**EEA**") (see "*NOTICE—RESTRICTIONS ON MARKETING AND SALES TO RETAIL INVESTORS*"), or (ii) in or from any jurisdiction except under circumstances that would result in compliance with the applicable laws and regulations thereof and that will not impose any obligations on COMMERZBANK.

For the purposes of this provision: the expression "**retail investor**" means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4 (1) of MiFID II; (ii) a customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4 (1) of MiFID II; or (iii) not a qualified investor as defined in the Prospectus Directive.

#### 7.3.2 United States of America and its Territories

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 its possessions or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act ("**Regulation S**") or pursuant to an exemption from the registration requirements of the Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S.

Each of the Managers has represented and agreed that, except in accordance with Rule 903 of Regulation S, it will not offer or sell the Notes within the United States or to, or for the account or benefit of, U.S. persons (i) as part of its distribution at any time, or (ii) otherwise until 40 days after the later of the commencement of the offering or the closing date, and it will have sent to each Manager to which it sells Notes during the 40-day restricted 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. Terms used in this paragraph have the meanings given to them by Regulation S.

The Notes may not be purchased by or transferred to any employee benefit plan subject to Title I of the U.S. Employee Retirement Income Security Act of 1974, as amended, any plan or arrangement subject to Section 4975 of the U.S. Internal Revenue Code of 1986, as amended, or any entity whose underlying assets include the assets of any such employee benefit plans, plans or arrangements.

### 7.3.3 United Kingdom of Great Britain and Northern Ireland

Each Manager has represented, warranted and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000, as amended from time to time, or any successor legislation, ("**FSMA**")) received by it in connection with the issue or sale of any Notes which are the subject of the offering contemplated by this Prospectus in circumstances in which Section 21 (1) of the FSMA does not apply to the Issuer; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

### 7.3.4 Belgium

Each Manager has represented and agreed that an offering of the Notes may not be advertised to any individual in Belgium qualifying as a consumer within the meaning of Article I.1 of the Belgian Code of Economic Law, as amended from time to time (a "**Belgian Consumer**") and that it has not offered, sold or resold, transferred or delivered, and will not offer, sell, resell, transfer or deliver, the Notes, and that it has not distributed, and will not distribute, any prospectus, memorandum, information circular, brochure or any similar documents in relation to the Notes, directly or indirectly, to any Belgian Consumer.

### 7.3.5 Hong Kong

Each Manager has represented, warranted and agreed that:

- (a) it has not offered or sold and will not offer or sell in Hong Kong, by means of any document, any Notes other than (i) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the "**SFO**") and any rules made under that Ordinance; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong (the "**C(WUMPO)**") or which do not constitute an offer to the public within the meaning of the C(WUMPO); and
- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the SFO and any rules made under the SFO.

### 7.3.6 Republic of Italy

The offering of the Notes has not been registered with the *Commissione Nazionale per le Società e la Borsa* ("**CONSOB**") pursuant to Italian securities legislation and, accordingly, no Notes may be offered, sold or delivered, nor may copies of this Prospectus or of any other document relating to any Notes be distributed in Italy, except, in accordance with any Italian securities, tax and other applicable laws and regulations.

Each Manager has represented and agreed that it has not offered, sold or delivered, and will not offer, sell or deliver any Notes or distribute any copy of this Prospectus or any other document relating to the Notes in Italy except:

- (a) to qualified investors (*investitori qualificati*), as defined pursuant to Article 100 of Legislative Decree no. 58 of 24 February 1998 (the "**Financial Services Act**") and Article 34-ter, paragraph 1, letter (b) of CONSOB regulation No. 11971 of 14 May 1999 (the "**Issuers Regulation**"), all as amended from time to time; or
- (b) in other circumstances which are exempted from the rules on public offerings pursuant to Article 100 of the Financial Services Act and Issuers Regulation.

In any event, any offer, sale or delivery of the Notes or distribution of copies of this Prospectus or any other document relating to the Notes in Italy under paragraphs (a) or (b) above must be:

- (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in Italy in accordance with the Financial Services Act, Legislative Decree No. 385 of 1 September 1993 (the "**Banking Act**") and CONSOB Regulation No. 20307 of 15 February 2018, all as amended from time to time;
- (ii) in compliance with Article 129 of the Banking Act, as amended from time to time, and the implementing guidelines of the Bank of Italy, as amended from time to time; and
- (iii) in compliance with any other applicable laws and regulations, including any limitation or requirement which may be imposed from time to time by CONSOB or the Bank of Italy or other competent authority.

