

# MARKS & SPENCER

## MARKS AND SPENCER plc

(incorporated with limited liability in England and Wales with registered number 214436)

**£3,000,000,000**

### **Euro Medium Term Note Programme**

Under this £3,000,000,000 Euro Medium Term Note Programme (the **Programme**), Marks and Spencer plc (the **Issuer**) may from time to time issue notes (the **Notes**) denominated in any currency agreed between the Issuer and the relevant Dealer (as defined below).

Notes may be issued in bearer or registered form (respectively **Bearer Notes** and **Registered Notes**). The maximum aggregate nominal amount of all Notes from time to time outstanding under the Programme will not exceed £3,000,000,000 (or its equivalent in other currencies calculated as described in the Programme Agreement described herein), subject to increase as described herein.

**Factors which may affect the Issuer's ability to fulfil its obligations under Notes issued under the Programme and factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme are set out on pages 9-14.**

The Notes may be issued on a continuing basis to one or more of the Dealers specified under "*Description of the Programme*" and any additional Dealer appointed under the Programme from time to time by the Issuer (each a **Dealer** and together, the **Dealers**), which appointment may be for a specific issue or on an ongoing basis. References in this Offering Circular to the **relevant Dealer** shall, in the case of an issue of Notes being (or intended to be) subscribed by more than one Dealer, be to all Dealers agreeing to subscribe for such Notes.

Application has been made to the Financial Conduct Authority in its capacity as competent authority (the **UK Listing Authority**) for Notes issued under the Programme during the period of 12 months from the date of this Offering Circular to be admitted to the official list of the UK Listing Authority (the **Official List**) and to the London Stock Exchange plc (the **London Stock Exchange**) for such Notes to be admitted to trading on the London Stock Exchange's regulated market.

References in this Offering Circular to Notes being **listed** (and all related references) shall mean that such Notes have been admitted to trading on the London Stock Exchange's regulated market and have been admitted to the Official List. The London Stock Exchange's regulated market is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).

Notice of the aggregate nominal amount of Notes, interest (if any) payable in respect of Notes, the issue price of Notes and certain other information which is applicable to each Tranche (as defined under "*Terms and Conditions of the Notes*") of Notes will be set out in the Final Terms (the **Final Terms**) which, with respect to Notes to be admitted to the Official List and admitted to trading/listing on the London Stock Exchange, will be delivered to the UK Listing Authority and, where listed, the London Stock Exchange on or before the date of issue of the Notes of such Tranche. Copies of Final Terms in relation to Notes to be listed on the London Stock Exchange will also be published on the website of the London Stock Exchange through a regulatory information service.

The Notes have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the **Securities Act**) or any U.S. State securities laws and may not be offered or sold in the United States or to, or for the account or the benefit of, U.S. persons as defined in Regulation S under the Securities Act unless an exemption from the registration requirements of the Securities Act is available and in accordance with all applicable securities laws of any state of the United States and any other jurisdiction.

The Issuer has been rated BBB- (long term) and A-3 (short term) by Standard & Poor's Credit Market Services Europe Limited (**S&P**) and Baa3 (long term) and P-3 (short term) by Moody's Investors Service Ltd. (**Moody's**). The Programme has been rated BBB- by S&P and Baa3 (senior unsecured) and P-3 (short term) by Moody's. Each of S&P and Moody's is established in the European Union and is registered under the Regulation (EC) No. 1060/2009 (as amended) (the **CRA Regulation**). Notes issued under the Programme may be rated or unrated by either of the rating agencies referred to above. Where a Tranche of Notes is rated, such rating will not necessarily be the same as the rating assigned to the Programme by the relevant rating agency. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

This Offering Circular supersedes all previous offering circulars relating to the Programme and supplements thereto. Any Notes issued under the Programme on or after the date hereof are issued subject to the provisions set out herein. This does not affect any Notes issued prior to the date hereof.

**Arranger  
Citigroup**

**Bank of China  
HSBC  
MUFG**

**Dealers  
BNP PARIBAS  
Lloyds Bank  
SMBC Nikko**

**Citigroup  
Morgan Stanley  
The Royal Bank of Scotland**

## IMPORTANT INFORMATION

This Offering Circular comprises a base prospectus for the purposes of Article 5.4 of the Prospectus Directive. When used in this Offering Circular, Prospectus Directive means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in a relevant Member State of the European Economic Area (EEA).

The Issuer accepts responsibility for the information contained in this Offering Circular and the Final Terms for each Tranche of Notes issued under the Programme. To the best of the knowledge of the Issuer, having taken all reasonable care to ensure that such is the case, the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of such information.

This Offering Circular is to be read in conjunction with all documents which are incorporated in it by reference (see "*Documents Incorporated by Reference*" below). This Offering Circular shall be read and construed on the basis that those documents are so incorporated and form part of this Offering Circular.

To the fullest extent permitted by law, none of the Dealers, the Trustee or the Arranger accept any responsibility for the contents of this Offering Circular or for any other statement, made or purported to be made by the Arranger, the Trustee or a Dealer or on its behalf in connection with the Issuer or the issue and offering of the Notes. The Arranger, the Trustee and each Dealer accordingly disclaims all and any liability whether arising in tort or contract or otherwise (save as referred to above) which it might otherwise have in respect of this Offering Circular or any such statement.

No person is or has been authorised by the Issuer or the Trustee to give any information or to make any representation not contained in or not consistent with this Offering Circular or any other information supplied in connection with the Programme or the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, any of the Dealers or the Trustee.

Neither this Offering Circular nor any other information supplied in connection with the Programme or any Notes (a) is intended to provide the basis of any credit or other evaluation of the Issuer and/or the Notes or (b) should be considered as a recommendation by the Issuer, any of the Dealers or the Trustee that any recipient of this Offering Circular or any other information supplied in connection with the Programme or any Notes should purchase any Notes. 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. Neither this Offering Circular nor any other information supplied in connection with the Programme or the issue of any Notes constitutes an offer or invitation by or on behalf of the Issuer, any of the Dealers or the Trustee to any person to subscribe for or to purchase any Notes.

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Notes shall in any circumstances imply that the information contained in it concerning the Issuer is correct at any time subsequent to its date or that any other information supplied in connection with the Programme is correct as of any time subsequent to the date indicated in the document containing the same. The Dealers and the Trustee expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Programme or to advise any investor in Notes issued under the Programme of any information coming to their attention. Investors should review, *inter alia*, the most recently published documents incorporated by reference into this Offering Circular when deciding whether or not to purchase any Notes.

## **IMPORTANT INFORMATION RELATING TO THE USE OF THIS OFFERING CIRCULAR AND OFFERS OF NOTES GENERALLY**

**This Offering Circular does not constitute an offer to sell or the solicitation of an offer to buy any Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Offering Circular and the offer or sale of Notes may be restricted by law in certain jurisdictions. The Issuer, the Dealers and the Trustee do not represent that this Offering Circular may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Dealers or the Trustee which would permit a public offering of any Notes outside the UK or distribution of this Offering Circular in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Offering Circular nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Offering Circular or any Notes may come must inform themselves about, and observe, any such restrictions on the distribution of this Offering Circular and the offering and sale of Notes. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of Notes in the United States, the EEA (including the United Kingdom) and Japan (see “*Subscription and Sale*”).**

### **SUITABILITY OF INVESTMENT**

**The Notes may not be a suitable investment for all investors. Each potential investor in the Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor may wish to consider, either on its own or with the help of its financial and other professional advisers, whether it:**

- (i) has 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 Offering Circular or any applicable supplement;**
- (ii) has access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;**
- (iii) has sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including Notes where the currency for principal or interest payments is different from the potential investor’s currency;**
- (iv) understands thoroughly the terms of the Notes and is familiar with the behaviour of financial markets; and**
- (v) is able to evaluate possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.**

**Legal investment considerations may restrict certain investments. The investment activities of certain investors are subject to investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (1) Notes are legal investments for it, (2) Notes can be used as collateral for various types of borrowing and (3) other restrictions apply to its purchase or pledge of any Notes. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Notes under any applicable risk-based capital or similar rules.**

### **ALTERNATIVE PERFORMANCE MEASURES**

**A number of the financial measures presented by the Issuer under “Description of the Issuer” below are not defined in accordance with IFRS accounting standards. However, the Issuer believes that these measures provide useful supplementary information to both investors and the Issuer’s management, as they facilitate the evaluation of company performance. It is to be noted that, since not all companies calculate financial measurements in the same manner, these are not always comparable to measurements used by other companies. Accordingly, these financial measures should not be seen as a substitute for**

measures defined according to IFRS. Unless otherwise stated, the list below presents alternative performance measures, along with their reconciliation to the extent that such information is not defined according to IFRS and not included in the Issuer's financial statements incorporated by reference into this Offering Circular.

“Return on capital employed” is calculated on an annual basis and is calculated as underlying EBIT / Average net operating assets, where:

1. “Underlying EBIT” means statutory operating profit less any non-underlying items, as disclosed on the face of the income statement;
2. “Average net operating assets” is calculated as the average of closing net operating assets for the current and prior year; and
3. “Net operating assets” are the net of total reported assets and liabilities excluding:
  - Investment property
  - Net retirement benefit position
  - Derivatives
  - Tax
  - Partnership Liability
  - Non-Current Borrowings

and further adjusted to remove any long term borrowing (typically a bond) which has become payable within one year (and hence has become current).

“Like for Like” is the movement in sales from stores that have traded continuously and where there has been no significant change in footage for at least 52 weeks; includes online sales.

“Gross Margin” means the percentage of revenue retained after costs for producing and transporting goods.

“EBITDA” means earnings before interest, tax, depreciation and amortisation.

“Net debt” is the sum of cash and cash equivalents, current financial assets, bank loans and overdrafts, medium term notes, finance lease liabilities, partnership liability to the Marks and Spencer UK Pension Scheme and interest payable included within related borrowing and the partnership liability to Marks and Spencer UK Pension scheme.

“Free cashflow (pre shareholder returns)” is the net cash generated by the business in the period before returns to shareholders.

“Interest cover ratio” means operating profit excluding the adjustments (income or charges) made to reported profit before tax that are one-off in nature, significant and distort the Group's underlying performance divided by interest payable (net finance costs including pension (charge) / credit).

“Retail fixed cover charge ratio” means operating profit before depreciation and operating leases payable (EBITDAR) / fixed charges (net interest payable and operating leases payable).

“Constant currency” is the conversion of last year's local currency using this year's monthly average foreign exchange rate.

## PRESENTATION OF INFORMATION

In this Offering Circular, all references in this document to *Sterling* and £ refer to pounds sterling and to *euro* and € refer to the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union, as amended.

## CONTENTS

	Page
Description of the Programme .....	6
Risk Factors .....	10
Documents Incorporated by Reference .....	16
Form of the Notes .....	17
Applicable Final Terms.....	20
Terms and Conditions of the Notes.....	27
Use of Proceeds.....	54
Description of the Issuer .....	55
United Kingdom Taxation .....	59
Foreign Account Tax Compliance Act .....	60
The Proposed Financial Transaction Tax.....	61
Subscription and Sale.....	62
General Information.....	64

**In connection with the issue of any Tranche of Notes, one or more relevant Dealers named as the Stabilisation Manager(s) (or any persons acting on behalf of any Stabilisation Manager(s)) may over-allot Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, stabilisation may not necessarily occur. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant Tranche of Notes is made 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 relevant Tranche of Notes and 60 days after the date of the allotment of the relevant Tranche of Notes. Any stabilisation action or over-allotment must be conducted by the relevant Stabilisation Manager(s) (or any person acting on behalf of any Stabilisation Manager(s)) in accordance with all applicable laws and rules.**

## DESCRIPTION OF THE PROGRAMME

The following description does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Offering Circular and, in relation to the terms and conditions of any particular Tranche of Notes, the applicable Final Terms.

This description constitutes a general description of the Programme for the purposes of Article 22.5(3) of Commission Regulation (EC) No 809/2004 implementing the Directive 2003/71/EC (the **Prospectus Regulation**).

The Issuer and any relevant Dealer may agree that Notes shall be issued in a form other than that contemplated in the Terms and Conditions, in which event, in the case of listed Notes only, a new Offering Circular will be published. Words and expressions defined in “*Form of the Notes*” and “*Terms and Conditions of the Notes*” shall have the same meanings in this summary.

<b>Issuer:</b>	Marks and Spencer plc
<b>Description:</b>	Euro Medium Term Note Programme
<b>Arranger:</b>	Citigroup Global Markets Limited
<b>Dealers:</b>	Bank of China Limited, London Branch BNP PARIBAS Citigroup Global Markets Limited HSBC Bank plc Lloyds Bank plc Morgan Stanley & Co. International plc MUFG Securities EMEA plc SMBC Nikko Capital Markets Limited The Royal Bank of Scotland plc  and any other Dealers appointed in accordance with the Programme Agreement.
<b>Risk Factors:</b>	There are certain factors that may affect the Issuer’s ability to fulfil its obligations under Notes issued under the Programme. In addition, there are certain factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme and risks relating to the structure of a particular Series of Notes issued under the Programme. All of these are set out under “ <i>Risk Factors</i> ”.
<b>Certain Restrictions:</b>	Each issue of Notes denominated in a currency in respect of which particular laws, guidelines, regulations, restrictions or reporting requirements apply will only be issued in circumstances which comply with such laws, guidelines, regulations, restrictions or reporting requirements from time to time (see “ <i>Subscription and Sale</i> ”) including the following restrictions applicable at the date of this Offering Circular.  <b>Notes having a maturity of less than one year</b>  Notes having a maturity of less than one year will constitute deposits for the purposes of the prohibition on accepting deposits contained in section 19 of the Financial Services and Markets Act 2000 (FSMA) unless they are issued to a limited class of professional investors and have a denomination of at least £100,000 or its equivalent (see “ <i>Subscription and Sale</i> ”).
<b>Trustee:</b>	The Law Debenture Trust Corporation p.l.c.
<b>Issuing and Paying Agent:</b>	Citibank, N.A., London Branch
<b>Registrar and Transfer Agent:</b>	Citigroup Global Markets Deutschland AG

<b>Programme Size:</b>	Up to £3,000,000,000 (or its equivalent in other currencies calculated as described in the Programme Agreement) outstanding at any time. The Issuer may increase the amount of the Programme in accordance with the terms of the Programme Agreement.
<b>Distribution:</b>	Notes may be distributed by way of private or public placement and in each case on a syndicated or non-syndicated basis.
<b>Currencies:</b>	Subject to any applicable legal or regulatory restrictions, notes may be denominated in any currency agreed between the Issuer and the relevant Dealer.
<b>Maturities:</b>	Any maturity as may be agreed between the Issuer and the relevant Dealer, subject to such minimum or maximum maturities as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the Issuer or the relevant Specified Currency.
<b>Issue Price:</b>	Notes may be issued on a fully-paid basis and at an issue price which is at par or at a discount to, or premium over, par.
<b>Form of Notes:</b>	The Notes will be issued in bearer or registered form as described in “ <i>Form of the Notes</i> ”.
<b>Fixed Rate Notes:</b>	Fixed interest will be payable on such date or dates as may be agreed between the Issuer and the relevant Dealer and on redemption and will be calculated on the basis of such Day Count Fraction as may be agreed between the Issuer and the relevant Dealer.
<b>Floating Rate Notes:</b>	<p>Floating Rate Notes will bear interest at a rate determined:</p> <ul style="list-style-type: none"> <li>(a) on the same basis as the floating rate under a notional interest rate swap transaction in the relevant Specified Currency governed by an agreement incorporating the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc., and as amended and updated as at the Issue Date of the first Tranche of the Notes of the relevant Series); or</li> <li>(b) on the basis of a reference rate set out in the applicable Final Terms.</li> </ul> <p>Interest on Floating Rate Notes in respect of each Interest Period, as agreed prior to issue by the Issuer and the relevant Dealer, will be payable on such Interest Payment Dates, and will be calculated on the basis of such Day Count Fraction, as may be agreed between the Issuer and the relevant Dealer.</p> <p>The margin (if any) relating to such floating rate will be agreed between the Issuer and the relevant Dealer for each Series of Floating Rate Notes.</p> <p>Floating Rate Notes may also have a maximum interest rate, a minimum interest rate or both.</p>
<b>Zero Coupon Notes:</b>	Zero Coupon Notes may be offered and sold at a discount to their nominal amount and will not bear interest.
<b>Redemption:</b>	The applicable Final Terms will indicate either that the relevant Notes cannot be redeemed prior to their stated maturity (other than for taxation reasons or following an Event of Default) or that such Notes will be redeemable at the option of (i) the Issuer pursuant to Condition 7.3 ( <i>Redemption at the option of the Issuer (Issuer Call)</i> ) and Condition 7.4 ( <i>Redemption at par at the option of the Issuer (Issuer Par Call)</i> ) and/or (ii) the Noteholders pursuant to Condition 7.5(a) ( <i>General Investor Put</i> )

and Condition 7.5(b) (*Change of Control Investor Put*), in each case upon giving not less than the minimum period of notice nor more than the maximum period of notice (as set out in the applicable Final Terms) to the Noteholders or the Issuer, as the case may be, on a date or dates specified prior to such stated maturity and at a price or prices and on such other terms as may be agreed between the Issuer and the relevant Dealer.

Notes having a maturity of less than one year may be subject to restrictions on their denomination and distribution, see “*Certain Restrictions – Notes having a maturity of less than one year*” above.

**Denomination of Notes:**

Notes will be issued in such denominations as may be agreed between the Issuer and the relevant Dealer save that the minimum denomination of each Note admitted to trading on a EEA exchange or offered to the public in a Member State of the EEA in circumstances which would otherwise require the publication of a prospectus under the Prospectus Directive will be €100,000 (or, if the Notes are denominated in a currency other than euro, the equivalent amount in such currency) or such amount as may be allowed or required from time to time by the relevant central bank (or equivalent body) or any laws or regulations applicable to the relevant Specified Currency, see “*Certain Restrictions – Notes having a maturity of less than one year*” above.

**Taxation:**

All payments in respect of the Notes will be made without deduction for or on account of withholding taxes imposed by any Tax Jurisdiction, subject as provided in Condition 8. In the event that any such deduction is made, the Issuer will, save in certain limited circumstances provided in Condition 8, be required to pay additional amounts to cover the amounts so deducted.

**Negative Pledge:**

The terms of the Notes will contain a negative pledge provision as further described in Condition 4.

**Cross Default:**

The terms of the Notes will contain a cross default provision as further described in Condition 10.

**Status of the Notes:**

The Notes will constitute (subject to the provisions of Condition 4) unsecured and unsubordinated obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The payment obligations of the Issuer under the Notes and the Coupons relating to them shall, save for such exceptions as may be provided by applicable legislation and subject to Condition 4, at all times rank at least equally with all other unsecured and unsubordinated obligations in respect of borrowed money of the Issuer, present and future.

**Rating:**

The Programme has been rated BBB- by S&P and Baa3 (senior unsecured) and P-3 (short term) by Moody's. Series of Notes issued under the Programme may be rated or unrated. Where a Series of Notes is rated, such rating will be disclosed in the applicable Final Terms and will not necessarily be the same as the ratings assigned to the Programme. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

**Listing:**

Application has been made for Notes issued under the Programme to be listed on the London Stock Exchange.

**Governing Law:**

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

**Selling Restrictions:**

There are restrictions on the offer, sale and transfer of the Notes in the



United States, the EEA (including the United Kingdom) and Japan and such other restrictions as may be required in connection with the offering and sale of a particular Tranche of Notes (see “*Subscription and Sale*”).

**United States Selling  
Restrictions:**

The Issuer is Category 2 for the purposes of Regulation S under the Securities Act.

The Notes in bearer form for U.S. federal income tax purposes will be issued in compliance with U.S. Treas. Reg. §1.163- 5(c)(2)(i)(D) (or substantially identical successor U.S. Treasury regulation section including, without limitation, substantially identical successor regulations issued in accordance with Internal Revenue Service Notice 2012-20 or otherwise in connection with the U.S. Hiring Incentives to Restore Employment Act of 2010) (the **D Rules**) unless (i) the relevant Final Terms state that Notes are issued in compliance with U.S. Treas. Reg. 1.163- 5(c)(2)(i)(C) (or substantially identical successor U.S. Treasury regulation section including, without limitation, substantially identical successor regulations issued in accordance with Internal Revenue Service Notice 2012-20 or otherwise in connection with the U.S. Hiring Incentives to Restore Employment Act of 2010) (the **C Rules**) or (ii) the Notes are issued other than in compliance with the D Rules or the C Rules but in circumstances in which the Notes will not constitute “registration required obligations” under the United States Tax Equity and Fiscal Responsibility Act of 1982 (**TEFRA**), which circumstances will be referred to in the relevant Final Terms as a transaction to which TEFRA is not applicable.

## RISK FACTORS

*The Issuer believes that the following factors may affect its ability to fulfil its obligations under Notes issued under the Programme. All of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme are also described below.*

*The Issuer believes that the factors described below represent the principal risks inherent in investing in Notes issued under the Programme. However, the inability of the Issuer to pay interest, principal or other amounts on or in connection with any Notes may occur for other reasons which may not be considered significant risks by the Issuer based on information currently available to it or which it may not currently be able to anticipate.*

*Prospective investors should also read the detailed information set out elsewhere in this Offering Circular and reach their own views prior to making any investment decision.*

### **Factors that may affect the Issuer's ability to fulfil its obligations under Notes issued under the Programme**

#### *Economic and political conditions*

Marks and Spencer plc and its subsidiaries (the **Group**) has no control over changes in inflation and interest rates, foreign currency exchange rates and controls, or other economic factors affecting its business such as household and consumer spending. Fluctuations in foreign exchange and any deterioration in the global economy could impact the performance of the Group. Similarly political, legal or regulatory changes are all beyond the Group's control. In particular, the UK vote on 23 June 2016 to leave the European Union (commonly referred to as Brexit) has given rise to a number of uncertainties in connection with the future of the UK and its relationship with the European Union. Any one of these factors could affect the Group's financial results.

#### *Socio-political unrest*

Where ongoing geopolitical uncertainty, social unrest or the threat of terrorism have the potential to impact the Group's ability to trade, consumer confidence and retail spending on a global scale, this could have an adverse impact on the Group's financial results.

#### *Strategy*

Failure to set the strategic direction of the Group to balance short-term and long-term profitability could have an adverse impact on the Group's financial results, as could any failure to deliver the strategic plan within guidelines indicated by the business, following the outcome of any consultation period.

#### *Market competition*

The Group operates in a fiercely competitive market. Any one or more of limited product appeal, price architecture, availability, unattractive in-store environment, inaccessibility to the market due to store locations relative to others, or failure to grow selling space in line with the market, could have an adverse impact on the Group's financial results.

#### *Brand and reputation*

The vast majority of the Group's products are own brand with the Marks and Spencer brand being one of the strongest in the UK. The new core values of "*Inspiration, Innovation, Integrity and In Touch*" are aligned with the Group's business and drive the behaviours needed to be successful. Failure to protect the Marks and Spencer brand proposition and loss of trust and confidence in the Group and its products could affect operations in a number of ways. Lack of controls over ethical sourcing, food safety and integrity could also lead to a loss of trust in its goods and therefore affect the Group's financial results.

#### *Breakdown in logistics*

Daily stock movements into stores are necessitated by minimal stockroom space and freshness of foods items. Any disruption in the logistics chain due to supplier reasons or natural disaster such as flooding, could severely affect operations and could have an impact of the Group's financial results.

#### *Major supplier collapse – Loss of service vendors*

The Group has a number of major suppliers and service vendors. The collapse of a major supplier or service vendor, for financial or other reasons, could affect the Group's ability to adequately source product or service and could have an adverse impact on its operations and financial results.

#### *Stock management*

The Group relies on effective stock management to ensure availability of products in stores and online. Failure to deliver this could have an adverse impact on availability and impact the Group's financial results.

#### *Cyber/information security*

Should the Group's business be subject to external threats from hackers or viruses, or sensitive data is accessed without authorisation, this could have an adverse impact on the M&S brand and impact the Group's financial results.

#### *M&S.com business resilience*

The Group has ambitious plans for its multi-channel offering as part of its commitment to becoming a leading online retailer. Failure to keep pace with customer expectations in a fast developing online market inhibits its ability to compete and grow its business. This could lead to an adverse impact on the Group's financial results.

#### *Plan A*

Plan A is the Group's ethical and environmental programme, which underpins everything Marks and Spencer plc does, from sourcing responsibly and reducing waste, to helping the communities in which the Group operates. It is a business plan that maps out the Group's route to providing leadership in a world that is increasingly resource-constrained and experiencing social change.

The Group's commitment to Plan A, which was launched 9 years ago, remains as deeply held today as when created and continues under its Plan A 2020. Failure to meet its commitments reduces stakeholder trust and confidence and therefore could have an impact on the Group's financial results.

#### *Information Technology*

The Group is dependent on information technology systems including, amongst others, store POS infrastructure and internet based systems for communication with suppliers as well as internal communication. Any disruption of these systems could affect the Group's operations.

#### *Pension funding*

At 1 October 2016 the Group had a net post-retirement asset of £571.2 million on an IAS19 basis. A significant future funding requirement might conflict with cash available from operational activities, operational or strategic financing requirements, or might require funding from external sources. Such a funding requirement could affect the Group's operations and its financial results.

#### *Rating and funding*

The credit rating of the Group depends on many factors, some of which are outside the Group's control. Deterioration in any of these factors or a combination of these factors may result in a downgrade in the Group's long term rating. This could potentially impact on both the cost and accessibility of new funding thereby affecting the Group's operations and its financial results.

#### *Internal controls*

The Board has overall responsibility for the Group's systems of internal control, and for monitoring their effectiveness in providing shareholders with a return that is consistent with a responsible assessment and mitigation of risks. This includes reviewing financial, operational and compliance controls. The role of executive management is to implement the Board's policies on control, and present assurance on compliance with these policies. Further assurance is presented by internal audit, which operates across the Group. All employees are accountable for operating within these policies.

Due to the limitations that are inherent in any system of internal control, this system is designed to manage, rather than eliminate, the risk of failure. Any such failures could affect the Group's operations and its financial results.

In addition any irregularities initiated by employees, vendors or third parties could affect the Group's operations and its financial results.

Notwithstanding anything in this risk factor, this risk factor should not be taken as implying that either the Issuer or the Group will be unable to comply with its obligations as a company with securities admitted to the Official List.

#### *Legal/Compliance*

The Group is aware of the significance to its operations of adhering to all legal and compliance legislation. Any one of (i) failure to protect intellectual property; (ii) adverse health and safety or environmental issues; (iii) risk of litigation or breach of competition laws; or (iv) non-compliance with corporate, employee or taxation laws could affect the Group's financial results.

#### *Treasury default/liquidity*

The Group's financial instruments, other than derivatives, comprise borrowings, cash and liquid resources and various items, such as trade debtors and trade creditors that arise directly from its operations. The main purpose of these financial instruments is to raise finance for the Group's operations. The Group's Treasury also enters into derivative transactions, principally interest rate and currency swaps and forward currency contracts. The purpose of such transactions is to manage the interest rate and currency risks arising from the Group's operations and financing.

The main financial risks faced by the Group due to its financial instruments and Treasury operations relate to interest rates, foreign exchange rates, liquidity and counterparty risks. A major event in any of these areas could have an adverse impact on the Group's financial results.

#### *Markets and Funding*

The risk that the Group will be unable to meet its obligations when they fall due and to replace funds when they are withdrawn can be impacted by a range of institution-specific and market-wide events including, but not limited to, credit events, merger and acquisition activity, systemic shocks and natural disasters.

During periods of market dislocation, the Issuer and the Group's funding may be impacted by a reduction in the availability of wholesale term funding for market participants, as well as an increase in the cost of raising wholesale funds.

### **Factors which are material for the purpose of assessing the market risks associated with Notes issued under the Programme**

#### ***Risks related to the structure of a particular issue of Notes***

A range of Notes may be issued under the Programme. A number of these Notes may have features which contain particular risks for potential investors. Set out below is a description of the most common such features:

*If the Issuer has the right to redeem any Notes at its option, this may limit the market value of the Notes concerned and an investor may not be able to reinvest the redemption proceeds in a manner which achieves a similar effective return*

An optional redemption feature is likely to limit the market value of Notes. During any period when the Issuer may elect to redeem Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

The Issuer may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider reinvestment risk in light of other investments available at that time.

*If the Issuer has the right to convert the interest rate on any Notes from a fixed rate to a floating rate, or vice versa, this may affect the secondary market and the market value of the Notes concerned*

Fixed/Floating Rate Notes are Notes which may bear interest at a rate that converts from a fixed rate to a floating rate, or from a floating rate to a fixed rate. Where the Issuer has the right to effect such conversion, this will affect the secondary market in, and the market value of, the Notes since the Issuer may be expected to convert the rate when it is likely to result in a lower overall cost of borrowing for the Issuer. If the Issuer

converts from a fixed rate to a floating rate in such circumstances, the spread on the Fixed/Floating Rate Notes may be less favourable than the prevailing spreads on comparable Floating Rate Notes tied to the same reference rate. In addition, the new floating rate at any time may be lower than the rates on other Notes. If the Issuer converts from a floating rate to a fixed rate in such circumstances, the fixed rate may be lower than then prevailing market rates.

*Notes which are issued at a substantial discount or premium may experience price volatility in response to changes in market interest rates*

The market values of securities issued at a substantial discount (such as Zero Coupon Notes) or premium to their principal amount tend to fluctuate more in relation to general changes in interest rates than prices for more conventional interest-bearing securities. Generally, the longer the remaining term of such securities, the greater the price volatility as compared to more conventional interest-bearing securities with comparable maturities.

### ***Risks related to Notes generally***

Set out below is a description of material risks relating to the Notes generally:

#### *Modification, waivers and substitution*

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

The Terms and Conditions of the Notes also provide that the Trustee may, without the consent of Noteholders and without regard to the interests of particular Noteholders, agree to (i) any modification of, or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of the Notes or (ii) determine without the consent of the Noteholders that any Event of Default or potential Event of Default shall not be treated as such or (iii) the substitution of another company as principal debtor under any Notes in place of the Issuer, in the circumstances described in Condition 15 of the Terms and Conditions of the Notes.

*The Notes may be subject to withholding taxes in circumstances where the Issuer is not obliged to make gross up payments and this would result in holders receiving less interest than expected and could significantly adversely affect their return on the Notes.*

*The value of the Notes could be adversely affected by a change in English law or administrative practice*

The Terms and Conditions of the Notes are based on English law in effect as at the date of this Offering Circular. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of this Offering Circular and any such change could materially adversely impact the value of any Notes affected by it.

*Investors who hold less than the minimum Specified Denomination may be unable to sell their Notes and may be adversely affected if definitive Notes are subsequently required to be issued*

In relation to any issue of Notes which have denominations consisting of a minimum Specified Denomination plus one or more higher integral multiples of another smaller amount, it is possible that such Notes may be traded in amounts in excess of the minimum Specified Denomination that are not integral multiples of such minimum Specified Denomination. In such a case a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in his account with the relevant clearing system would not be able to sell the remainder of such holding without first purchasing a principal amount of Notes at or in excess of the minimum Specified Denomination such that its holding amounts to a Specified Denomination. Further, a holder who, as a result of trading such amounts, holds an amount which is less than the minimum Specified Denomination in its account with the relevant clearing system at the relevant time may not receive a definitive Note in respect of such holding (should definitive Notes be printed) and would need to purchase a principal amount of Notes at or in excess of the minimum Specified Denomination such that its holding amounts to a Specified Denomination.

If definitive Notes are issued, holders should be aware that definitive Notes which have a denomination that is not an integral multiple of the minimum Specified Denomination may be illiquid and difficult to trade.

### ***Risks related to the market generally***

Set out below is a description of material market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk:

*An active secondary market in respect of the Notes may never be established or may be illiquid and this would adversely affect the value at which an investor could sell his Notes*

Notes may have no established trading market when issued, and one may never develop. If a market for the Notes does develop, it may not be very liquid. Therefore, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. This is particularly the case for Notes that are especially sensitive to interest rate, currency or market risks, are designed for specific investment objectives or strategies or have been structured to meet the investment requirements of limited categories of investors. These types of Notes generally would have a more limited secondary market and more price volatility than conventional debt securities.

In addition, Noteholders should be aware of the prevailing and widely reported global credit market conditions (which continue at the date of this Offering Circular), whereby there is a general lack of liquidity in the secondary market for instruments similar to the Notes. Such lack of liquidity may result in investors suffering losses on the Notes in secondary resales even if there is no decline in the performance of the assets of the Issuer. The Issuer cannot predict which of these circumstances will change and whether, if and when they do change, there will be a more liquid market for the Note and instruments similar to the Notes at that time.

*If an investor holds Notes which are not denominated in the investor's home currency, he will be exposed to movements in exchange rates adversely affecting the value of his holding. In addition, the imposition of exchange controls in relation to any Notes could result in an investor not receiving payments on those Notes.*

The Issuer will pay principal and interest on the Notes in the Specified Currency. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the **Investor's Currency**) other than the Specified Currency. These include the risk that exchange rates may significantly change (including changes due to devaluation of the Specified Currency or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the Specified Currency would decrease (1) the Investor's Currency-equivalent yield on the Notes, (2) the Investor's Currency equivalent value of the principal payable on the Notes and (3) the Investor's Currency equivalent market value of the Notes.

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

*The value of Fixed Rate Notes may be adversely affected by movements in market interest rates*

Investment in Fixed Rate Notes involves the risk that if market interest rates subsequently increase above the rate paid on the Fixed Rate Notes, this will adversely affect the value of the Fixed Rate Notes.

*Credit ratings assigned to the Issuer or any Notes may not reflect all the risks associated with an investment in these Notes*

One or more independent credit rating agencies may assign credit ratings to the Issuer or the Notes. The ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above, and other factors that may affect the value of the Notes. A credit rating is not a recommendation to buy, sell or hold securities and may be revised, suspended or withdrawn by the rating agency at any time.

In general, European regulated investors are restricted under 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, subject to transitional provisions that apply in certain circumstances whilst the registration application is pending). 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 the European Securities and Markets Authority (**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. Certain information with respect to the credit rating agencies and ratings is set out on the cover of this Offering Circular.

## **DOCUMENTS INCORPORATED BY REFERENCE**

The audited consolidated annual financial statements for the financial years ended 28 March 2015 and 2 April 2016 respectively, in each case together with the audit reports prepared in connection therewith, of the Issuer, pages 17 to 35 (inclusive) of the press release dated 8 November 2016 containing the unaudited interim consolidated financial statements for the six month period ended 1 October 2016, of Marks and Spencer Group plc, and the Terms and Conditions of the Notes contained in the Offering Circular dated 20 October 2005 (at pages 27-47), the Offering Circular dated 13 November 2006 (at pages 27-47), the Offering Circular dated 9 November 2007 (at pages 28-49), the Offering Circular dated 11 November 2008 (at pages 28-49), the Offering Circular dated 11 November 2009 (at pages 28-49), the Offering Circular dated 12 November 2010 (at pages 30-51), the Offering Circular dated 11 November 2011 (at pages 31-52), the Offering Circular dated 9 November 2012 (at pages 24-47), the Offering Circular dated 8 November 2013 (at pages 26-51), the Offering Circular dated 10 November 2014 (at pages 26-51), and the Offering Circular dated 10 November 2015 (at pages 27-52), which have previously been published or are published simultaneously with this Offering Circular and have been approved by the Financial Conduct Authority or filed with it shall be incorporated in, and form part of, this Offering Circular (but all information incorporated in such documents by reference shall not be incorporated in, or form part of, this Offering Circular as such information is not considered by the Issuer to be relevant for prospective investors or is covered elsewhere in this Offering Circular). For the avoidance of doubt, information, documents or statements expressed to be incorporated by reference into any, or expressed to form part of any, of the documents referred to above do not form part of this Offering Circular. Any non-incorporated parts of a document referred to herein are either deemed not relevant for an investor or are otherwise covered elsewhere in this Offering Circular. Where reference is made to a website in this Offering Circular, the contents of that website do not form part of this Offering Circular.

Following the publication of this Offering Circular a supplement may be prepared by the Issuer and approved by the UK Listing Authority in accordance with Article 16 of the Prospectus Directive. Statements contained in any such supplement (or contained in any document incorporated by reference therein) shall, to the extent applicable (whether expressly, by implication or otherwise), be deemed to modify or supersede statements contained in this Offering Circular or in a document which is incorporated by reference in this Offering Circular. Any statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this Offering Circular.

Copies of documents incorporated by reference in this Offering Circular can be obtained from the registered office of the Issuer at Waterside House, 35 North Wharf Road, London W2 1NW and the offices of Citibank, N.A., London Branch at 13th Floor, Citigroup Centre, Canada Square, London E14 5LB and are available for viewing at <http://www.hemscott.com/nsm.do> and on the website of the Regulatory News Service operated by the London Stock Exchange at <http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html> under the name of the Issuer.

## **SUPPLEMENTAL OFFERING CIRCULAR**

The Issuer will, in the event of any significant new factor, material mistake or inaccuracy relating to information included in this Offering Circular which is capable of affecting the assessment of any Notes, prepare a supplement to this Offering Circular or publish a new Offering Circular for use in connection with any subsequent issue of Notes.



## FORM OF THE NOTES

### Bearer Notes

Each Tranche of Notes will be in bearer form and will be initially issued in the form of a temporary global note (a **Temporary Bearer Global Note**) or, if so specified in the applicable Final Terms, a permanent global note (a **Permanent Bearer Global Note** and, together with a Temporary Global Note, each a **Global Note**) which, in either case, will be delivered on or prior to the original issue date of the Tranche to a common depository (the **Common Depository**) for, Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, S.A. (**Clearstream, Luxembourg**). Whilst any Bearer Note is represented by a Temporary Bearer Global Note, payments of principal, interest (if any) and any other amount payable in respect of the Notes due prior to the Exchange Date (as defined below) will be made against presentation of the Temporary Bearer Global Note only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in the Temporary Global Note are not U.S. persons or persons who have purchased for resale to any U.S. person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certifications it has received) to the Principal Paying Agent.

On and after the date (the **Exchange Date**) which is 40 days after a Temporary Bearer Global Note is issued, interests in such Temporary Bearer Global Note will be exchangeable (free of charge) upon a request as described therein either for (i) interests in a Permanent Bearer Global Note of the same Series or (ii) for definitive Bearer Notes of the same Series with, where applicable, interest coupons and talons attached (as indicated in the applicable Final Terms and subject, in the case of definitive Bearer Notes, to such notice period as is specified in the applicable Final Terms), in each case against certification of beneficial ownership as described above unless such certification has already been given, provided that purchasers in the United States and certain U.S. persons will not be able to receive definitive Bearer Notes. The holder of a Temporary Bearer Global Note will not be entitled to collect any payment of interest, principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Bearer Global Note for an interest in a Permanent Bearer Global Note or for definitive Bearer Notes is improperly withheld or refused.

Payments of principal, interest (if any) or any other amounts on a Permanent Bearer Global Note will be made through Euroclear and/or Clearstream, Luxembourg against presentation or surrender (as the case may be) of the Permanent Bearer Global Note without any requirement for certification.