Investors should note that, in accordance with Article 100-bis of the Financial Services Act, where no exemption from the rules on public offerings applies under paragraphs (a) and (b) above, the subsequent distribution of the Notes on the secondary market in Italy must be made in compliance with the public offer and the prospectus requirement rules provided under the Financial Services Act and the Issuers Regulation. Furthermore, where no exemption from the rules on public offerings applies, the Notes which are initially offered and placed in Italy or abroad to professional investors only but in the following year are "systematically" distributed on the secondary market in Italy become subject to the public offer and the prospectus requirement rules provided under the Financial Services Act and Issuers Regulation. Failure to comply with such rules may result in the sale of such Notes being declared null and void and in the liability of the intermediary transferring the financial instruments for any damages suffered by the purchasers of Notes who are acting outside of the course of their business or profession.

### 7.3.7 Singapore

Each Manager has acknowledged that this Prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Manager has represented and agreed that it has not offered or sold any Notes or caused the Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell any Notes or cause the Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of such Notes, whether directly or indirectly, to any person in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time (the "**SFA**")) pursuant to Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) 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 and (where applicable) Regulation 3 of the Securities and Futures (Classes of Investors) Regulations 2018, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

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

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

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

- (i) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA; or
- (ii) where no consideration is or will be given for the transfer; or
- (iii) where the transfer is by operation of law; or
- (iv) as specified in Section 276(7) of the SFA; or

- (v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Any reference to the SFA is a reference to the Securities and Futures Act, Chapter 289 of Singapore and a reference to any term as defined in the SFA or any provision in the SFA is a reference to that term as modified or amended from time to time including by such of its subsidiary legislation as may be applicable at the relevant time.

### **7.3.8 Switzerland**

The Notes may not be publicly offered, sold or advertised, directly or indirectly, in or from Switzerland, and will not be listed on the SIX Swiss Exchange Ltd or any other exchange or regulated trading venue in Switzerland. Neither this Prospectus nor any other offering or marketing material relating to the Notes constitutes a prospectus as such term is understood pursuant to article 652a or article 1156 of the Swiss Federal Code of Obligations or a listing prospectus within the meaning of the listing rules of the SIX Swiss Exchange Ltd or any other exchange or regulated trading venue in Switzerland, and neither this Prospectus nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

### **7.3.9 General**

In addition to the specific restrictions set out above, each of the Managers has agreed that it will (to the best of its knowledge after due and careful enquiry) observe all applicable provisions of law in each jurisdiction in or from which it may offer Notes or distribute any offering material.

## 8 GENERAL INFORMATION

### 8.1 Clearing and Settlement

The Notes have been accepted for clearing through Clearstream Banking, S.A., 42 Avenue JF Kennedy, L-1855 Luxembourg, and Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels. The Notes have been assigned the following securities codes:

ISIN: XS2024502960, Common Code: 202450296, WKN: CB967B.

### 8.2 Listing and Admission to Trading

Application has been made to list the Notes on the Official List of the Luxembourg Stock Exchange and to admit to trading on the Regulated Market "*Bourse de Luxembourg*" of the Luxembourg Stock Exchange with effect of 9 July 2019. The regulated market of the Luxembourg Stock Exchange is a regulated market for the purposes of MiFID II.

### 8.3 Expenses related to Admission to Trading

The Issuer estimates that the amount of expenses related to admission to trading of the Notes will be approximately EUR 13,000.

### 8.4 Yield to Maturity

There is no explicit yield to maturity. The Notes do not carry a fixed date for redemption, the Issuer is not obliged, and under certain circumstances is not permitted, to make interest payments on the Notes at the full stated rate and the rate of interest is subject to resetting every five years.

### 8.5 Benchmark Administrator

On the First Call Date (as defined in § 5 (2) of the Terms and Conditions of the Notes) and thereafter in intervals of five years, the rate of interest payable under the Notes will reset and be calculated by reference to the semi-annual swap rate for swap transactions denominated in USD with a term of five years, which appears on the Reuters screen page "ICESWAP1" under the heading "11:00 AM" as at 11.00 a.m. New York time on the relevant interest determination date. Such swap rate is provided by ICE Benchmark Administration Limited ("**IBA**").

As at the date of this Prospectus, IBA appears on the register of administrators and benchmarks established and maintained by ESMA pursuant to Article 36 of Regulation (EU) 2016/1011 ("**Benchmarks Regulation**").

### 8.6 Credit Rating

The Issuer expects that, upon issuance, the Notes will be assigned a rating of Ba2 by Moody's Deutschland GmbH and BB by S&P Global Ratings Europe Ltd. (Niederlassung Deutschland). A rating is not a recommendation to buy, sell or hold securities, and may be subject to revision, suspension or withdrawal at any time by the relevant rating agency.

Each of Moody's Deutschland GmbH and S&P Global Ratings Europe Ltd. (Niederlassung Deutschland) is established in the European Community and is registered under the CRA Regulation. The European Securities and Markets Authority publishes on its website (<https://www.esma.europa.eu/supervision/credit-rating-agencies/risk>) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 of the CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.