The applicable Final Terms will specify that a Permanent Bearer Global Note will be exchangeable (free of charge), in whole but not in part, for definitive Notes with, where applicable, interest coupons and talons attached either (a) upon not less than 60 days' written notice from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Bearer Global Note) to the Principal Paying Agent as described therein or (b) only upon the occurrence of an Exchange Event or (c) at any time at the request of the Issuer. For these purposes, **Exchange Event** means that (i) an Event of Default (as defined in Condition 10) has occurred and is continuing, (ii) the Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system satisfactory to the Trustee is available or (iii) the Issuer has or will become subject to adverse tax consequences which would not be suffered were the Notes represented by the Permanent Bearer Global Note in definitive form. The Issuer will promptly give notice to Noteholders in accordance with Condition 14 if an Exchange Event occurs. In the event of the occurrence of an Exchange Event, Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Bearer Global Note) or the Trustee may give notice to the Principal Paying Agent requesting exchange. Any such exchange shall occur not later than 45 days after the date of receipt of the first relevant notice by the Principal Paying Agent.

The Exchange of a Permanent Bearer Global Note for definitive Notes upon notice from Euroclear and/or Clearstream (acting on the instructions of any holder) should not be expressed to be applicable in the applicable Final Terms if the Notes are issued with a minimum Specified Denomination such as €100,000 (or its equivalent in another currency) plus one or more higher integral multiples of another smaller amount such as €1,000 (or its equivalent in another currency). Furthermore, such Specified Denomination construction is not permitted in relation to any issue of Notes which is to be represented on issue by a Temporary Bearer Global Note exchangeable for definitive Notes.

In the event that a global note is exchanged for definitive Notes, such definitive Notes shall be issued in Specified Denomination(s) only. Noteholders who hold Notes in the relevant clearing system in amounts that are not integral multiples of a Specified Denomination may need to purchase or sell, on or before the relevant Exchange Date, a principal amount of Notes such that their holding is an integral multiple of a Specified Denomination.

The following legend will appear on all Bearer Notes (other than Temporary Bearer Global Notes) and interest coupons relating to such Notes where TEFRA D is specified in the applicable Final Terms:

“ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.”

The sections referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Bearer Notes or interest coupons and will not be entitled to capital gains treatment in respect of any gain on any sale, disposition, redemption or payment of principal in respect of such Notes or interest coupons.

Notes which are represented by a Bearer Global Note will only be transferable in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be.

### **Registered Notes**

The Registered Notes of each Tranche offered and sold in reliance on Regulation S, which will be sold to non-U.S. persons outside the United States, will initially be represented by a global note in registered form (a **Registered Global Note**) or, if so specified in the applicable Final Terms, definitive Notes in registered form. Prior to expiry of the distribution compliance period (as defined in Regulation S) applicable to each Tranche of Notes, beneficial interests in a Registered Global Note may not be offered or sold to, or for the account or benefit of, a U.S. person save as otherwise provided in Condition 2 and may not be held otherwise than through Euroclear or Clearstream, Luxembourg and such Registered Global Note will bear a legend regarding such restrictions on transfer.

Registered Global Notes will be deposited with a common depository for, and registered in the name of a common nominee of, Euroclear and Clearstream, Luxembourg, as specified in the applicable Final Terms. Persons holding beneficial interests in Registered Global Notes will be entitled or required, as the case may be, under the circumstances described below, to receive physical delivery of definitive Notes in fully registered form.

Payments of principal, interest and any other amount in respect of a Registered Global Note will, in the absence of provision to the contrary, be made to the person shown on the Register (as defined in Condition 6.4) as the registered holder of the relevant Registered Global Note. None of the Issuer, the Trustee, any Paying Agent or the Registrar will have any responsibility or liability for any aspect of the records relating to or payments or deliveries made on account of beneficial ownership interests in a Registered Global Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Payments of principal, interest or any other amount in respect of a Registered Note in definitive form (the **Definitive Registered Notes**) will, in the absence of provision to the contrary, be made to the person(s) shown on the Register on the relevant Record Date (as defined in Condition 6.4) immediately preceding the due date for payment in the manner provided in that Condition.

Interests in a Registered Global Note will be exchangeable (free of charge), in whole but not in part, for definitive Registered Notes without interest coupons or talons attached either (a) upon not less than 45 days' written notice from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Registered Global Note) to the Registrar as described therein) or (b) at any time at the request of the Issuer, in each case as specified in the applicable Final Terms.

### **General**

Pursuant to the Agency Agreement (as defined under “*Terms and Conditions of the Notes*”), the Principal Paying Agent shall arrange that, where a further Tranche of Notes is issued which is intended to form a single Series with an existing Tranche of Notes at a point after the Issue Date of the further Tranche, the Notes of such further Tranche shall be assigned a common code and ISIN which are different from the common code and ISIN assigned to Notes of any other Tranche of the same Series until such time as the Tranches are consolidated and form a single Series, which shall not be prior to the expiry of the distribution compliance period (as defined in Regulation S under the Securities Act) applicable to the Notes of such Tranche.

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

No Noteholder or Couponholder shall be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

## APPLICABLE FINAL TERMS

Set out below is the form of Final Terms which will be completed for each Tranche of Notes issued under the Programme.

[Date]

**MARKS AND SPENCER plc**  
**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]**  
**under the £3,000,000,000**  
**Euro Medium Term Note Programme**

### PART A – CONTRACTUAL TERMS

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions set forth in the Offering Circular dated 14 November 2016 [and the supplement[s] to it dated [date] [and [date]]] which [together] constitute[s] a base prospectus (the **Offering Circular**) for the purposes of Directive 2003/71/EC (as amended, including by Directive 2010/73/EU, and includes any relevant implementing measure in a relevant Member State of the EEA) (the **Prospectus Directive**). This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of the Prospectus Directive and must be read in conjunction with the Offering Circular. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Offering Circular. The Offering Circular is available for viewing at, and copies may be obtained from, Waterside House, 35 North Wharf Road, London W2 1NW. In addition, the Offering Circular has been published on the website of the Regulatory News Service operated by the London Stock Exchange at <http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html> under the name of the Issuer.

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

Terms used herein shall be deemed to be defined as such for the purposes of the Conditions (the **Conditions**) contained in the Trust Deed dated [original date] [and the supplement to it dated [date]] and set forth in the Offering Circular dated [original date] [and the supplement to it dated [date]] and incorporated by reference into the Offering Circular dated 14 November 2016. This document constitutes the Final Terms of the Notes described herein for the purposes of Article 5.4 of Directive 2003/71/EC, as amended (which includes the amendments made by Directive 2010/73/EU to the extent that such amendments have been implemented in a relevant Member State of the EEA) (the **Prospectus Directive**) and must be read in conjunction with the Offering Circular dated 14 November 2016 [and the supplement[s] to it dated [date] [and [date]]] which [together] constitute[s] a base prospectus for the purposes of the Prospectus Directive (the **Offering Circular**) including the Conditions incorporated by reference in the Offering Circular. Copies of the Offering Circular are available for viewing at, and copies may be obtained from, Waterside House, 35 North Wharf Road, London W2 1NW. In addition, the Offering Circular has been published on the website of the Regulatory News Service operated by the London Stock Exchange at <http://www.londonstockexchange.com/exchange/news/market-news/market-news-home.html> under the name of the Issuer.

- |    |  |  |
|----|--|--|
| 1. | Issuer:  | Marks and Spencer plc  |
| 2. | (a) Series Number:   | [ ]  |
|    | (b) Tranche Number:  | [ ]  |
|    | (c) Date on which the Notes will be consolidated and form a single Series: | [The Notes will be consolidated and form a single Series with [ ] on [the Issue Date/the date that is 40 days after the Issue Date/ exchange of the Temporary Bearer Global Note for interests in the Permanent Bearer Global Note, as referred to in paragraph 24 below, which is expected to occur on or about [ ]]/[Not Applicable] |
| 3. | Specified Currency or Currencies:  | [ ]  |

4. Aggregate Nominal Amount:
- (a) Series: [ ]
- (b) Tranche: [ ]
5. Issue Price: [ ] per cent. of the Aggregate Nominal Amount [plus accrued interest from [ ]]
6. (a) Specified Denominations: [ ] [and each integral multiple of the Calculation Amount in excess thereof up to and including [ ]]. No Notes in definitive form will be issued with a denomination above [ ].
- (b) Calculation Amount for Notes in definitive form (and in relation to calculation of interest in global form see Conditions): [ ]
7. (a) Issue Date: [ ]
- (b) Interest Commencement Date: [[ ]/Issue Date/Not Applicable]
8. Maturity Date: [[ ]/Interest Payment Date falling in or nearest to [ ]]
9. Interest Basis: [[ ] per cent. Fixed Rate] [/[Reference Rate] +/- [ ] per cent. Floating Rate] [Zero Coupon] (see paragraph [14/15/16] below)
10. Redemption Basis: Subject to any purchase and cancellation or early redemption the Notes will be redeemed on the Maturity Date at [ ] per cent. of their nominal amount
11. Change of Interest Basis: [ ] [Not Applicable]
12. Put/Call Options: [General Investor Put] [Change of Control Investor Put] [Issuer Call] [Issuer Par Call] [Not Applicable] [(see paragraph [18/19/20/21] below)]
13. [Date [Board] approval for issuance of Notes obtained: [ ] [and [ ], respectively]]

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

14. Fixed Rate Note Provisions [Applicable/Not Applicable]
- (a) Rate(s) of Interest: [ ] per cent. per annum payable in arrear on each Interest Payment Date
- (b) Interest Payment Date(s): [ ] in each year up to and including the Maturity Date
- (c) Fixed Coupon Amount(s) for Notes in definitive form (and in relation to Notes in global form see Conditions): [ ] per Calculation Amount
- (d) Broken Amount(s) for Notes in definitive form (and in relation to Notes in global form see Conditions): [[ ] per Calculation Amount, payable on the Interest Payment Date falling [in/on] [ ]] [Not Applicable]

- (e) Day Count Fraction: [30/360][Actual/Actual (ICMA)] [ ]
- (f) Determination Date(s): [[ ] in each year][Not Applicable]
- (g) Step Up Rating Change and/or Step Down Rating Change: [Applicable/Not Applicable]
- (h) Step Up Margin: [[ ] per cent. per annum/Not Applicable]
15. Floating Rate Note Provisions [Applicable/Not Applicable]
- (a) Specified Period(s)/Specified Interest Payment Dates: [ ] [, subject to adjustment in accordance with the Business Day Convention set out in (b) below /, not subject to adjustment, as the Business Day Convention in (b) below is specified to be Not Applicable]
- (b) Business Day Convention: [Floating Rate Convention/Following Business Day Convention/Modified Following Business Day Convention/ Preceding Business Day Convention][Not Applicable]
- (c) Additional Business Centre(s): [ ]
- (d) Manner in which the Rate of Interest and Interest Amount is to be determined: [Screen Rate Determination/ISDA Determination]
- (e) Party responsible for calculating the Rate of Interest and Interest Amount (if not the Agent): [ ]
- (f) Screen Rate Determination: [Applicable/Not Applicable]
- Reference Rate: [ ] month [LIBOR/EURIBOR]
  - Interest Determination Date(s): [ ]
  - Relevant Screen Page: [ ]
- (g) ISDA Determination: [Applicable/Not Applicable]
- Floating Rate Option: [ ]
  - Designated Maturity: [ ]
  - Reset Date: [ ]
- (h) Linear Interpolation: [Not Applicable/Applicable – the rate of interest for the [long/short] [first/last] Interest Period shall be calculated using Linear Interpolation (*specify for each short or long interest period*)]  
[Designated Maturity: [ ]]
- (i) Margin(s): [[+/-][ ] per cent. per annum][Not Applicable]
- (j) Minimum Rate of Interest: [[ ] per cent. per annum][Not Applicable]
- (k) Maximum Rate of Interest: [[ ] per cent. per annum][Not Applicable]
- (l) Day Count Fraction: [[Actual/Actual (ISDA)][Actual/Actual Actual/365 (Fixed) Actual/365 (Sterling) Actual/360 [30/360][360/360][Bond Basis] [30E/360][Eurobond Basis]

		30E/360 (ISDA)]
	(m) Step Up Rating Change and/or Step Down Rating Change:	[Applicable/Not Applicable]
	(n) Step Up Margin:	[[ ] per cent. per annum/Not Applicable]
16.	Zero Coupon Note Provisions	[Applicable/Not Applicable]
	(a) Accrual Yield:	[ ] per cent. per annum
	(b) Reference Price:	[ ]
	(c) Day Count Fraction in relation to Early Redemption Amounts:	[30/360] [Actual/365] [Actual/360]

**PROVISIONS RELATING TO REDEMPTION**

17.	Notice periods for Condition 7.2:	Minimum period: [ ] days Maximum period: [ ] days
18.	Issuer Call:	[Applicable/Not Applicable]
	(a) Optional Redemption Date(s):	[ ]
	(b) Optional Redemption Amount and method, if any, of calculation of such amount(s):	[[ ] per Calculation Amount][Spens Amount][Make Whole Redemption Amount
	(A) Reference Bond:	[ ]
	(B) Redemption Margin:	[ ] per cent. per annum
	(C) Quotation Time:	[ ]
	(D) Reference Date:	[ ]/[as per the Conditions]
	(c) If redeemable in part:	
	(i) Minimum Redemption Amount:	[ ] per Calculation Amount
	(ii) Maximum Redemption Amount:	[ ] per Calculation Amount
	(d) Notice periods:	Minimum period: [ ] days Maximum period: [ ] days
19.	Issuer Par Call:	[Applicable/Not Applicable]
	(a) Issuer Par Call Date:	
	(b) If redeemable in part:	
	(i) Minimum Redemption Amount:	[ ] per Calculation Amount
	(ii) Maximum Redemption Amount:	[ ] per Calculation Amount
	(c) Notice periods:	Minimum period: [ ] days Maximum period: [ ] days
20.	General Investor Put:	[Applicable/Not Applicable]
	(a) Optional Redemption Date(s):	[ ]
	(b) Optional Redemption Amount:	[ ] per Calculation Amount
	(c) Notice periods:	Minimum period: [ ] days Maximum period: [ ] days

21. Change of Control Investor Put: [Applicable/Not Applicable]  
 (a) Optional Redemption Amount: [ ] per Calculation Amount  
 (b) Notice periods: Minimum period: [ ] days  
 Maximum period: [ ] days
22. Final Redemption Amount: [ ] per Calculation Amount
23. Early Redemption Amount payable on redemption for taxation reasons or on event of default: [ ] per Calculation Amount

**GENERAL PROVISIONS APPLICABLE TO THE NOTES**

24. Form of Notes: [Bearer:]  
 [Temporary Bearer Global Note exchangeable for a Permanent Bearer Global Note which is exchangeable for Definitive Notes [on 60 days' notice given at any time/only upon an Exchange Event]]  
 [Temporary Bearer Global Note exchangeable for Definitive Notes on and after the Exchange Date]  
 [Permanent Bearer Global Note exchangeable for Definitive Notes [on 60 days' notice given at any time/only upon an Exchange Event/at any time at the request of the Issuer]]
- [Registered:]  
 [Registered Global Note exchangeable for Definitive Registered Notes [on 45 days' notice/at the request of the Issuer]/Definitive Registered Notes]
25. Additional Financial Centre(s): [Not Applicable/[ ]]
26. Talons for future Coupons to be attached to Definitive Notes: [Yes, as the Notes have more than 27 coupon payments, Talons may be required if, on exchange into definitive form, more than 27 coupon payments are still to be made /No]

**THIRD PARTY INFORMATION**

[[ ] has been extracted from [ ]]. The Issuer confirms that such information has been accurately reproduced and that, so far as it is aware and is able to ascertain from information published by [ ], no facts have been omitted which would render the reproduced information inaccurate or misleading].

Signed on behalf of the Issuer:

By .....  
*Duly authorised*



## PART B – OTHER INFORMATION

### 1. LISTING AND ADMISSION TO TRADING

- (i) Listing and Admission to trading: [Application has been made by the Issuer (or on its behalf) for the Notes to be admitted to trading on the London Stock Exchange's regulated market and listing on the Official List of the UK Listing Authority) with effect from [ ].]
- [Application is expected to be made by the Issuer (or on its behalf) for the Notes to be admitted to trading on the London Stock Exchange's regulated market and listing on the Official List of the UK Listing Authority)] with effect from [ ].]
- (ii) Date from which admission is effective: [ ]
- (iii) Estimate of total expenses related to admission to trading: [ ]

### 2. RATINGS

- Ratings: [The Notes to be issued [have been]/[are expected to be]/[have not been] rated]:
- [[ ] by Standard & Poor's Credit Market Services Europe Limited] [and] [[ ] by Moody's Investors Service Ltd.]

### 3. REASONS FOR THE OFFER, ESTIMATED NET PROCEEDS AND TOTAL EXPENSES

- (i) Reasons for the offer: [ ]
- (ii) Estimated net proceeds: [ ]
- (iii) Estimated total expenses: [ ]

### 4. INTERESTS OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE

[Save for any fees payable to the [Managers/Dealers], no person involved in the issue of the Notes has an interest material to the offer. The [Managers/Dealers] and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform other services for, the Issuer and its affiliates in the ordinary course of business.]

### 5. YIELD

- Indication of yield: [ ]
- The yield is calculated at the Issue Date on the basis of the Issue Price. It is not an indication of future yield.

### 6. OPERATIONAL INFORMATION

- (i) ISIN: [ ]
- (ii) Common Code: [ ]
- (iii) Any clearing system(s) other than Euroclear Bank, and Clearstream, Luxembourg and the relevant identification number(s): [Not Applicable/[ ]]
- (iv) Names and addresses of additional Paying Agent(s) (if any): [ ]

- (v) Deemed delivery of clearing system notices for the purposes of Condition 14: Any notice delivered to Noteholders through the clearing systems will be deemed to have been given on the [second] [business] day after the day on which it was given to Euroclear and Clearstream, Luxembourg.

**7. DISTRIBUTION**

- (i) If syndicated, names of Managers: [Not Applicable/[ ]]
- (ii) Stabilisation Manager(s) (if any): [Not Applicable/[ ]]
- (iii) If non-syndicated, name of relevant Dealer: [Not Applicable/[ ]]
- (iv) U.S. Selling Restrictions: [Reg. S Compliance Category 2; TEFRA D/TEFRA C/TEFRA not applicable]]

## TERMS AND CONDITIONS OF THE NOTES

*The following are the Terms and Conditions of the Notes which will be incorporated by reference into each Global Note (as defined below) and each definitive Note, in the latter case only if permitted by the relevant stock exchange or other relevant authority (if any) and agreed by the Issuer and the relevant Dealer at the time of issue but, if not so permitted and agreed, such definitive Note will have endorsed thereon or attached thereto such Terms and Conditions. The provisions of Part A of the applicable Final Terms (or the relevant provisions thereof) will be endorsed upon, or attached to, each Global Note and definitive Note. Reference should be made to “Applicable Final Terms” for a description of the content of Final Terms which will specify which of such terms are to apply in relation to the relevant Notes.*

This Note is one of a Series (as defined below) of Notes issued by Marks and Spencer plc (the **Issuer**) constituted by a trust deed (such trust deed as modified and/or supplemented and/or restated from time to time, the **Trust Deed**) dated 20 October 2005 made between the Issuer and The Law Debenture Trust Corporation p.l.c. (the **Trustee**, which expression shall include any trustee or trustees under the Trust Deed as trustees for holders of the Notes).

References herein to the **Notes** shall be references to the Notes of this Series and not to all Notes that may be issued under the Programme and shall mean:

- (a) in relation to any Notes represented by a global Note (a **Global Note**), units of the lowest Specified Denomination in the Specified Currency;
- (b) any Global Note;
- (c) any definitive Notes in bearer form (**Bearer Notes**) issued in exchange for a Global Note in bearer form; and
- (d) any definitive Notes in registered form (**Registered Notes**) (whether or not issued in exchange for a Global Note in registered form),

in each case for the time being outstanding, or as the context may require or a specific number of them.

The Notes and the Coupons (as defined below) have the benefit of an agency agreement (such agency agreement as amended and/or supplemented and/or restated from time to time, the **Agency Agreement**) dated 14 November 2016 and made between the Issuer, the Trustee and Citibank, N.A., London Branch as issuing agent and principal paying agent (the **Principal Paying Agent**, which expression shall include any successor principal paying agent) and the other paying agent named therein (together with the Principal Paying Agent, the **Paying Agents**, which expression shall include any additional or successor paying agents), Citigroup Global Markets Deutschland AG as registrar (the **Registrar**, which expression shall include any successor registrar) and the other transfer agents named therein (together with the Registrar, the **Transfer Agents**, which expression shall include any additional or successor transfer agents).

Interest bearing definitive Bearer Notes have interest coupons (**Coupons**) and, in the case of Notes which, when issued in definitive form, have more than 27 interest payments remaining, talons for further Coupons (**Talons**) attached on issue. Any reference herein to Coupons or coupons shall, unless the context otherwise requires, be deemed to include a reference to Talons or talons. Registered Notes and Global Notes do not have Coupons or Talons attached on issue.

The final terms for this Note (or the relevant provisions thereof) are set out in the provisions of Part A of the Final Terms is attached to or endorsed on this Note and supplements these Terms and Conditions (the **Conditions**). References to the **applicable Final Terms** are, unless otherwise stated, to Part A of the Final Terms (or the relevant provisions thereof) attached to or endorsed on this Note.

The Trustee acts for the benefit of the holders for the time being of the Notes (the **Noteholders**, which expression shall, in relation to any Notes represented by a Global Note, be construed as provided below) and the holders of the Coupons (the **Couponholders**, which expression shall, unless the context otherwise requires, include the holders of the Talons), in accordance with the provisions of the Trust Deed.

As used herein, **Tranche** means Notes which are identical in all respects (including as to listing) and Series means a Tranche of Notes together with any further Tranche or Tranches of Notes which are (a) expressed to be consolidated and form a single series with such Tranche and (b) identical in all respects (including as to listing) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices.

Copies of the Trust Deed and the Agency Agreement are available for inspection during normal business hours at the registered office for the time being of the Trustee, being at 14 November 2016 at Fifth Floor, 100 Wood Street, London EC2V 7EX and at the specified office of each of the Principal Paying Agent, the Registrar and any other Paying Agents and Transfer Agents (such Principal Paying Agent, the Registrar, any other Paying Agents and Transfer Agents being together referred to as the **Agents**). If the Notes are to be admitted to trading on the regulated market of the London Stock Exchange, the applicable Final Terms will be published on the website of the London Stock Exchange through a regulatory information service. The Noteholders and the Couponholders are deemed to have notice of, are bound by and are entitled to the benefit of, all the provisions of the Trust Deed, and the applicable Final Terms which are applicable to them and are deemed to have notice of all the provisions of the Agency Agreement. The statements in these Terms and Conditions include summaries of, and are subject to, the detailed provisions of the Trust Deed.

Words and expressions defined in the Trust Deed, the Agency Agreement or used in the applicable Final Terms shall have the same meanings where used in the Conditions unless the context otherwise requires or unless otherwise stated and provided that, in the event of inconsistency between the Trust Deed and the Agency Agreement, the Trust Deed will prevail and, in the event of inconsistency between the Trust Deed or the Agency Agreement and the applicable Final Terms, the applicable Final Terms will prevail.

In the Conditions, **euro** means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union, as amended.

## **1. FORM, DENOMINATION AND TITLE**

The Notes are in bearer form or in registered form as specified in the applicable Final Terms and, in the case of definitive Notes, serially numbered, in the currency (the **Specified Currency**) and the denominations (the **Specified Denomination(s)**) specified in the applicable Final Terms. Notes of one Specified Denomination may not be exchanged for Notes of another Specified Denomination and Bearer Notes may not be exchanged for Registered Notes and *vice versa*.

So long as the Notes are represented by a Global Note and the relevant clearing system(s) so permit, the Notes shall be tradeable only in principal amounts of at least the Specified Denomination (or if more than one Specified Denomination, the lowest Specified Denomination) provided hereon and integral multiples of the denomination provided in the relevant Final Terms.

This Note may be a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note or a combination of any of the foregoing, depending upon the Interest Basis shown in the applicable Final Terms.

Definitive Bearer Notes are serially numbered and are issued with Coupons attached, unless they are Zero Coupon Notes in which case references to Coupons and Couponholders in these Terms and Conditions are not applicable.

Subject as set out below, title to the Bearer Notes and Coupons will pass by delivery and title to the Registered Notes will pass upon registration of transfers in accordance with the provisions of the Agency Agreement. The Issuer, any Agent and the Trustee will (except as otherwise required by law) deem and treat the bearer of any Bearer Note or Coupon and the registered holder of any Registered Note as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes and shall incur no liability for so doing, in the case of any Global Note, without prejudice to the provisions set out in the next paragraph.

For so long as any of the Notes is represented by a Global Note held on behalf of Euroclear Bank S.A./N.V. (**Euroclear**) and/or Clearstream Banking S.A. (**Clearstream, Luxembourg**), each person (other than Euroclear or Clearstream, Luxembourg) who is for the time being shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of such Notes (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of such Notes standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Agents and the Trustee as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on such nominal amount of such Notes, for which purpose the bearer of the relevant Bearer Global Note or the registered holder of the relevant Registered Global Note shall be treated by the Issuer, any Agent and the Trustee as the holder of such nominal amount of such Notes in accordance with and subject to the terms of the relevant Global Note and the expressions

**Noteholder** and **holder of Notes** and related expressions shall be construed accordingly. In determining whether a particular person is the holder of a particular nominal amount of Notes as aforesaid, the Trustee may rely on such evidence and/or information and/or certification as it shall, in its absolute discretion, think fit and, if it does so rely, such evidence and/or information and/or certification shall, in the absence of manifest error, be conclusive and binding on all concerned.

## **2. TRANSFERS OF REGISTERED NOTES**

### **2.1 Transfers of interests in Registered Global Notes**

Transfers of beneficial interests in Registered Global Notes will be effected by Euroclear or Clearstream, Luxembourg, as the case may be, and, in turn, by other participants and, if appropriate, indirect participants in such clearing systems acting on behalf of beneficial transferors and transferees of such interests. A beneficial interest in a Registered Global Note will, subject to compliance with all applicable legal and regulatory restrictions, be transferable for Notes in definitive form or for a beneficial interest in another Registered Global Note only in the authorised denominations set out in the applicable Final Terms and only in accordance with the rules and operating procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be, and in accordance with the terms and conditions specified in the Agency Agreement.

### **2.2 Transfers of Registered Notes in definitive form**

Subject as provided in Condition 2.5 below, upon the terms and subject to the conditions set forth in the Agency Agreement, a Registered Note in definitive form may be transferred in whole or in part (in the authorised denominations set out in the applicable Final Terms). In order to effect any such transfer (a) the holder or holders must (i) surrender the Registered Note for registration of the transfer of the Registered Note (or the relevant part of the Registered Note) at the specified office of the Registrar or any Transfer Agent, with the form of transfer thereon duly executed by the holder or holders thereof or his or their attorney or attorneys duly authorised in writing and (ii) complete and deposit such other certifications as may be required by the Registrar or, as the case may be, the relevant Transfer Agent and (b) the Registrar or, as the case may be, the relevant Transfer Agent must, after due and careful enquiry, be satisfied with the documents of title and the identity of the person making the request. Any such transfer will be subject to such reasonable regulations as the Issuer and the Registrar may from time to time prescribe (the initial such regulations being set out in Schedule 3 to the Agency Agreement). Subject as provided above, the Registrar or, as the case may be, the relevant Transfer Agent will, within three business days (being for this purpose a day on which banks are open for business in the city where the specified office of the Registrar or, as the case may be, the relevant Transfer Agent is located) of the request (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations), authenticate and deliver, or procure the authentication and delivery of, at its specified office to the transferee or (at the risk of the transferee) send by uninsured mail, to such address as the transferee may request, a new Registered Note in definitive form of a like aggregate nominal amount to the Registered Note (or the relevant part of the Registered Note) transferred. In the case of the transfer of part only of a Registered Note in definitive form, a new Registered Note in definitive form in respect of the balance of the Registered Note not transferred will be so authenticated and delivered or (at the risk of the transferor) sent to the transferor.

### **2.3 Registration of transfer upon partial redemption**

In the event of a partial redemption of Notes under Condition 7, the Issuer shall not be required to register the transfer of any Registered Note, or part of a Registered Note, called for partial redemption.

### **2.4 Costs of registration**

Noteholders will not be required to bear the costs and expenses of effecting any registration of transfer as provided above, except for any costs or expenses of delivery other than by regular uninsured mail and except that the Issuer may require the payment of a sum sufficient to cover any stamp duty, tax or other governmental charge that may be imposed in relation to the registration.

### **2.5 Exchanges and transfers of Registered Notes generally**

Holders of Registered Notes in definitive form may exchange such Notes for interests in a Registered Global Note of the same type at any time.

## 2.6 Closed Periods

No Noteholder may require the transfer of a Registered Note to be registered (i) during the period of 15 days ending on the date for redemption of that Note, (ii) during the period of 15 days prior to any date on which Notes may be called for redemption by the Issuer at its option pursuant to Condition 7.3, (iii) after any such Note has been called for redemption or (iv) during the period of seven days ending on (and including) any Record Date.

## 3. STATUS OF THE NOTES

The Notes and the relative Coupons constitute (subject to the provisions of Condition 4) unsecured and unsubordinated obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The payment obligations of the Issuer under the Notes and the Coupons relating to them shall, save for such exceptions as may be provided by applicable legislation and subject to Condition 4, at all times rank at least equally with all other unsecured and unsubordinated obligations in respect of borrowed money of the Issuer, present and future.

## 4. NEGATIVE PLEDGE

So long as any of the Notes or Coupons remains outstanding (as defined in the Trust Deed) the Issuer will not, and will procure that none of its Subsidiaries will, create or permit to subsist any mortgage, lien, pledge or other charge upon, or with respect to, any of its present or future assets or revenues to secure any Relevant Indebtedness existing on or after the Issue Date of any person, unless the Issuer shall, simultaneously with, or prior to, the creation of any such charge take any and all action necessary to procure that all amounts payable by it under the Notes, the Coupons and the Trust Deed are secured equally and rateably by such charge to the satisfaction of the Trustee or such other security or other arrangement is provided either as the Trustee shall in its absolute discretion deem not materially less beneficial to the interests of the Noteholders or as shall be approved by an Extraordinary Resolution (as defined in the Trust Deed) of the Noteholders.

For the purposes of these Conditions:

- (a) **Relevant Indebtedness** means any indebtedness which is in the form of or represented by any bonds, notes or other securities initially offered by or on behalf of the issuer thereof primarily to persons resident outside any country in the currency of which they are denominated or payable (whether compulsorily or at the option of the holder) and for the time being quoted, listed or dealt in on any stock exchange, or any guarantee of, or indemnity in respect of any such indebtedness. Where any bonds, notes or other securities are agreed to be issued to any person (wherever resident) with a view to being offered primarily to persons resident outside any country in the currency of which they are denominated or payable, they shall be deemed to have been so offered by or on behalf of the issuer thereof; and
- (b) **Subsidiary** means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

## 5. INTEREST

### 5.1 Interest on Fixed Rate Notes

Each Fixed Rate Note bears interest on its outstanding nominal amount from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Interest will be payable in arrear on the Interest Payment Date(s) in each year up to (and including) the Maturity Date.

If the Notes are in definitive form, except as provided in the applicable Final Terms, the amount of interest payable on each Interest Payment Date in respect of the Fixed Interest Period ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Final Terms, amount to the Broken Amount so specified.

As used in the Conditions, **Fixed Interest Period** means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

Except in the case of Notes in definitive form where an applicable Fixed Coupon Amount or Broken Amount is specified in the applicable Final Terms, interest shall be calculated in respect of any period by applying the Rate of Interest to:

- (A) in the case of Fixed Rate Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Fixed Rate Notes represented by such Global Note; or
- (B) in the case of Fixed Rate Notes in definitive form, the Calculation Amount,

and in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Note in definitive form comprises a multiple of the Calculation Amount, the amount of interest payable in respect of such Fixed Rate Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and that multiple without any further rounding.

**Day Count Fraction** means, in respect of the calculation of an amount of interest, in accordance with this Condition 5.1:

- (a) if “Actual/Actual (ICMA)” is specified in the applicable Final Terms:
  - (i) in the case of Notes where the number of days in the relevant period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (the **Accrual Period**) is equal to or shorter than the Determination Period during which the Accrual Period ends, the number of days in such Accrual Period divided by the product of (A) the number of days in such Determination Period and (B) the number of Determination Dates (as specified in the applicable Final Terms) that would occur in one calendar year; or
  - (ii) in the case of Notes where the Accrual Period is longer than the Determination Period during which the Accrual Period ends, the sum of:
    - (A) the number of days in such Accrual Period falling in the Determination Period in which the Accrual Period begins divided by the product of (X) the number of days in such Determination Period and (Y) the number of Determination Dates that would occur in one calendar year; and
    - (B) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (X) the number of days in such Determination Period and (Y) the number of Determination Dates that would occur in one calendar year; and
- (b) if “30/360” is specified in the applicable Final Terms, the number of days in the period from (and including) the most recent Interest Payment Date (or, if none, the Interest Commencement Date) to (but excluding) the relevant payment date (such number of days being calculated on the basis of a year of 360 days with 12 30-day months) divided by 360.

In these Conditions:

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

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

## 5.2 Interest on Floating Rate Notes

- (a) Interest Payment Dates

Each Floating Rate Note bears interest on its outstanding nominal amount from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (i) the Specified Interest Payment Date(s) in each year specified in the applicable Final Terms; or
- (ii) if no Specified Interest Payment Date(s) is/are specified in the applicable Final Terms, each date (each such date, together with each Specified Interest Payment Date, an **Interest Payment Date**) which falls the number of months or other period specified as the Specified Period in the applicable Final Terms after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date.

Such interest will be payable in respect of each Interest Period. In these Terms and Conditions, **Interest Period** means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.

If a Business Day Convention is specified in the applicable Final Terms and (x) if there is no numerically corresponding day on the calendar month in which an Interest Payment Date should occur or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (A) in any case where Specified Periods are specified in accordance with Condition 5.2(a)(ii) above, the Floating Rate Convention, such Interest Payment Date (i) in the case of (x) above, shall be the last day that is a Business Day in the relevant month and the provisions of II below shall apply *mutatis mutandis* or (ii) in the case of (y) above, shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (A) such Interest Payment Date shall be brought forward to the immediately preceding Business Day and (B) each subsequent Interest Payment Date shall be the last Business Day in the month which falls the Specified Period after the preceding applicable Interest Payment Date occurred; or
- (B) the Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day; or
- (C) the Modified Following Business Day Convention, such Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date shall be brought forward to the immediately preceding Business Day; or
- (D) the Preceding Business Day Convention, such Interest Payment Date shall be brought forward to the immediately preceding Business Day.

In these Conditions, **Business Day** means a day which is both:

- I. a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in any Additional Business Centre specified in the applicable Final Terms; and
- II. either (1) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney and Auckland, respectively) or (2) in relation to any sum payable in euro, a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System (the **TARGET2 System**) is open.

(b) Rate of Interest

The Rate of Interest payable from time to time in respect of Floating Rate Notes will be determined in the manner specified in the applicable Final Terms.

- (i) ISDA Determination for Floating Rate Notes

Where ISDA Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Final Terms) the Margin (if any). For the purposes of this subparagraph (i), **ISDA Rate** for an Interest Period means a rate equal to the Floating Rate that would be determined by the Principal Paying Agent under an



interest rate swap transaction if the Principal Paying Agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. and as amended and updated as at the Issue Date of the first Tranche of the Notes (the **ISDA Definitions**) and under which:

- (A) the Floating Rate Option is as specified in the applicable Final Terms;
- (B) the Designated Maturity is a period specified in the applicable Final Terms; and
- (C) the relevant Reset Date is the day specified in the applicable Final Terms.

For the purposes of this subparagraph (i), and the applicable Final Terms **Floating Rate, Calculation Agent, Floating Rate Option, Designated Maturity** and **Reset Date** have the meanings given to those terms in the ISDA Definitions.

(ii) Screen Rate Determination for Floating Rate Notes

Where Screen Rate Determination is specified in the applicable Final Terms as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (A) the offered quotation; or
- (B) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate (or any successor or replacement rate) which appears or appear, as the case may be, on the Relevant Screen Page (or any successor or replacement rate) as at 11.00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR) on the Interest Determination Date in question plus or minus (as indicated in the applicable Final Terms) the Margin (if any), all as determined by the Principal Paying Agent. If five or more of such offered quotations are available on the Relevant Screen Page (or any successor or replacement page), the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Principal Paying Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

**Reference Rate** shall mean (i) LIBOR or (ii) EURIBOR, in each case for the Specified Currency and the relevant period, as specified in the applicable Final Terms .

The Agency Agreement contains provisions for determining the Rate of Interest in the event that the Relevant Screen Page is not available or if, in the case of (A) above, no such offered quotation appears or, in the case of (B) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph.

(c) Minimum Rate of Interest and/or Maximum Rate of Interest

If the applicable Final Terms specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period shall be such Minimum Rate of Interest.

If the applicable Final Terms specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period shall be such Maximum Rate of Interest.

(d) Determination of Rate of Interest and calculation of Interest Amounts

The Principal Paying Agent will at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period.

The Principal Paying Agent will calculate the amount of interest (the **Interest Amount**) payable on the Floating Rate Notes for the relevant Interest Period by applying the Rate of Interest to:

- (A) in the case of Floating Rate Notes which are represented by a Global Note, the aggregate outstanding nominal amount of the Notes represented by such Global Note; or
- (B) in the case of Floating Rate Notes in definitive form, the Calculation Amount,

and, in each case, multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the relevant Specified Currency, half of any such sub-unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Floating Rate Note in definitive form comprises a multiple of the Calculation Amount, the Interest Amount payable in respect of such Note shall be the product of the amount (determined in the manner provided above) for the Calculation Amount and that multiple without any further rounding.

**Day Count Fraction** means, in respect of the calculation of an amount of interest in accordance with this Condition 5.2:

- (i) if “Actual/Actual (ISDA)” or “Actual/Actual” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (I) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (II) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
- (ii) if “Actual/365 (Fixed)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365;
- (iii) if “Actual/365 (Sterling)” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
- (iv) if “Actual/360” is specified in the applicable Final Terms, the actual number of days in the Interest Period divided by 360;
- (v) if “30/360”, “360/360” or “Bond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

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

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

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

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

**D<sub>1</sub>** is the first calendar day, expressed as a number, of the Interest Period, unless such number is 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 included in the Interest 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;

- (vi) if “30E/360” or “Eurobond Basis” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

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

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

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

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

**D<sub>1</sub>** is the first calendar day, expressed as a number, of the Interest 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 included in the Interest Period, unless such number would be 31, in which case D<sub>2</sub> will be 30;

- (vii) if “30E/360 (ISDA)” is specified in the applicable Final Terms, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1) + [30 \times (M_2 - M_1)] + (D_2 - D_1)]}{360}$$

where:

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

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

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

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

**D<sub>1</sub>** is the first calendar day, expressed as a number, of the Interest Period, unless (i) that day is the last day of February or (ii) 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 included in the Interest Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31 and in which case D<sub>2</sub> will be 30.

(e) Linear Interpolation

Where Linear Interpolation is specified as applicable in respect of an Interest Period in the applicable Final Terms, the Rate of Interest for such Interest Period shall be calculated by the Principal Paying Agent by straight line linear interpolation by reference to two rates based on the relevant Reference Rate (where Screen Rate Determination is specified as applicable in the applicable Final Terms) or the relevant Floating Rate Option (where ISDA Determination is specified as applicable in the applicable Final Terms), one of which shall be determined as if the Designated Maturity were the period of time for which rates are available next shorter than the length of the relevant Interest Period and the other of which shall be determined as if the Designated Maturity were the period of time for which rates are available next longer than the length of the relevant Interest Period, provided however that if there is no rate available for a period of time next shorter or, as the case may be, next longer, then the Principal Paying Agent shall determine such rate at such time and by reference to such sources as it determines appropriate.