## **8.7 Interests of Natural and Legal Persons involved in the Issue/Offer**

Certain of the Managers and their affiliates may be customers of, borrowers from or creditors of COMMERZBANK or its affiliates. In addition, certain Managers and their affiliates have engaged, and may in the future engage, in investment banking or commercial banking transactions with, and may perform services for COMMERZBANK and their affiliates in the ordinary course of business. Furthermore, in the ordinary course of their business activities, the Managers and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities or instruments of the Issuer or Issuer's affiliates. Certain of the Managers or their affiliates that have a lending relationship with the Issuer routinely hedge their credit exposure to the Issuer consistent with their customary risk management policies. Typically, such Managers and their affiliates would hedge such exposure by entering into transactions which consists of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes. Any such short position could adversely affect the future trading prices of the Notes. The Managers and their affiliates may also make investment recommendations or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long or short positions in such securities and instruments.

## **8.8 Authorisation**

The creation and issue of the Notes has been authorised by resolutions of the board of managing directors of the Issuer on 25 June 2019 and on 2 July 2019 and resolutions of the presiding committee of the supervisory board of the Issuer on 25 June 2019 and on 2 July 2019.

## **8.9 Use of Proceeds**

The net proceeds from the issue of the Notes will be used by COMMERZBANK for general corporate and financing purposes and to strengthen its Tier 1 regulatory capital base, which will also positively impact other key metrics of regulatory requirements such as the leverage ratio and MREL.

## **8.10 Documents on Display**

For so long as the Notes are outstanding, copies of the following documents are available for viewing at the website of COMMERZBANK  
([https://www.commerzbank.de/en/hauptnavigation/aktionaere/ir/investor\\_relations.html](https://www.commerzbank.de/en/hauptnavigation/aktionaere/ir/investor_relations.html))

- (i) the articles of association of COMMERZBANK;
- (ii) any documents incorporated by reference;
- (iii) a copy of this Prospectus.

## 9 DOCUMENTS INCORPORATED BY REFERENCE

The following information has been incorporated by reference in, and forms part of, this Prospectus:

### 1. COMMERZBANK Financial Statements and Management Report 2018 Page(s) (English translation of the German language version)

Financial statements

– Income statement	75
– Balance sheet	76–79
– Notes	80–119
Independent Auditor's Report*	121–125

\* The independent auditor's report refers to the financial statements and the management report of COMMERZBANK as of and for the financial year ended 31 December 2018 as a whole and not solely to the financial statements incorporated by reference.

### 2. COMMERZBANK Group Annual Report 2017 (English translation of the German language version) Page(s)

Consolidated Financial Statements

– Statement of comprehensive income	139–141
– Balance sheet	142–143
– Statement of changes in equity	144–145
– Cash flow statement	146–147
– Notes	148–289
Independent Auditor's Report*	292–298

\* The independent auditor's report refers to the consolidated financial statements and the group management report of COMMERZBANK as of and for the financial year ended 31 December 2017 as a whole and not solely to the consolidated financial statements incorporated by reference.

### 3. COMMERZBANK Group Annual Report 2018 (English translation of the German language version) Page(s)

Consolidated Financial Statements

– Statement of comprehensive income	147–149
– Balance sheet	150–151
– Statement of changes in equity	152–154
– Cash flow statement	155–156
– Notes	157–313
Independent Auditor's Report*	316–322

Further Information

– Quarterly results by segment	333–334
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\* The independent auditor's report refers to the consolidated financial statements and the group management report of COMMERZBANK as of and for the financial year ended 31 December 2018 as a whole and not solely to the consolidated financial statements incorporated by reference.

### 4. COMMERZBANK Interim Report as at 31 March 2019 (English translation of the German language version) Page(s)

Interim Management Report

– Segment performance	11–13
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– Interim Risk Report: Default risk—Commerzbank Group	18–22
Interim Financial Statements	
– Statement of comprehensive income	34–37
– Balance sheet	38–39
– Statement of changes in equity	40–41
– Cashflow statement (condensed version)	42
– Selected notes	43–97
Review Report*	100

\* The review report refers to the interim condensed consolidated financial statements and the interim group management report of COMMERZBANK as of and for the three-month period ended 31 March 2019 as a whole and not solely to the parts of the interim group management report and the interim condensed consolidated financial statements incorporated by reference.

Any information incorporated by reference that is not included in the above cross-reference list is considered as additional information and is not required by the relevant schedules of the Commission Regulation (EC) 809/2004 as amended.

The documents referred to above have been published on the website of the Issuer ([https://www.commerzbank.de/en/hauptnavigation/aktionaere/investor\\_relations.html](https://www.commerzbank.de/en/hauptnavigation/aktionaere/investor_relations.html)) and will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

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**J.P. Morgan Securities plc**

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**UBS AG, London Branch**

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