(f) Notification of Rate of Interest and Interest Amounts

The Principal Paying Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified promptly to the Issuer, the Trustee and any stock exchange on which the relevant Floating Rate Notes are for the time being listed (and in any event no later than the first day of the relevant Interest Period) and notice thereof to be published in accordance with Condition 14 as soon as possible after their determination but in no event later than the fourth London Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without prior notice in the event of an extension or shortening of the Interest Period. Any such

amendment will be promptly notified to each stock exchange on which the relevant Floating Rate Notes are for the time being listed and to the Noteholders in accordance with Condition 14. For the purposes of this paragraph, the expression **London Business Day** means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for general business in London.

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

If for any reason at any relevant time the Principal Paying Agent defaults in its obligation to determine the Rate of Interest or the Principal Paying Agent defaults in its obligation to calculate any Interest Amount in accordance with Condition 5.2(a) or Condition 5.2(b) above, as the case may be, and in each case in accordance with Condition 5.2(d) above, the Trustee (or a person appointed by it for the purpose) shall determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it shall think fit to the foregoing provisions of this Condition, but subject always to any Minimum Rate of Interest or Maximum Rate of Interest specified in the applicable Final Terms), it shall deem fair and reasonable in all the circumstances or, as the case may be, the Trustee shall calculate the Interest Amount(s) in such manner as it shall deem fair and reasonable in all the circumstances and each such determination or calculation shall be deemed to have been made by the Principal Paying Agent. In making any such determination or calculation, the Trustee (at the expense of the Issuer) may appoint and rely on a determination or calculation by a calculation agent (which shall be an investment bank or other suitable entity of international repute). The Trustee shall have no liability to any person in connection with any determination or calculation it is required to make pursuant to this Condition.

(h) **Certificates to be final**

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 5.2, whether by the Principal Paying Agent or, if applicable, the Trustee, (or any agent appointed by the Trustee) shall (in the absence of wilful default, bad faith or manifest error or proven error) be binding on the Issuer, the Principal Paying Agent, the other Agents and all Noteholders and Couponholders and (in the absence as aforesaid) no liability to the Issuer, the Noteholders or the Couponholders shall attach to the Principal Paying Agent or the Trustee (or any agent appointed by the Trustee) in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

### **5.3 Accrual of interest**

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) from the date for its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue as well after as before judgement as provided in the Trust Deed at the Rate of Interest for the Relevant Date (as defined in Condition 8).

### **5.4 Adjustment of Rate of Interest for Fixed Rate Notes and Floating Rate Notes**

If a Step Up Rating Change and/or Step Down Rating Change is specified in the applicable Final Terms, the following terms relating to the Rate of Interest for the Notes shall apply:

- (i) The Rate of Interest payable on the Notes will be subject to adjustment from time to time in the event of a Step Up Rating Change or a Step Down Rating Change, as the case may be.
- (ii) Subject to paragraphs (iv) and (vii) below, from and including the first Interest Payment Date following the date of a Step Up Rating Change, if any, the Rate of Interest (in the case of Fixed Rate Notes) or the Margin (in the case of Floating Rate Notes) payable on the Notes shall be increased by the Step Up Margin specified in the applicable Final Terms.
- (iii) Subject to paragraphs (iv) and (vii) below, in the event of a Step Down Rating Change following a Step Up Rating Change, with effect from and including the first Interest Payment Date following the date of such Step Down Rating Change, the Rate of Interest (in the case of Fixed Rate Notes) or the Margin (in the case of Floating Rate Notes) payable on the Notes shall be decreased by the Step Up Margin back to the initial Rate of Interest (in the case of Fixed Rate Notes) or the initial Margin (in the case of Floating Rate Notes).
- (iv) If a Step Up Rating Change and, subsequently, a Step Down Rating Change occur during the same Fixed Interest Period (in the case of Fixed Rate Notes) or the same Interest Period (in the

case of Floating Rate Notes), the Rate of Interest (in the case of Fixed Rate Notes) or the Margin (in the case of Floating Rate Notes) on the Notes shall be neither increased nor decreased as a result of either such event.

- (v) The Issuer shall use all reasonable efforts to maintain credit ratings for its senior unsecured long-term debt from both Rating Agencies. If, notwithstanding such reasonable efforts, either Rating Agency fails to or ceases to assign a credit rating to the Issuer's senior unsecured long-term debt, the Issuer shall use all reasonable efforts to obtain a credit rating of its senior unsecured long-term debt from a substitute rating agency that shall be a Statistical Rating Agency, and references in this Condition 5.4 to Moody's or S&P, as the case may be, or the credit ratings thereof, shall be to such substitute rating agency or, as the case may be, the equivalent credit ratings thereof.
- (vi) The Issuer will cause the occurrence of a Step Up Rating Change or a Step Down Rating Change giving rise to an adjustment to the Rate of Interest payable on the Notes pursuant to this Condition 5.4 to be notified to the Trustee and the Principal Paying Agent and notice thereof to be published in accordance with Condition 14 as soon as reasonably practicable after the occurrence of such Step Up Rating Change or Step Down Rating Change, but in no event later than the fifth London Business Day thereafter.
- (vii) A Step Up Rating Change (if any) and a Step Down Rating Change (if any), may only occur once each during the term of the Notes and shall give rise to an adjustment to the Rate of Interest payable on the Notes.
- (viii) If the rating designations employed by Moody's or S&P are changed from those which are described in this Condition 5.4, or if a rating is procured from a Statistical Rating Agency, the Issuer shall determine, with the agreement of the Trustee (not to be unreasonably withheld or delayed) the rating designations of Moody's or S&P or such Statistical Rating Agency as are most equivalent to the prior rating designations of Moody's or S&P or such Statistical Rating Agency, as the case may be.

Where:

**Moody's** means Moody's Investors Service Ltd., or its successor, established in the European Union and registered under Regulation (EC) No. 1060/2009 (as amended);

**Rating Agency** means either Moody's or S&P and **Rating Agencies** means both of them;

**S&P** means Standard and Poor's Credit Market Services Europe Limited, or its successor, established in the European Union and registered under Regulation (EC) No. 1060/2009 (as amended);

**Statistical Rating Agency** means Fitch Ratings Ltd. or its successor or such other rating agency as may be proposed by the Issuer and approved by the Trustee, such approval not to be unreasonably withheld or delayed;

**Step Down Rating Change** means the first public announcement by both Rating Agencies, after a Step Up Rating Change, that the credit rating of the Issuer's senior unsecured long-term debt is at least Baa3 in the case of Moody's and is at least BBB- in the case of S&P. For the avoidance of doubt, any further increase in the credit rating of the Issuer's senior unsecured long-term debt above Baa3 in the case of Moody's or above BBB- in the case of S&P shall not constitute a Step Down Rating Change; and

**Step Up Rating Change** means the first public announcement by either Rating Agency or both Rating Agencies of a decrease in the credit rating of the Issuer's senior unsecured long-term debt to below Baa3 in the case of Moody's or below BBB- in the case of S&P. For the avoidance of doubt, any further decrease in the credit rating of the Issuer's senior unsecured long-term debt from below Baa3 in the case of Moody's or from below BBB- in the case of S&P shall not constitute a Step Up Rating Change.

## 6. PAYMENTS

### 6.1 Method of payment

Subject as provided below:

- (a) payments in a Specified Currency other than euro will be made by credit or transfer to an account in the relevant Specified Currency (which, in the case of a payment in Japanese yen to a non-resident of Japan, shall be a non-resident account) maintained by the payee with a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively); and
- (b) payments will be made in euro by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

Payments will be subject in all cases to (i) any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 8 and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or (without prejudice to the provisions of Condition 8) any law implementing an intergovernmental approach thereto.

### 6.2 Presentation of definitive Bearer Notes and Coupons

Payments of principal in respect of definitive Bearer Notes will (subject as provided below) be made in the manner provided in Condition 6.1 above only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of definitive Bearer Notes, and payments of interest in respect of definitive Bearer Notes will (subject as provided below) be made as aforesaid only against presentation and surrender (or, in the case of part payment of any sum due, endorsement) of Coupons, in each case at the specified office of any Paying Agent outside the United States (which expression, as used herein, means the United States of America (including the States and the District of Columbia and its possessions)).

Fixed Rate Notes in definitive bearer form (other than Long Maturity Notes (as defined below)) should be presented for payment together with all unmatured Coupons appertaining thereto (which expression shall for this purpose include Coupons falling to be issued on exchange of matured Talons), failing which the amount of any missing unmatured Coupon (or, in the case of payment not being made in full, the same proportion of the amount of such missing unmatured Coupon as the sum so paid bears to the sum due) will be deducted from the sum due for payment. Each amount of principal so deducted will be paid in the manner mentioned above against surrender of the relative missing Coupon at any time before the expiry of 10 years after the Relevant Date (as defined in Condition 8) in respect of such principal (whether or not such Coupon would otherwise have become void under Condition 9) or, if later, five years from the date on which such Coupon would otherwise have become due, but in no event thereafter.

Upon any Fixed Rate Note in definitive bearer form becoming due and repayable prior to its Maturity Date, all unmatured Talons (if any) appertaining thereto will become void and no further Coupons will be issued in respect thereof.

Upon the date on which any Floating Rate Note or Long Maturity Note in definitive bearer form becomes due and repayable, unmatured Coupons and Talons (if any) relating thereto (whether or not attached) shall become void and no payment or, as the case may be, exchange for further Coupons shall be made in respect thereof. A **Long Maturity Note** is a Fixed Rate Note (other than a Fixed Rate Note which on issue had a Talon attached) whose nominal amount on issue is less than the aggregate interest payable thereon provided that such Note shall cease to be a Long Maturity Note on the Interest Payment Date on which the aggregate amount of interest remaining to be paid after that date is less than the nominal amount of such Note.

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

### 6.3 Payments in respect of Bearer Global Notes

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

### 6.4 Payments in respect of Registered Notes

Payments of principal in respect of each Registered Note (whether or not in global form) will be made against presentation and surrender of the Registered Note at the specified office of the Registrar or any of the Paying Agents. Such payments will be made by transfer to the Designated Account (as defined below) of the holder (or the first named of joint holders) of the Registered Note appearing in the register of holders of the Registered Notes maintained by the Registrar (the **Register**) (i) where in global form, at the close of the business day (being for this purpose a day on which Euroclear and Clearstream, Luxembourg are open for business) before the relevant due date, and (ii) where in definitive form, at the close of business on the third business day (being for this purpose a day on which banks are open for business in the city where the specified office of the Registrar is located) before the relevant due date. For these purposes, **Designated Account** means the account (which, in the case of a payment in Japanese Yen to a non-resident of Japan, shall be a non-resident account) maintained by a holder with a Designated Bank and identified as such in the Register and **Designated Bank** means (in the case of payment in a Specified Currency other than euro) a bank in the principal financial centre of the country of such Specified Currency (which, if the Specified Currency is Australian dollars or New Zealand dollars, shall be Sydney and Auckland, respectively) and (in the case of a payment in euro) any bank which processes payments in euro.

Payments of interest in respect of each Registered Note will be made by transfer on the due date to the Designated Account of the holder (or the first named of joint holders) of the Registered Note appearing in the Register (i) where in global form, at the close of the business day (being for this purpose a day on which Euroclear and Clearstream, Luxembourg are open for business) before the relevant due date, and (ii) where in definitive form, at the close of business on the fifteenth day (whether or not such fifteenth day is a business day) before the relevant due date (the **Record Date**).

Payment of the interest due in respect of each Registered Note on redemption will be made in the same manner as payment of the nominal amount of such Registered Note as set out in the first sentence of Condition 6.4 above.

No commissions or expenses shall be charged to the holders by the Registrar in respect of any payments of principal or interest in respect of Registered Notes.

None of the Issuer or the Agents will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial ownership interests in the Registered Global Notes or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

### 6.5 General provisions applicable to payments

The holder of a Global Note shall be the only person entitled to receive payments in respect of Notes represented by such Global Note and the Issuer will be discharged by payment to, or to the order of, the holder of such Global Note in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the beneficial holder of a particular nominal amount of Notes represented by such Global Note must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Issuer to, or to the order of, the holder of such Global Note.

Notwithstanding the foregoing provisions of this Condition, if any amount of principal and/or interest in respect of Bearer Notes is payable in U.S. dollars, such U.S. dollar payments of principal and/or interest in respect of such Notes will be made at the specified office of a Paying Agent in the United States if:

- (a) the Issuer has appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment in U.S. dollars at such specified offices outside the United States of the full amount of principal and interest on the Bearer Notes in the manner provided above when due;
- (b) payment of the full amount of such principal and interest at all such specified offices outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions on the full payment or receipt of principal and interest in U.S. dollars; and
- (c) such payment is then permitted under United States law without involving, in the opinion of the Issuer, adverse tax consequences to the Issuer.

## 6.6 Payment Day

If the date for payment of any amount in respect of any Note or Coupon is not a Payment Day, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay. For these purposes, **Payment Day** means any day which (subject to Condition 9) is:

- (a) a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in:
  - (i) in the case of Notes in definitive form only, the relevant place of presentation; and
  - (ii) any Additional Financial Centre specified in the applicable Final Terms; and
- (b) either (i) in relation to any sum payable in a Specified Currency other than euro, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in the principal financial centre of the country of the relevant Specified Currency (which if the Specified Currency is Australian dollars or New Zealand dollars shall be Sydney and Auckland, respectively) or (ii) in relation to any sum payable in euro, a day on which the TARGET2 System is open.

## 6.7 Interpretation of principal and interest

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

- (a) any additional amounts which may be payable with respect to principal under Condition 8;
- (b) the Final Redemption Amount of the Notes;
- (c) the Early Redemption Amount of the Notes;
- (d) the Optional Redemption Amount(s) (if any) of the Notes;
- (e) in relation to Zero Coupon Notes, the Amortised Face Amount (as defined in Condition 7.6); and
- (f) any premium and any other amounts (other than interest) which may be payable by the Issuer under or in respect of the Notes.

Any reference 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 with respect to interest under Condition 8.

## 6.8 Payments subject to laws

All payments are subject in all cases to any applicable laws, regulations and directives in the place of payment, but without prejudice to the provisions of Condition 8. No commission or expenses shall be charged to the Noteholders or Couponholders in respect of such payments.



## **7. REDEMPTION AND PURCHASE**

### **7.1 Redemption at maturity**

Unless previously redeemed or purchased and cancelled as specified below, each Note will be redeemed by the Issuer at its Final Redemption Amount specified in the applicable Final Terms in the relevant Specified Currency on the Maturity Date specified in the applicable Final Terms.

### **7.2 Redemption for tax reasons**

Subject to Condition 7.6, the Notes may be redeemed at the option of the Issuer in whole, but not in part, at any time (if this Note is not a Floating Rate Note) or on any Interest Payment Date (if this Note is a Floating Rate Note), on giving not less than the minimum period and not more than the maximum period of notice specified in the applicable Final Terms to the Trustee, the Principal Paying Agent and, in accordance with Condition 14, the Noteholders (which notice shall be irrevocable), if the Issuer delivers to the Trustee a certificate signed by two Directors of the Issuer stating that:

- (a) on the occasion of the next payment due under the Notes the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 8 as a result of any change in or amendment to, the laws or regulations of a Tax Jurisdiction (as defined in Condition 8) or any change in the application or interpretation of such laws or regulations, which change or amendment becomes effective on or after the date on which agreement is reached to issue the first Tranche of the Notes; and
- (b) such obligation or treatment, as the case may be, cannot be avoided by the Issuer taking reasonable measures available to it,

PROVIDED THAT no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts or give effect to such treatment, as the case may be, were a payment in respect of the Notes then due.

The Trustee shall be entitled to accept the certificate as sufficient evidence of the satisfaction of the conditions precedent set out above, in which case it shall be conclusive and binding on the Noteholders and the Couponholders.

Notes redeemed pursuant to this Condition 7.2 will be redeemed at their Early Redemption Amount referred to in Condition 7.6 below together (if appropriate) with interest accrued to (but excluding) the date of redemption.

### **7.3 Redemption at the option of the Issuer (Issuer Call)**

If Issuer Call is specified as being applicable in the applicable Final Terms, the Issuer may, having given not less than the minimum period and not more than the maximum period of notice specified in the applicable Final Terms to the Trustee, the Principal Paying Agent (and, in the case of a redemption of Registered Notes, the Registrar), the competent authority or stock exchange on which the Notes are listed, if any (if required by such competent authority or stock exchange) and, in accordance with Condition 14, the Noteholders (which notices shall be irrevocable and shall specify the date fixed for redemption), redeem all or some only of the Notes then outstanding on the Optional Redemption Date(s) as specified in the applicable Final Terms and at the Optional Redemption Amount(s) together, if appropriate, with interest accrued to (but excluding) the relevant Optional Redemption Date(s). Upon expiry of such notice the Issuer shall be bound to redeem the Notes accordingly. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount and not more than the Maximum Redemption Amount, in each case as may be specified in the applicable Final Terms. The Optional Redemption Amount will either be the specified percentage of the nominal amount of the Notes stated in the applicable Final Terms or, if either Spens Amount or Make Whole Redemption Amount is specified in the applicable Final Terms, will be:

- (a) if Spens Amount is specified as being applicable in the applicable Final Terms, the higher of (i) 100 per cent. of the nominal amount outstanding of the Notes to be redeemed and (ii) the nominal amount outstanding of the Notes to be redeemed multiplied by the price expressed as a percentage (rounded up to four decimal places), as reported to the Issuer and the Trustee by the Determination Agent, at which the Gross Redemption Yield (assuming for this purpose that the Notes are to be redeemed at, unless otherwise so specified in the applicable Final Terms, the Final Redemption Amount on the Maturity Date) on such Notes on the

Reference Date is equal to the Gross Redemption Yield (determined by reference to the middle market price) at the Quotation Time on the Reference Date of the Reference Bond, plus the Redemption Margin; or

- (b) if Make Whole Redemption Amount is specified as applicable in the applicable Final Terms, the higher of (i) 100 per cent. of the nominal amount outstanding of the Notes to be redeemed and (ii) the sum of the present values expressed as a percentage (rounded up to four decimal places) of the nominal amount outstanding of the Notes to be redeemed and of each payment of Remaining Term Interest on such Notes (exclusive of interest accrued to the date on which such Notes are to be redeemed by the Issuer pursuant to this Condition 7.3) and such present values shall be calculated by discounting such amounts to such date of redemption on an annual basis (assuming a 360-day year consisting of twelve 30-day months or, in the case of an incomplete month, the number of days elapsed) at the Reference Bond Rate, plus the Redemption Margin,

all as determined by the Determination Agent.

In this Condition:

**DA Selected Bond** means a government security or securities selected by the Determination Agent as having an actual or interpolated maturity comparable with the remaining term of the Notes, that would be utilised, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities denominated in the Specified Currency and of a comparable maturity to the remaining term of the Notes;

**Determination Agent** means an investment bank or financial institution of international standing selected by the Issuer after consultation with the Trustee;

**Gross Redemption Yield** means, with respect to a security, the gross redemption yield on such security, expressed as a percentage and calculated by the Determination Agent on the basis set out by the United Kingdom Debt Management Office in the paper "Formulae for Calculating Gilt Prices from Yields", page 5, Section One: Price/Yield Formulae "Conventional Gilts"; "Double dated and Undated Gilts with Assumed (or Actual) Redemption on a Quasi-Coupon Date" (published 8 June 1998, as amended or updated from time to time) on a semi-annual compounding basis (converted to an annualised yield and rounded up (if necessary) to four decimal places) or on such other basis as the Trustee may (in its absolute discretion) approve;

**Quotation Time** shall be as set out in the applicable Final Terms;

**Redemption Margin** shall be as set out in the applicable Final Terms;

**Reference Bond** shall be as set out in the applicable Final Terms or the DA Selected Bond;

**Reference Bond Price** means, with respect to any Reference Date, (a) the arithmetic average of the Reference Government Bond Dealer Quotations for such Reference Date, after excluding the highest and lowest such Reference Government Bond Dealer Quotations, or (b) if the Determination Agent obtains fewer than four such Reference Government Bond Dealer Quotations, the arithmetic average of all such quotations;

**Reference Bond Rate** means, with respect to any Reference Date, the rate per annum equal to the annual or semi-annual yield (as the case may be) to maturity or interpolated yield to maturity (on the relevant day count basis) of the Reference Bond, assuming a price for the Reference Bond (expressed as a percentage of its nominal amount) equal to the Reference Bond Price for such Reference Date;

**Reference Date** shall be as set out in the applicable Final Terms or as set out in the relevant notice of redemption;

**Reference Government Bond Dealer** means each of five banks selected by the Issuer, or their affiliates, which are (A) primary government securities dealers, and their respective successors, or (B) market makers in pricing corporate bond issues;

**Reference Government Bond Dealer Quotations** means, with respect to each Reference Government Bond Dealer and any date of redemption, the arithmetic average, as determined by the Determination Agent, of the bid and offered prices for the Reference Bond (expressed in each case as a percentage of

its nominal amount) at the Quotation Time on the Reference Date quoted in writing to the Determination Agent by such Reference Government Bond Dealer; and

**Remaining Term Interest** means, in respect of Notes to be redeemed by the Issuer pursuant to this Condition 7.3, each scheduled payment of interest on such Notes for the remaining term of such Notes determined on the basis of the rate of interest applicable to such Notes from and including the date on which such Notes are to be redeemed by the Issuer pursuant to this Condition 7.3.

In the case of a partial redemption of Notes, the Notes to be redeemed (**Redeemed Notes**) will (i) in the case of Redeemed Notes represented by definitive Notes, be selected individually by lot, not more than 10 days prior to the date fixed for redemption and (ii) in the case of Redeemed Notes represented by a Global Note, be selected in accordance with the rules of Euroclear and/or Clearstream, Luxembourg (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 10 days prior to the date fixed for redemption. The aggregate nominal amount of Redeemed Notes represented by definitive Notes shall bear the same proportion to the aggregate nominal amount of all Redeemed Notes as the aggregate nominal amount of definitive Notes outstanding bears to the aggregate nominal amount of the Notes outstanding, in each case on the Selection Date, provided that, such first mentioned nominal amount shall, if necessary, be rounded downwards to the nearest integral multiple of the Specified Denomination and the aggregate nominal amount of Redeemed Notes represented by a Global Note shall be equal to the balance of the Redeemed Notes.

#### **7.4 Redemption at par at the option of the Issuer (Issuer Par Call)**

If Issuer Par Call is specified as being applicable in the applicable Final Terms, the Issuer may, having given not less than the minimum period nor more than the maximum period of notice specified in the applicable Final Terms to the Trustee, the Principal Paying Agent (and, in the case of Registered Notes, the Registrar) and the Noteholders in accordance with Condition 14 (which notice shall be irrevocable and shall specify the date fixed for redemption), redeem all or some only of the Notes then outstanding at their nominal amount together with interest accrued to (but excluding) the date fixed for redemption at any time during the period starting on (and including) the Issuer Par Call Date specified in the applicable Final Terms and ending on (but excluding) the Maturity Date. Any such redemption must be of a nominal amount not less than the Minimum Redemption Amount and not more than the Maximum Redemption Amount, in each case as may be specified in the applicable Final Terms.

In the case of a partial redemption of Notes, the Notes to be redeemed (**Redeemed Notes**) will (i) in the case of Redeemed Notes represented by definitive Notes, be selected individually by lot, not more than 30 days prior to the date fixed for redemption and (ii) in the case of Redeemed Notes represented by a Global Note, be selected in accordance with the rules of Euroclear and/or Clearstream, Luxembourg (to be reflected in the records of Euroclear and Clearstream, Luxembourg as either a pool factor or a reduction in nominal amount, at their discretion). In the case of Redeemed Notes represented by definitive Notes, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 14 not less than 10 days prior to the date fixed for redemption.

#### **7.5 Redemption at the option of the Noteholders**

(a) **General Investor Put**

If General Investor Put is specified as being applicable in the applicable Final Terms, upon the holder of this Note giving to the Issuer, in accordance with Condition 14, not less than the minimum period nor more than the maximum period of notice specified in the applicable Final Terms, the Issuer will, upon the expiry of such notice, redeem such Note on the Optional Redemption Date and at the Optional Redemption Amount together, if applicable, with interest accrued to (but excluding) the relevant Optional Redemption Date.

If this Note is in definitive form and held outside Euroclear and Clearstream, Luxembourg, to exercise the right to require redemption of this Note the holder of this Note must deliver such

Note, on any Business Day (as defined in Condition 5) falling within the notice period at the specified office of any Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes), accompanied by a duly signed and completed notice of exercise in the form (for the time being current) obtainable from any specified office of any Paying Agent or, as the case may be, the Registrar (a **Put Notice**) and in which the holder must specify a bank account to which payment is to be made under this Condition and, in the case of Registered Notes, the nominal amount thereof to be redeemed and, if less than the full nominal amount of the Registered Notes so surrendered is to be redeemed, an address to which a new Registered Note in respect of the balance of such Registered Notes is to be sent subject to and in accordance with the provisions of Condition 2.2. If this Note is represented by a Global Note or is in definitive form and held through Euroclear or Clearstream, Luxembourg, to exercise the right to require redemption of this Note the holder of this Note must, within the notice period, give notice to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) of such exercise in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg (which may include notice being given on his instruction by Euroclear or Clearstream, Luxembourg or any common depository for them to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) by electronic means) in a form acceptable to Euroclear and Clearstream, Luxembourg from time to time and, if this Note is represented by a Global Note, at the same time present or procure the presentation of the relevant Global Note to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) for notation accordingly.

Any Put Notice given by a holder of any Note pursuant to this Condition 7.5(a) shall be irrevocable except where prior to the due date of redemption an Event of Default shall have occurred and the Trustee has declared the Notes to be due and payable pursuant to Condition 10 in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this Condition 7.5(a).

(b) Change of Control Investor Put

If Change of Control Investor Put is specified as being applicable in the Final Terms the following provisions shall apply to the Notes:

- (i) If at any time while any Note remains outstanding, a Restructuring Event occurs and within the Restructuring Period (i) (if at the time that Restructuring Event occurs there are Rated Securities), a Rating Downgrade in respect of that Restructuring Event occurs or (ii) (if at such time there are no Rated Securities), a Negative Rating Event in respect of that Restructuring Event occurs (in either case, a **Put Event**), the holder of each Note will have the option (unless, prior to the giving of the Put Event Notice referred to below, the Issuer gives notice under Condition 7.2 or Condition 7.3) to require the Issuer to redeem or, at the Issuer's option, purchase (or procure the purchase of) each such Note on the Put Date (as defined below) at its nominal amount (the **Optional Redemption Amount**) together with (or, where purchased, together with an amount equal to) interest accrued to (but excluding) the Put Date.
- (ii) Promptly upon, and in any event within 21 days after, the Issuer becoming aware that a Put Event has occurred, the Issuer shall, and at any time upon the Trustee becoming similarly so aware the Trustee may, and if so requested by the holders of at least one-quarter in nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders, the Trustee shall (subject in each case to the Trustee being indemnified and/or secured to its satisfaction), give notice (a **Put Event Notice**) to the Noteholders in accordance with Condition 14 specifying the nature of the Put Event and the procedure for exercising the option contained in this Condition 7.5(b).
- (iii) If this Note is in definitive form and held outside Euroclear and Clearstream, Luxembourg, to exercise the option to require redemption of this Note under this Condition 7.5(b), the holder of this Note must deliver such Note, on any Payment Day (as defined in Condition 6.6) in the city of the specified office of the relevant Paying Agent (in the case of Bearer Notes) or Registrar (in the case of Registered

Notes) falling within the period (the **Put Period**) of 30 days after a Put Event Notice is given, at the specified office of any Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes), accompanied by a duly signed and completed Put Notice (as defined in Condition 7.5(a)).

- (iv) The Note (in the case of Bearer Notes) should be delivered together with all Coupons appertaining thereto maturing after the date seven days after the expiry of the Put Period (the **Put Date**) failing which either (i) in the case of Fixed Rate Notes (other than Long Maturity Notes), the Paying Agent will require payment of an amount equal to the face value of any such missing Coupon or (ii) in the case of Floating Rate Notes or Long Maturity Notes, any such missing coupon will be void. In the case of Fixed Rate Notes (other than Long Maturity Notes), any amount so paid will be reimbursed in the manner provided in Condition 6 against presentation and surrender of the relevant missing Coupon (or any replacement therefor issued pursuant to Condition 11) any time after such payment, but before the expiry of the period of five years from the date on which such Coupon would have become due, but not thereafter.
- (v) The Paying Agent or Registrar (as the case may be) to which such Note and Put Notice are delivered will issue to the Noteholder concerned a non-transferable receipt in respect of the Note so delivered or, in the case of a Global Note or a Note in definitive form held through Euroclear or Clearstream, Luxembourg, notice so received. Payment in respect of any such Note so delivered will be made, if the holder duly specifies a bank account to which payment is to be made under this Condition and, in the case of Registered Notes, the nominal amount thereof to be redeemed and, if less than the full nominal amount of the Registered Notes so surrendered is to be redeemed, an address to which a new Registered Note in respect of the balance of such Registered Notes is to be sent subject to and in accordance with the provisions of Condition 2.2.
- (vi) If this Note is represented by a Global Note or is in definitive form and held through Euroclear or Clearstream, Luxembourg, to exercise the right to require redemption of this Note the holder of this Note must, within the notice period, give notice to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) of such exercise in accordance with the standard procedures of Euroclear and Clearstream, Luxembourg (which may include notice being given on his instruction by Euroclear or Clearstream, Luxembourg or any common depositary for them to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) by electronic means) in a form acceptable to Euroclear and Clearstream, Luxembourg from time to time and, if this Note is represented by a Global Note, at the same time present or procure the presentation of the relevant Global Note to the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes) for notation accordingly.
- (vii) Any Put Notice given by a holder of any Note pursuant to this Condition 7.5(b) shall be irrevocable except where prior to the due date of redemption an Event of Default shall have occurred and the Trustee has declared the Notes to be due and payable pursuant to Condition 10 in which event such holder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this Condition 7.5(b). The Issuer shall redeem or, at the option of the Issuer, purchase (or procure the purchase of) the relevant Notes on the Put Date unless previously redeemed or purchased.

If 80 per cent. or more in nominal amount of the Notes then outstanding have been redeemed or purchased pursuant to the foregoing provisions of this Condition 7.5(b), the Issuer may, on not less than the minimum period nor more than the maximum period of notice specified in the applicable Final Terms to the Noteholders given within 30 days after the Put Date, redeem, at its option, the remaining Notes as a whole at Optional Redemption Amount plus interest accrued to but excluding the date of such redemption.

(viii) For the purpose of this Condition:

A **Negative Rating Event** shall be deemed to have occurred if (i) the Issuer does not, either prior to or not later than 21 days after the relevant Restructuring Event, seek, and thereupon use all reasonable endeavours to obtain, a rating of the Notes or any other unsecured and unsubordinated debt of the Issuer (or any Subsidiary of the Issuer which is guaranteed on an unsecured and unsubordinated basis by the Issuer) having an initial maturity of five years or more (**Rateable Debt**) from a Rating Agency or (ii) if it does so seek and use such endeavours, it is unable, as a result of such Restructuring Event to obtain such a rating of at least investment grade BBB- (in the case of Standard and Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. (**S&P**)), Baa3 (in the case of Moody's Investors Service, Inc. (**Moody's**)) or BBB- (in the case of Fitch Ratings Ltd. (**Fitch Ratings**)), or their respective equivalents for the time being), provided that a Negative Rating Event shall not be deemed to have occurred in respect of a particular Restructuring Event if the Rating Agency declining to assign a rating of at least investment grade (as defined above) does not announce or publicly confirm or inform the Trustee in writing at its request that its declining to assign a rating of at least investment grade was the result, in whole or in part, of any event or circumstance comprised in or arising as a result of, or in respect of, the applicable Restructuring Event (whether or not the Restructuring Event shall have occurred at the time such investment grade rating is declined);

**Rated Securities** means the Notes so long as they shall have an effective rating from any Rating Agency and otherwise any unsecured and unsubordinated debt of the Issuer having an initial maturity of five years or more which is rated by one of the Rating Agencies;

**Rating Agency** means S&P and its successors or affiliates or Moody's and its successors or affiliates or Fitch Ratings and its successors or affiliates or any other rating agency of equivalent standing specified by the Issuer from time to time and agreed in writing by the Trustee;

A **Rating Downgrade** shall be deemed to have occurred in respect of a Restructuring Event if the current rating whether provided by a Rating Agency at the invitation of the Issuer or by its own volition assigned to the Rated Securities by any Rating Agency (i) is withdrawn and is not within the Restructuring Period replaced by a rating of another Rating Agency at least equivalent to that which was current immediately before the occurrence of the Restructuring Event or (ii) is reduced from an investment grade rating BBB- (in the case of S&P) /Baa3 (in the case of Moody's) /BBB- (in the case of Fitch) (or their respective equivalents for the time being) or better to a non-investment grade rating BB+ (in the case of S&P) /Ba1 (in the case of Moody's) /BB+ (in the case of Fitch) (or their respective equivalents for the time being) or worse; provided that a Rating Downgrade otherwise arising by virtue of a particular reduction in rating shall not be deemed to have occurred in respect of a particular Restructuring Event if the Rating Agency making the reduction in rating to which this definition would otherwise apply does not announce or publicly confirm or inform the Trustee in writing at its request that the reduction was the result, in whole or part, of any event or circumstance comprised in or arising as a result of, or in respect of, the applicable Restructuring Event (whether or not the applicable Restructuring Event shall have occurred at the time of the Rating Downgrade);

A **Restructuring Event** shall be deemed to have occurred at each time (whether or not approved by the Board of Directors of the Issuer) that any person or any persons acting in concert (as defined in the City Code on Takeovers and Mergers), other than a holding company (as defined in Section 1159 of the Companies Act 2006 as amended) whose shareholders are or are to be substantially similar to the pre-existing shareholders of the Issuer, or any person or persons acting on behalf of any such person(s), at any time is/are or become(s) interested (within the meaning of Part 22 of the Companies Act 2006) in (A) more than 50 per cent. of the issued or allotted

ordinary share capital of the Issuer or (B) such number of shares in the capital of the Issuer carrying more than 50 per cent. of the voting rights normally exercisable at a general meeting of the Issuer; and

**Restructuring Period** means the period ending 90 days after the public announcement of the Restructuring Event having occurred (or such longer period in which the Rated Securities or Rateable Debt, as the case may be, is or are under consideration (announced publicly within the first mentioned period) for rating review or, as the case may be, rating by a Rating Agency).

If the rating designations employed by any of S&P, Moody's or Fitch Ratings are changed from those which are described in paragraph (ii) of the definition of "Negative Rating Event" above, or if a rating is procured from another Rating Agency, the Issuer shall determine, with the agreement of an independent financial advisor, selected by the Issuer and to whom the Trustee does not reasonably object, the rating designations of S&P, Moody's, Fitch Ratings or such other Rating Agency (as appropriate) as one most equivalent to the prior rating designations of S&P, Moody's or Fitch Ratings, and this Condition 7.5(b) shall be construed accordingly.

## 7.6 Early Redemption Amounts

For the purpose of Condition 7.2 and Condition 10.1:

- (a) each Note (other than a Zero Coupon Note) will be redeemed at its Early Redemption Amount; and
- (b) each Zero Coupon Note will be redeemed at an amount (the **Amortised Face Amount**) calculated in accordance with the following formula:

$$\text{Early Redemption Amount} = \text{RP} \times (1 + \text{AY})^y$$

where:

**RP** means the Reference Price; and

**AY** means the Accrual Yield expressed as a decimal; and

**y** is the Day Count Fraction specified in the applicable Final Terms which will be either (i) 30/360 (in which case the numerator will be equal to the number of days (calculated on the basis of a 360-day year consisting of 12 months of 30 days each) from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 360) or (ii) Actual/360 (in which case the numerator will be equal to the actual number of days from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 360) or (iii) Actual/365 (in which case the numerator will be equal to the actual number of days from (and including) the Issue Date of the first Tranche of the Notes to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable and the denominator will be 365).

## 7.7 Purchases

The Issuer or its Holding Company (as defined in the Trust Deed) or any of their respective Subsidiaries may (subject as provided above) at any time purchase Notes (provided that, in the case of definitive Bearer Notes, all unmatured Coupons and Talons appertaining thereto are purchased therewith) in the open market or otherwise in any manner or at any price. Such Notes may be held, reissued, resold or at the option of the Issuer or the relevant Holding Company or Subsidiary surrendered to the Principal Paying Agent for cancellation.

## 7.8 Cancellation

All Notes purchased by or on behalf of the Issuer, its Holding Company (as defined in the Trust Deed) or any of its Subsidiaries may be surrendered for cancellation, in the case of Bearer Notes, by surrendering each such Note together with all unmatured Coupons and all unexchanged Talons to the

Principal Paying Agent and, in the case of Registered Notes, by surrendering the certificate representing such Notes to the Registrar and, in each case, if so surrendered, shall, together with all Notes redeemed by the Issuer, be cancelled forthwith (together with all unmatured Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

#### **7.9 Late payment on Zero Coupon Notes**

If the amount payable in respect of any Zero Coupon Note upon redemption of such Zero Coupon Note under Condition 7.1, 7.2, 7.3, 7.4 or 7.5 above or upon its becoming due and repayable as provided in Condition 10 is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Note shall be the amount calculated as provided in Condition 7.6(b) as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Note becomes due and payable were replaced by references to the date which is the earlier of:

- (a) the date on which all amounts due in respect of such Zero Coupon Note have been paid; and
- (b) five days after the date on which the full amount of the moneys payable in respect of such Zero Coupon Notes has been received by the Principal Paying Agent or the Registrar and notice to that effect has been given to the Noteholders in accordance with Condition 14.

### **8. TAXATION**

All payments of principal and interest in respect of the Notes and Coupons by or on behalf of the Issuer will be made free and clear of, and without withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any Tax Jurisdiction unless such withholding or deduction is required by law. In such event, the Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes or Coupons after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes or Coupons, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note or Coupon:

- (a) presented for payment by or by a third party on behalf of a holder who (i) could avoid such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that any third party makes a declaration of non-residence or other similar claim for exemption to any tax authority; or (ii) is liable for such taxes or duties in respect of such Note or Coupon by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Note or Coupon; or
- (b) presented for payment more than 30 days after the Relevant Date (as defined below) except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day assuming that day to have been a Payment Day (as defined in Condition 6.6) in the place of surrender.

In these Conditions:

- (i) **Tax Jurisdiction** means the United Kingdom or any political subdivision or any authority thereof or therein having power to tax; and
- (ii) the **Relevant Date** means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Principal Paying Agent, the Trustee or the Registrar, as the case may be, on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Noteholders in accordance with Condition 14.

### **9. PRESCRIPTION**

The Notes (whether in bearer or registered form) and Coupons will become void unless presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) after the Relevant Date (as defined in Condition 8) therefor.



There shall not be included in any Coupon sheet issued on exchange of a Talon any Coupon the claim for payment in respect of which would be void pursuant to this Condition or Condition 6.2 or any Talon which would be void pursuant to Condition 6.2.

## 10. EVENTS OF DEFAULT

### 10.1 Events of Default

The Trustee at its discretion may, and if so requested in writing by the holders of at least one-quarter in nominal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall, (subject in each case to being indemnified to its satisfaction) give notice to the Issuer that the Notes are, and they shall accordingly forthwith become, immediately due and repayable at their nominal amount, together with accrued interest as provided in the Trust Deed, in any of the following events (each, an **Event of Default**):

- (a) if default is made in the payment of any principal or interest due in respect of the Notes or any of them and the default continues for a period of ten Business Days; or
- (b) if the Issuer fails to perform or observe any of its other obligations under these Conditions or the Trust Deed and (except in any case where the Trustee considers the matter which is the subject of the obligation to be incapable of performance or observation when no continuation or notice as is hereinafter mentioned will be required) the failure continues for the period of 30 days (or such longer period as the Trustee may permit) next following the service by the Trustee on the Issuer (as the case may be) of notice requiring the same to be remedied; or
- (c) any Indebtedness for Borrowed Money (as defined below) of the Issuer amounting in aggregate to not less than £20,000,000 or its equivalent in other currencies becomes due and repayable prematurely by reason of an event of default (however described) or the Issuer fails to make payment in respect thereof on the due date for such payment as extended by any applicable grace period as originally provided or the security for any such Indebtedness For Borrowed Money becomes enforceable and steps are taken to enforce the same or if default is made by the Issuer in making any payment due under any guarantee and/or indemnity given by it in respect of any Indebtedness For Borrowed Money amounting in aggregate to not less than £20,000,000 or its equivalent in other currencies save in any such case to the extent that the Issuer certifies in a certificate signed by two of its Directors to the Trustee that there is a bona fide dispute as to whether payment or repayment is due; or
- (d) if an administrator is appointed or any order is made by a competent court or resolution passed for winding up, or an administration order is made in relation to, the Issuer or if the Issuer stops payment of its obligations generally or ceases to carry on its business or substantially all thereof except that a winding up or a stopping of payment or cessation of business for the purpose of a reconstruction, union, transfer, merger or amalgamation of the Issuer the terms of which have previously been approved in writing by the Trustee, shall not constitute an Event of Default; or
- (e) if an encumbrancer takes possession or an administrative or other receiver is appointed over the whole or any material part of the assets of the Issuer or if a distress or execution is levied or enforced upon or sued out against any material part of the assets of the Issuer and is not removed, discharged or paid out within 60 days; or
- (f) if the Issuer is unable to pay its debts within the meaning of section 123(2) of the Insolvency Act of Great Britain or makes a general assignment for the benefit of its creditors;

PROVIDED THAT, in the case of any such event other than those described in subparagraph (a) above, the Trustee shall have certified to the Issuer that the such event is, in its opinion, materially prejudicial to the interests of the Noteholders.

For the purposes of this Condition **Indebtedness for Borrowed Money** means (a) borrowed money; and (b) liabilities under any bond, note, bill, debenture, loan stock or other security issued in respect of acceptance credit facilities or as consideration for assets or services, but excluding such liabilities incurred in relation to the acquisition of goods or services in the ordinary course of trading.

## **10.2 Enforcement**

- (a) The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed, the Notes and the Coupons, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed, the Notes or the Coupons unless (a) it shall have been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least one-quarter in nominal amount of the Notes then outstanding and (b) it shall have been indemnified and/or secured to its satisfaction.
- (b) No Noteholder shall be entitled to institute proceedings directly against the Issuer or prove in the winding-up of the Issuer unless the Trustee, having become bound to do so, fails to do so within a reasonable period and such failure is continuing.

## **11. REPLACEMENT OF NOTES, COUPONS AND TALONS**

Should any Note, Coupon or Talon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Principal Paying Agent (in the case of Bearer Notes or Coupons) or the Registrar (in the case of Registered Notes) upon payment by the claimant of such costs and expenses as may be incurred in connection therewith and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Notes, Coupons or Talons must be surrendered before replacements will be issued.

## **12. AGENTS**

The initial Agents are set out above. If any additional Paying Agents are appointed in connection with any Series, the names of such Paying Agents will be specified in Part B of the applicable Final Terms.

The Issuer is entitled, with the prior written approval of the Trustee, to vary or terminate the appointment of any Agent and/or appoint additional or other Agents and/or approve any change in the specified office through which any Agent acts, provided that:

- (a) there will at all times be a Principal Paying Agent, a Paying Agent, a Transfer Agent and a Registrar;
- (b) so long as the Notes are listed on any stock exchange or admitted to listing by any other relevant authority, there will at all times be a Paying Agent (in the case of Bearer Notes) and a Transfer Agent (in the case of Registered Notes) with a specified office in such place as may be required by the rules and regulations of the relevant stock exchange (or any other relevant authority)

In addition, the Issuer shall forthwith appoint a Paying Agent having a specified office in New York City in the circumstances described in Condition 6.5. Notice of any variation, termination, appointment or change in Paying Agents will be given to the Noteholders promptly by the Issuer in accordance with Condition 14.

In acting under the Agency Agreement, the Agents act solely as agents of the Issuer and, in certain circumstances specified therein, of the Trustee and do not assume any obligation to, or relationship of agency or trust with, any Noteholders or Couponholders. The Agency Agreement contains provisions permitting any entity into which any Agent is merged or converted or with which it is consolidated or to which it transfers all or substantially all of its assets to become the successor agent.

## **13. EXCHANGE OF TALONS**

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon (if any) forming part of such Coupon sheet may be surrendered at the specified office of the Principal Paying Agent or any other Paying Agent in exchange for a further Coupon sheet including (if such further Coupon sheet does not include Coupons to (and including) the final date for the payment of interest due in respect of the Note to which it appertains) a further Talon, subject to the provisions of Condition 9.

## **14. NOTICES**

All notices regarding the Bearer Notes will be valid if published in a leading English language daily newspaper published in London or such other English language daily newspaper with general circulation in Europe as the Trustee may approve. It is expected that publication will normally be

made in the *Financial Times*. The Issuer shall also ensure that notices are duly published in a manner which complies with the rules and regulations of any stock exchange or relevant authority on which the Notes are for the time being listed or by which they have been admitted to listing. Any such notice will be deemed to have been given on the date of the first publication or, where required to be published in more than one newspaper, on the date of the first publication in all required newspapers. If publication as provided above is not practicable, notice will be given in such other manner, and shall be deemed to have been given on such date, as the Trustee may approve. Couponholders will be deemed for all purposes to have notice of the contents of any notice given to the Noteholders in accordance with this Condition.

All notices regarding the Registered Notes will be deemed to be validly given if sent by first class mail or (if posted to an address overseas) by airmail to the holders (or the first named of joint holders) at their respective addresses recorded in the Register and will be deemed to have been given on the fourth day after mailing and, in addition, for so long as any Registered Notes are listed by or on a competent authority or stock exchange and the rules of that competent authority or stock exchange so require, such notice will be published in a daily newspaper of general circulation in the places or places required by that competent authority or stock exchange.

Until such time as any definitive Notes are issued, there may, so long as any Global Notes representing the Notes are held in their entirety on behalf of Euroclear and/or Clearstream, Luxembourg, be substituted for such publication in such newspaper(s) the delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg for communication by them to the holders of the Notes and, in addition, for so long as any Notes are listed on a stock exchange and the rules of that stock exchange (or any other relevant authority) so require, such notice will be published in a daily newspaper of general circulation in the place or places required by those rules. Any such notice shall be deemed to have been given to the holders of the Notes on such day as is specified in the applicable Final Terms after the day on which the said notice was given to Euroclear and/or Clearstream, Luxembourg.

Notices to be given by any Noteholder shall be in writing and given by lodging the same, together with the relative Note or Notes, with the Principal Paying Agent (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes). Whilst any of the Notes are represented by a Global Note, such notice may be given by any holder of a Note to the Principal Paying Agent or the Registrar through Euroclear and/or Clearstream, Luxembourg, as the case may be, in such manner as the Principal Paying Agent, the Registrar and Euroclear and Clearstream, Luxembourg, as the case may be, may approve for this purpose.

## **15. MEETINGS OF NOTEHOLDERS, MODIFICATION, WAIVER AND SUBSTITUTION**

The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Notes, the Coupons or any of the provisions of the Trust Deed. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Issuer if required in writing by Noteholders holding not less than 10 per cent. in nominal amount of the Notes for the time being remaining outstanding. The quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing a clear majority in nominal amount of the Notes for the time being outstanding, or at any adjourned meeting one or more persons being or representing Noteholders whatever the nominal amount of the Notes so held or represented, except that at any meeting the business of which includes the modification of certain provisions of the Notes or the Coupons (including but not limited to (i) modifying the dates of maturity or redemption of the Notes, any Instalment Date or any date for payment of principal or interest or Interest Amount thereon, (ii) reducing or cancelling the nominal amount of, or any premium payable on redemption of, the Notes, (iii) reducing the rate or rates of interest payable in respect of the Notes or varying the method or basis of calculating the rate or rates or amount of interest or the basis for calculating any Interest Amount in respect of the Notes, (iv) altering the currency of payment or denomination of the Notes or the Coupons, (v) if a Minimum and/or a Maximum Rate of Interest or Redemption Amount is shown hereon, reducing any such Minimum and/or Maximum, (vi) varying any method of, or basis for, calculating the Final Redemption Amount, the Early Redemption Amount or the Optional Redemption Amount, including the method of calculating the Amortised Face Amount, or (vii) modifying the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution), the quorum shall be one or more persons holding or representing

not less than two-thirds in nominal amount of the Notes for the time being outstanding, or at any adjourned such meeting one or more persons holding or representing not less than one-third in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders, whether or not they are present at the meeting, and on all Couponholders.

The Trust Deed provides for a resolution, with or without notice, in writing signed by or on behalf of the holder or holders of not less than 75 per cent. of the nominal amount of the Notes for the time being outstanding to be as effective and binding as if it were an Extraordinary Resolution duly passed at a meeting of the Noteholders.

The Trust Deed provides that a resolution which in the opinion of the Trustee affects the Notes of more than one series but does not give rise to a conflict of interest between the holders of Notes of any of the series so affected shall be deemed to have been duly passed if passed at a single meeting of the holders of the Notes of all the Series so affected.

The Trustee may agree, without the consent of the Noteholders or Couponholders, to any modification of, or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of the Notes or the Trust Deed, or determine, without any such consent as aforesaid, that any Event of Default or potential Event of Default shall not be treated as such, where, in any such case, it is not, in the opinion of the Trustee, materially prejudicial to the interests of the Noteholders so to do or may agree, without any such consent as aforesaid, to any modification which is of a formal, minor or technical nature or to correct a manifest error or an error which is, in the opinion of the Trustee, proven. Any such modification shall be binding on the Noteholders and the Couponholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

In connection with the exercise by it of any of its trusts, powers, authorities and discretions (including, without limitation, any modification, waiver, authorisation or determination), the Trustee shall have regard to the general interests of the Noteholders as a class (but shall not have regard to any interests arising from circumstances particular to individual Noteholders or Couponholders whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual Noteholders or Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political sub-division thereof and the Trustee shall not be entitled to require, nor shall any Noteholder or Couponholder be entitled to claim, from the Issuer, the Trustee or any other person any indemnification or payment in respect of any tax consequences of any such exercise upon individual Noteholders or Couponholders except to the extent already provided for in Condition 8 and/or any undertaking or covenant given in addition to, or in substitution for, Condition 8 pursuant to the Trust Deed.

The Trustee may, without the consent of the Noteholders, agree with the Issuer to the substitution in place of the Issuer (or of any previous substitute under this Condition) as the principal debtor under the Notes, Coupons and the Trust Deed of another company, subject to (a) the Trustee being satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution and (b) certain other conditions set out in the Trust Deed being complied with. In the case of such a substitution the Trustee may agree, without the consent of the Noteholders or the Couponholders, to a change of the law governing the Notes, the Coupons, the Talons and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders.

#### **16. INDEMNIFICATION OF THE TRUSTEE AND TRUSTEE CONTRACTING WITH THE ISSUER AND TRUSTEE'S RETIREMENT AND REMOVAL**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from taking action unless indemnified and/or secured to its satisfaction.

The Trust Deed also contains provisions pursuant to which the Trustee is entitled, inter alia, (a) to enter into business transactions with the Issuer and/or any of its Subsidiaries and to act as trustee for the holders of any other securities issued or guaranteed by, or relating to, the Issuer and/or any of its Subsidiaries, (b) to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard

to the interests of, or consequences for, the Noteholders or Couponholders and (c) to retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

The Trust Deed contains provisions allowing the Trustee to retire at any time on giving not less than 60 days' prior written notice to the Issuer without giving any reason and without being responsible for any Expenses (as defined in the Trust Deed) incurred by such retirement. The Noteholders may by Extraordinary Resolution remove any trustee or trustees for the time being of the Notes. The Trust Deed provides that the retirement or removal of any such Trustee shall not become effective until a successor trustee (being a trust corporation) is appointed. The Trust Deed provides that, in the event of the Trustee giving notice of retirement or being removed by Extraordinary Resolution under the Trust Deed, the Issuer shall use its best endeavours to procure that a new trustee is appointed as soon as reasonably practicable. If no appointment has become effective within 60 days of such notice or Extraordinary Resolution, the Trust Deed provides that the Trustee shall be entitled to appoint a trust corporation. Notice of any such change shall (if required by the Trustee) be given to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

**17. FURTHER ISSUES**

The Issuer is at liberty from time to time without the consent of the Noteholders or the Couponholders to create and issue further notes or bonds (whether in bearer or registered form) either (a) ranking *pari passu* in all respects (or in all respects save for the first payment of interest thereon) and so that the same shall be consolidated and form a single series with the outstanding notes or bonds of any series (including the Notes) constituted by the Trust Deed or any supplemental deed or (b) upon such terms as to ranking, interest, conversion, redemption and otherwise as the Issuer may determine at the time of the issue.

**18. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Note, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

**19. GOVERNING LAW**

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

## **USE OF PROCEEDS**

The net proceeds from each issue of notes may be applied by the Issuer for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs. If, in respect of an issue, the proceeds are to be applied towards energy efficiency measures or other environmentally sustainable projects, such purposes may be more particularly described under “*Reasons for the Offer*” in the applicable Final Terms.

## DESCRIPTION OF THE ISSUER

### INTRODUCTION

The business of Marks and Spencer plc (the **Issuer** or the **Company**) was founded in 1884. The Company has since grown to become one of the United Kingdom's leading retailers of clothing, food and home products with 2016 revenue of £10.6 billion on a 53 week basis or £10.4 billion on a 52 week basis (2015: £10.3 billion, based on a 52 week period). In addition to the core business within the United Kingdom, Marks and Spencer has expanded internationally to include 468 stores in 58 territories mostly in Europe, the Middle East, Asia and the Far East. The Company operates through three different business models – owned, franchise and joint venture, to bring quality clothing and home collections and food ranges to its international customers. The Company also has a growing international online business delivered through localised owned and franchise websites through partnerships with leading marketplaces.

The registered address of the Issuer is Waterside House, 35 North Wharf Road, London W2 1NW and its telephone number is +44 20 7935 4422.

The market capitalisation of the Issuer's parent on the London Stock Exchange at the close of business on 1 October 2016 was £5.38 billion.

The Company was incorporated in England in 1926 and re-registered as a public limited company with an indefinite life in 1981 and registered with the Registrar of Companies under registered number 00214436. On 19 March 2002, it became a subsidiary of Marks and Spencer Group plc under a court approved scheme of arrangement made pursuant to section 425 of the United Kingdom Companies Act 1985. The Company is wholly owned by (and the only asset of) the holding company of the group (the **Group**), Marks and Spencer Group plc, and is domiciled in the United Kingdom.

### UNITED KINGDOM CORE BUSINESS

The principal activity of the Group is retailing. Retail includes clothing, food, beauty products and products for the home, which are sold under the brand name "Marks & Spencer". The Company operates over 914 stores located throughout the United Kingdom providing 17 million square feet of selling space.

The Company's United Kingdom revenues were £9,470.8 million (2015: £9,223.1 million) in the financial year ended 2 April 2016 and contributed £627.3 million (2015: £640.6 million) to underlying operating profit.

### INTERNATIONAL BUSINESS

The international business saw flat sales compared to the previous year, accounting for 10.3 per cent. of total Group revenues. Sales for the financial year ended 2 April 2016 were £1,084.6 million (2015: £1,088.3 million), and underlying operating loss of £43.2 million (2015: profit of £60.7 million) representing 7.4 per cent. loss of the Group's total operating profits. The Company decreased the number of stores by 12 in the year ended 2 April 2016, bringing the total to 468 stores in 58 territories. As detailed in the Interim Press Statement (as defined below), the Group is proposing to close all of its 53 wholly owned stores in ten markets, being China, France, Belgium, Estonia, Hungary, Lithuania, Netherlands, Poland, Romania and Slovakia. In future the Group is proposing to operate with fewer wholly owned markets and have a greater focus on its established joint ventures and franchise partnerships.

### FINANCIAL PERFORMANCE

#### Capital Management and delivering shareholder return

The Company has made a commitment to a strong balance sheet, including maintaining an investment grade rating. The Company's EBITDA for the financial year ending 2 April 2016 was £1,361.7 million (2015: £1,312.6 million), with net debt of £2,138.3 million (2015: £2,223.2 million), deriving a net debt/EBITDA ratio of 1.6x, comfortably within the ratio range of 2.0x–1.5x; and credit rating of BBB- (S&P) and Baa3 (Moody's). For the financial year ending 2 April 2016, the business delivered free cash flow pre shareholder returns of £539.3 million (2015: £524.2 million). On a 52 week like for like basis, return on capital employed for the financial year 2015/16 was 15 per cent., compared to 14.7 per cent. in 2014/15. For 2015/16, the UK gross margin for Food remained flat at 32.8 per cent. with UK gross margin for Clothing and Home improving by 245bps to 55.1 per cent. As at 1 October 2016, interest cover ratio was 5.2x (last year: 6.1x). The decrease

from the prior half year was driven by the lower operating profit for the half. The retail fixed cover charge ratio improved from 3.6x in 2015 (based on a 52 week basis) to 3.7x in 2016 (based on a 53 week basis), which is well within the covenant on M&S bonds of a minimum of 2.75x.

### Capital Expenditure

Total capital expenditure of the Company was broadly level versus last year, at £525.1 million (2015: £526.6 million). However this includes £56.2 million relating to the acquisition of the remaining 50 per cent. of the joint venture entity which owned the freehold of the Company's Bradford warehouse. Excluding this, capital expenditure was down reflecting a trend towards a lower level of capital expenditure going forward, as the Company continues to invest in the business growth, underpinned by strong investment discipline.

### TRADING STATEMENT

The following is extracted from the unaudited interim results announcement for Marks & Spencer Group plc for the 26 weeks ended 1 October 2016, as issued on 8 November 2016 (the **Interim Press Statement**).

	26 weeks to 1 Oct 16	26 weeks to 26 Sep 15	Change on LY %
Group revenue	£4,993.5m	£4,951.3m	0.9
Underlying profit before tax <sup>1</sup>	£231.3m	£284.0m	-18.6
Non-underlying items <sup>2</sup>	£(206.2)m	£(68.0)m	-203.2
Statutory profit before tax	£25.1m	£216.0m	-88.4
Underlying basic earnings per share <sup>1</sup>	11.5p	14.1p	-18.4
Basic earnings per share	1.0p	10.5p	-90.5
Free cash flow pre shareholder returns	£173.9m	£256.5m	-32.2
Net debt	£2.24bn	£2.20bn	2.0
Dividend per share	6.8p	6.8p	-

*1 Underlying results are consistent with how business performance is measured internally. 2 Refer to note 3 of the Notes to the financial statements for further details.*

### Summary

- Good progress against strategic priorities set out in May.
- As expected, underlying profits down in the half due to lower Clothing & Home sales. Non-underlying items include significant charge relating to pension changes.
- Proposal to focus International business on a franchise model, exiting our loss-making owned business across ten markets, at a non-underlying cost of £150m-£200m over the coming 12 month period, thereby eliminating annual losses of £45m.
- Five-year plan to improve productivity of UK Store Estate by repositioning c.25% of Clothing & Home space with costs of c. £50m per annum for the first three years and continued rollout of our Simply Food stores. Total number of M&S stores will increase.
- Interim dividend maintained.
- Decision not to make an additional return of cash to shareholders in the second half given costs of strategic change and uncertain market conditions.

### CEO Statement:

Steve Rowe, M&S CEO, said: "In May, we laid out a number of questions which we would answer as part of our strategic review. We committed to creating a simpler business with customers at its heart, and taking action to start to recover our Clothing & Home business and continue to grow in Food.

"Our aim is to build a sustainable business which will delight our customers, provide a robust foundation for future growth and deliver value for our shareholders in the long term. We have made good progress on our plans and customers are already noticing a difference, particularly in Clothing & Home.

"In addition, we have made major steps towards fairer pay and pension arrangements, streamlined our senior management team and our plans to implement a simpler Head Office structure are well underway.



“We have now completed a forensic review of our estate both in the UK and in our International markets. Over the next five years we will transform our UK estate with c.60 fewer Clothing & Home stores, whilst continuing to increase the number of our Simply Food stores. In the future, we will have more inspiring stores in places where customers want to shop that complement our growing digital offer.

“Internationally, we propose to cease trading in ten loss making owned markets, but intend to continue to develop our presence through our strong franchise partners.

“These are tough decisions, but vital to building a future M&S that is simpler, more relevant, multi-channel and focused on delivering sustainable returns.”

## **HALF YEAR REVIEW**

### **Group Revenue – constant currency**

<b>Change on LY %</b>	<b>Q1</b>	<b>Q2</b>	<b>H1</b>
Total Food	4.0	4.1	4.0
- Like-for-like	-0.9	-0.9	-0.9
Total Clothing & Home	-8.3	-2.4	-5.3
- Like-for-like	-8.9	-2.9	-5.9
<i>M&amp;S.com<sup>1</sup></i>	<i>0.2</i>	<i>0.4</i>	<i>0.3</i>
Total UK sales	-1.1	1.3	0.1
- Like-for-like	-4.3	-1.7	-3.0
International	0.7	-2.5	-1.0
<b>Total Group</b>	<b>-0.9</b>	<b>0.9</b>	<b>0.0</b>

*1 Memo only on a constant currency basis.*

*Like-for-like is the movement in sales from stores that have traded continuously and where there has been no significant change in footage for at least 52 weeks; includes online sales.*

## BOARD OF DIRECTORS

The functions of the directors of the Company, each of whose business address is Waterside House, 35 North Wharf Road, London, W2 1NW, and their principal activities outside the Group, where these are significant, are as follows:

<i>Name</i>	<i>Position/Other Principal Activities</i>
S. Rowe	Director (Chief Executive Officer and Executive Director, General Merchandise of Marks and Spencer Group plc)
H. Weir	Director (Chief Financial Officer of Marks and Spencer Group plc) Non-Executive Director of SAB Miller plc.
A.J. Mellor	Director and Company Secretary (Group Secretary and Head of Corporate Governance of Marks and Spencer Group plc) Non-Executive Director of Kier Group Plc

There are no other persons with directorship responsibilities within the Company.

There are no potential conflicts between any duties to the Company in relation to the persons referred to above and their private interest and/or other duties.

## STRUCTURE

The Company is 100 per cent. owned by a holding company, Marks and Spencer Group plc. The principal subsidiary undertakings of the Company as at 2 April 2016 are as follows:

	<i>Principal activity</i>	<i>Country of incorporation and operation</i>	<i>Proportion of voting rights and shares held by:</i>	
			<i>Company</i>	<i>A subsidiary</i>
Marks and Spencer International Holdings Limited	Holding company	United Kingdom	100%	–
Marks and Spencer (Nederland) BV	Holding company	The Netherlands	–	100%
Marks and Spencer BV	Holding company	The Netherlands	–	100%
Marks and Spencer Czech Republic a.s.	Retailing	Czech Republic	–	100%
Marks and Spencer (Ireland) Limited <sup>1</sup>	Retailing	Republic of Ireland	–	100%
Marks and Spencer (Asia Pacific) Limited	Retailing	Hong Kong	–	100%
Marks and Spencer Simply Foods Limited	Retailing	United Kingdom	100%	–
Marks and Spencer Marinopoulos Greece SA	Retailing	Greece	–	80%
M.S. General Insurance L.P.	Financial services	Guernsey	–	100%
Marks and Spencer Guernsey Investments LLP	Financial services	Guernsey	–	100%
Marks and Spencer Investments Limited	Finance	United Kingdom	–	100%
St Michael Finance plc	Finance	United Kingdom	100%	–
Marks and Spencer Scottish Limited Partnership	Property Investment	United Kingdom	– <sup>2</sup>	–

(1) Pursuant to the provisions of Section 17, Companies (Amendment) Act, 1986, Marks and Spencer plc has irrevocably guaranteed the liabilities of Marks and Spencer (Ireland) Limited and as a result Marks and Spencer (Ireland) Limited has been exempt from the filing provisions of Section 7, Companies (Amendment) Act, 1986.

(2) Marks and Spencer plc is the general partner.

Note: Marks and Spencer plc is not dependant upon any other entity within the group.

## UNITED KINGDOM TAXATION

The comments below are of a general nature and reflect the understanding of the Issuer of current United Kingdom law as applied in England and Wales and current United Kingdom HM Revenue and Customs (HMRC) published practice at the date of this Offering Circular (which may not be binding on HMRC). The comments are not intended to be exhaustive. The comments relate only to the position of persons who are the absolute beneficial owners of their Notes and Coupons and deal with United Kingdom withholding tax treatment on payments of interest (as that term is understood for United Kingdom tax purposes) in respect of Notes. They do not address other United Kingdom taxation implications of acquiring, holding or disposing of Notes and Coupons (except for comments on direct assessment to income tax of interest on Notes) and may not apply to certain classes of persons (such as dealers in securities) or where the interest on any such Note is deemed to be the income of any person other than the Noteholders for United Kingdom tax purposes.

**The United Kingdom tax treatment of prospective Noteholders depends on their individual circumstances and may be subject to change in the future. Prospective Noteholders who may be subject to tax in a jurisdiction other than the United Kingdom or who may be unsure as to their tax position should seek their own professional advice.**

### Payment of Interest on the Notes

Payments of interest on the Notes may be made without deduction of or withholding on account of United Kingdom income tax provided that the Notes are and continue to be listed on a “recognised stock exchange” within the meaning of section 1005 of the Income Tax Act 2007. The London Stock Exchange is a recognised stock exchange. Securities will be treated as listed on the London Stock Exchange if they are included in the Official List (within the meaning of and in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000) and are admitted to trading on the London Stock Exchange. Provided, therefore, that the Notes are and remain so listed, interest on the Notes will be payable without withholding or deduction on account of United Kingdom tax.

Interest on the Notes may also be paid without withholding or deduction on account of United Kingdom tax where the maturity of the Notes is less than 365 days and those Notes do not form part of a scheme or arrangement of borrowing intended to be capable of remaining outstanding for more than 364 days.

In all other cases, an amount must generally be withheld from payments of interest on the Notes that has a United Kingdom source on account of United Kingdom income tax at the basic rate (currently 20%) subject to any available exemptions and reliefs including an exemption for certain payments of interest to which a company within the charge to United Kingdom corporation tax is beneficially entitled. However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to Noteholders, HMRC can issue a notice to the Issuer to pay interest to the Noteholders without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

Interest on the Notes that constitutes United Kingdom source income may be subject to income tax by direct assessment, even where paid without withholding. However, interest with a United Kingdom source received without deduction or withholding on account of United Kingdom tax will not be chargeable to United Kingdom tax in the hands of a Noteholder (other than certain trustees) who is not resident for tax purposes in the United Kingdom unless that Noteholder carries on a trade, profession or vocation in the United Kingdom through a United Kingdom branch or agency in connection with which the interest is received or to which the Notes are attributable (and where that Noteholder is a company, unless that Noteholder carries on a trade in the United Kingdom through a permanent establishment in connection with which the interest is received or to which those Notes are attributable). There are exemptions for interest received by certain categories of agent (such as some brokers and investment managers). The provisions of an applicable double taxation treaty may also be relevant for such Noteholders.

## FOREIGN ACCOUNT TAX COMPLIANCE ACT

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. The Issuer may be a foreign financial institution for these purposes. A number of jurisdictions (including the United Kingdom) 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. Under the provisions of IGAs as currently in effect, a foreign financial institution in an IGA jurisdiction would generally not be required to withhold under FATCA or an IGA from payments that it makes. Certain aspects of the application of the FATCA provisions and IGAs to instruments such as Notes, including whether withholding would ever be required pursuant to FATCA or an IGA with respect to payments on instruments such as 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 Notes, such withholding would not apply prior to 1 January 2019 and Notes characterised as debt (or which are not otherwise characterised as equity and have a fixed term) for U.S. federal tax purposes that are issued on or prior to the date that is six months after the date on which final regulations defining foreign passthru payments are filed with the U.S. Federal Register generally would be grandfathered for purposes of FATCA withholding unless materially modified after such date (including by reason of a substitution of the Issuer). However, if additional Notes (as described under “*Terms and Conditions of the Notes—Further Issues*”) that are not distinguishable from previously issued Notes are issued after the expiration of the grandfathering period and are subject to withholding under FATCA, then withholding agents may treat all Notes, including the Notes offered prior to the expiration of the grandfathering period, as subject to withholding under FATCA. Holders should consult their own tax advisers regarding how these rules may apply to their investment in Notes.

## THE PROPOSED FINANCIAL TRANSACTION TAX

On 14 February 2013, the European Commission published a proposal (the **Commission's Proposal**) for a Directive for a common financial transactions tax (**FTT**) in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the **participating Member States**). However, Estonia has since stated that it will not participate.

The Commission's Proposal has very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances. The issuance and subscription of Notes should, however, be exempt.

Under the Commission's Proposal the FTT could apply in certain circumstances to persons both within and outside of the participating Member States. Generally, it would apply to certain dealings in the Notes where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

However, the FTT proposal remains subject to negotiation between participating Member States. It may therefore be altered prior to any implementation, the timing of which remains unclear. Additional EU Member States may decide to participate.

Prospective holders of Notes are advised to seek their own professional advice in relation to the FTT.

## SUBSCRIPTION AND SALE

The Dealers have, in an amended and restated programme agreement (such programme agreement as supplemented and/or amended and/or restated from time to time, the **Programme Agreement**) dated 8 November 2013, agreed with the Issuer a basis upon which they or any of them may from time to time agree to purchase Notes. Any such agreement will extend to those matters stated under “*Form of the Notes*” and “*Terms and Conditions of the Notes*”. In the Programme Agreement, the Issuer has agreed to reimburse the Dealers for certain of their expenses in connection with the establishment and any future update of the Programme and the issue of Notes under the Programme and to indemnify the Dealers against certain liabilities incurred by them in connection therewith.

### United States

The Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from the registration requirements of the Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. Treasury regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and Treasury regulations promulgated thereunder.

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will not offer, sell or deliver Notes (a) as part of their distribution at any time or (b) otherwise until 40 days after the completion of the distribution, as determined and certified by the relevant Dealer or, in the case of an issue of Notes on a syndicated basis, the relevant lead manager, of all Notes of the Tranche of which such Notes are a part, within the United States or to, or for the account or benefit of, U.S. persons. Each Dealer has further agreed, and each further Dealer appointed under the Programme will be required to agree, that it will send to each dealer to which it sells any Notes during the distribution compliance period a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

Until 40 days after the commencement of the offering of any Tranche of Notes, an offer or sale of such Notes within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than in accordance with an available exemption from registration under the Securities Act.

### Public Offer Selling Restriction under the Prospectus Directive

In relation to each Member State of the EEA which has implemented the Prospectus Directive (each, a **Relevant Member State**), each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the **Relevant Implementation Date**) it has not made and will not make an offer of Notes which are the subject of the offering contemplated by this Offering Circular as completed by the final terms in relation thereto to the public in that Relevant Member State, except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

- (a) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (b) at any time to fewer than 100, or if the relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer; or
- (c) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in (a) to (c) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision:

- the expression an “offer of Notes to the public” in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State;
- the expression **Prospectus Directive** means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State); and
- includes any relevant implementing measure in each Relevant Member State and the expression **2010 PD Amending Directive** means Directive 2010/73/EU.

### **United Kingdom**

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

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

### **Japan**

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended, the **FIEA**) and each Dealer has agreed, and each further Dealer appointed under the Programme will be required to agree, that it will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (as defined under Item 5, Paragraph 1, Article 6 of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949, as amended)), or to others for re-offering or resale, directly or indirectly, in Japan or to, or for the benefit of a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEA and any other applicable laws, regulations and ministerial guidelines of Japan.

### **General**

Each Dealer has agreed, and each further Dealer appointed under the Programme will be required to agree, that it will (to the best of its knowledge and belief) comply with all applicable securities laws and regulations in force in any jurisdiction in which it purchases, offers, sells or delivers Notes or possesses or distributes this Offering Circular and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and neither the Issuer, the Trustee nor any of the other Dealers shall have any responsibility therefor.

None of the Issuer, the Trustee and the Dealers represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder, or assumes any responsibility for facilitating such sale.

With regard to each Tranche, the relevant Dealer will be required to comply with such other restrictions as the Issuer and the relevant Dealer shall agree and shall be set out in the Subscription Agreement or Dealer Accession Letter, as applicable.

## GENERAL INFORMATION

### Authorisation

The establishment of the Programme and the issue of Notes thereunder have been duly authorised by a resolution of the Board of Directors of the Issuer dated 14 October 2005 and the update of the Programme and the issue of Notes thereunder have been duly authorised by a resolution of the Board of Directors of the Issuer dated 11 November 2016.

### Listing of Notes

The admission of Notes to the Official List will be expressed as a percentage of their nominal amount (excluding accrued interest). It is expected that each Tranche of Notes which is to be admitted to the Official List and to trading on the London Stock Exchange's regulated market will be admitted separately as and when issued, subject only to the issue of one or more Global Notes initially representing the Notes of such Tranche. The listing of the Programme in respect of Notes is expected to be granted on or about 16 November 2016.

### Documents Available

For the period of 12 months following the date of this Offering Circular, copies of the following documents will, when published, be available for inspection from the registered office of the Issuer and from the specified offices of the Paying Agents for the time being in London:

- (a) the Memorandum and Articles of Association of the Issuer;
- (b) the audited financial statements of the Issuer in respect of the financial years ended 28 March 2015 and 2 April 2016, in each case together with the audit reports prepared in connection therewith. The Issuer currently prepares audited accounts on an annual basis;
- (c) the most recently published audited annual financial statements of the Issuer and the most recently published unaudited interim financial statements (if any) of Marks and Spencer Group plc, in each case together with the audit reports prepared in connection therewith. The Issuer does not prepare interim accounts;
- (d) the Programme Agreement, the Trust Deed, the Agency Agreement and the forms of the Global Notes, the Notes in definitive form, the Coupons and the Talons;
- (e) a copy of this Offering Circular;
- (f) any future offering circulars, prospectuses, information memoranda, supplements, and Final Terms to this Offering Circular and any other documents incorporated herein or therein by reference; and
- (g) in the case of each issue of Notes admitted to trading on the London Stock Exchange's regulated market subscribed pursuant to a subscription agreement, the subscription agreement (or equivalent document).

### Clearing Systems

The Notes have been accepted for clearance through Euroclear and Clearstream, Luxembourg (which are the entities in charge of keeping the records). The appropriate Common Code and ISIN for each Tranche of Notes allocated by Euroclear and Clearstream, Luxembourg will be specified in the applicable Final Terms. If the Notes are to clear through an additional or alternative clearing system the appropriate information will be specified in the applicable Final Terms.

The address of Euroclear is 3 Boulevard du Roi Albert II, B-1210 Brussels, Belgium and the address of Clearstream, Luxembourg is 42 Avenue J.F. Kennedy, L-1855 Luxembourg.

### Significant or Material Change

There has been no significant change in the financial or trading position of the Issuer or Group since 1 October 2016 and no material adverse change in the prospects of the Issuer or Group since 2 April 2016.

### Litigation

There are no governmental, legal or arbitration proceedings (including any proceedings which are pending or threatened) of which the Issuer is aware in the 12 months preceding the date of this document which may have



or have had in the recent past a significant effect on the financial position or profitability of the Issuer or the Group.

#### **Auditors**

Deloitte LLP, a member of the Institute of Chartered Accountants in England and Wales of 2 New Street Square, London EC4A 3BZ were appointed as auditors of the Issuer by the Board of Directors on 8 July 2014 and have audited the Issuer's accounts, without qualification, in accordance with generally accepted auditing standards in England for each of the two financial years ended on 28 March 2015 and on 2 April 2016.

#### **Dealers Transacting with the Issuer**

Certain of the Dealers and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform other services for, the Issuer and its affiliates in the ordinary course of business. Certain of the Dealers and their affiliates may have positions, deal or make markets in the Notes issued under the Programme, related derivatives and reference obligations, including (but not limited to) entering into hedging strategies on behalf of the Issuer and its affiliates, investor clients, or as principal in order to manage their exposure, their general market risk, or other trading activities.

In addition, in the ordinary course of their business activities, the Dealers 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 and/or instruments of the Issuer or the Issuer's affiliates. Certain of the Dealers 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 Dealers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes issued under the Programme. Any such positions could adversely affect future trading prices of Notes issued under the Programme. The Dealers and their affiliates may also make investment recommendations and/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 and/or short positions in such securities and instruments.

## ISSUER

### **Marks and Spencer plc**

Waterside House  
35 North Wharf Road  
London W2 1NW  
United Kingdom

## ARRANGER

### **Citigroup Global Markets Limited**

Citigroup Centre  
Canada Square  
Canary Wharf  
London E14 5LB  
United Kingdom

## DEALERS

### **Bank of China Limited, London Branch**

1 Lothbury  
London EC2R 7DB  
United Kingdom

### **BNP PARIBAS**

10 Harewood Avenue  
London NW1 6AA  
United Kingdom

### **Citigroup Global Markets Limited**

Citigroup Centre  
Canada Square  
London E14 5LB  
United Kingdom

### **HSBC Bank plc**

8 Canada Square  
London E14 5HQ  
United Kingdom

### **Lloyds Bank plc**

10 Gresham Street  
London EC2V 7AE  
United Kingdom

### **MUFG Securities EMEA plc**

Ropemaker Place  
25 Ropemaker Street  
London EC2Y 9AJ  
United Kingdom

### **Morgan Stanley & Co. International plc**

25 Cabot Square  
Canary Wharf  
London E14 4QA  
United Kingdom

### **SMBC Nikko Capital Markets Limited**

One New Change  
London EC4M 9AF  
United Kingdom

### **The Royal Bank of Scotland plc**

250 Bishopsgate  
London EC2M 4AA  
United Kingdom

**TRUSTEE**

**The Law Debenture Trust Corporation p.l.c.**

Fifth Floor  
100 Wood Street  
London EC2V 7EX  
United Kingdom

**ISSUING AND PAYING AGENT**

**Citibank, N.A., London Branch**

Citigroup Centre  
Canada Square  
London E14 5LB  
United Kingdom

**REGISTRAR**

**Citigroup Global Markets Deutschland AG**

Reuterweg 16  
60323 Frankfurt am Main  
Germany

**LEGAL ADVISERS**

*To the Issuer as to English law*

**Allen & Overy LLP**  
One Bishops Square  
London E1 6AD  
United Kingdom

*To the Dealers and the Trustee as  
to English law*

**Linklaters LLP**  
One Silk Street  
London EC2Y 8HQ  
United Kingdom

**AUDITORS**

*To the Issuer*

**Deloitte LLP**  
2 New Street Square  
London EC4A 3BZ  
United Kingdom

**MARKS&  
SPENCER**