ENEL – Società per Azioni

(incorporated with limited liability in Italy)

€1,000,000,000 Perpetual 5.5 Year Non-Call Capital Securities
€750,000,000 Perpetual 8.5 Year Non-Call Capital Securities

ENEL – Società per Azioni (the "**Issuer**" or "**ENEL**") will issue €1,000,000,000 Perpetual 5.5 Year Non-Call Capital Securities (the "**NC 5.5 Securities**") and €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (the "**NC 8.5 Securities**" and, together with the NC 5.5 Securities, the "**Securities**", and each a "**Series of Securities**")) on 16 January 2023 (the "**Issue Date**").

The NC 5.5 Securities will bear interest on their principal amount (a) from (and including) the Issue Date to (but excluding) 16 July 2028 (the "**NC 5.5 Securities First Reset Date**"), at the rate of 6.375 per cent. per annum and (b) from (and including) the NC 5.5 Securities First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 5.5 Securities First Reset Date 3.486 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2033, 16 July 2038 and 16 July 2043, 3.736 per cent. per annum, and (C) in respect of any other Reset Period 4.486 per cent. per annum (each, as defined in "*Terms and Conditions of the NC 5.5 Securities*"). Interest on the NC 5.5 Securities will be payable annually in arrear on 16 July in each year (each an Interest Payment Date (as defined in "*Terms and Conditions of the NC 5.5 Securities*").

The NC 8.5 Securities will bear interest on their principal amount (a) from (and including) the Issue Date to (but excluding) the 16 July 2031 (the "**NC 8.5 Securities First Reset Date**"), at the rate of 6.625 per cent. per annum and (b) from (and including) the NC 8.5 Securities First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 8.5 Securities First Reset Date 3.774 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2036, 16 July 2041, and 16 July 2046, 4.024 per cent. per annum, and (C) in respect of any other Reset Period 4.774 per cent. per annum (each, as defined in "*Terms and Conditions of the NC 8.5 Securities*"). Interest on the NC 8.5 Securities will be payable annually in arrear on 16 July in each year (each an Interest Payment Date (as defined in "*Terms and Conditions of the NC 8.5 Securities*").

References in this Offering Circular to the "relevant Securities" are to the NC 5.5 Securities or the NC 8.5 Securities, as appropriate, references to "relevant Coupons" are to the NC 5.5 Securities or the NC 8.5 Coupons, as appropriate, references to the "relevant Terms and Conditions of the Securities" or the "relevant Conditions" are to the Terms and Conditions of the NC 5.5 Securities or the Terms and Conditions of the NC 8.5 Securities, as appropriate and references to the "relevant Securityholders" and/or the "relevant Couponholders" are to the holders of the relevant Securities and/or Coupons. References to the "relevant Trust Deed" are to the NC 5.5 Trust Deed or the NC 8.5 Trust Deed (as defined below), as appropriate.

Payment of interest on the Securities may be deferred at the option of the Issuer in certain circumstances, as set out in the relevant Terms and Conditions of the Securities.

The Securities will be issued in bearer form, with interest coupons appertaining to the NC 5.5 Securities (the "**NC 5.5 Coupons**") and the NC 8.5 Securities (the "**NC 8.5 Coupons**" and, together with the NC 5.5 Coupons, the "**Coupons**") and one talon for further interest coupons (the "**Talon**") attached on issue, each of the NC 5.5 Securities and the NC 8.5 Securities being issued pursuant to separate trust deeds dated 16 January 2023 between the Issuer and BNY Mellon Corporate Trustee Services Limited, as trustee (the "**Trustee**") (the "**NC 5.5 Trust Deed**" and the "**NC 8.5 Trust Deed**" respectively and together, the "**Trust Deeds**" and each a "**Trust Deed**"). The Securities will be issued in denominations of €100,000 and integral multiples of €1,000 in excess thereof.

The Securities will be perpetual securities and have no fixed date for redemption. Unless previously redeemed or purchased and cancelled by the Issuer as provided below, the Securities will become due and payable and will be redeemed on the date on which a winding up, dissolution or liquidation of the Issuer (otherwise than for the purpose of a solvent amalgamation, merger or reconstruction under which the assets and liabilities of the Issuer are assumed by the entity resulting from such amalgamation, merger or reconstruction and such entity assumes the obligations of the Issuer in respect of the Securities in accordance with Condition 13.2) is instituted (the "**Liquidation Event Date**"), including in connection with any Insolvency Proceedings (as defined below) in accordance with (i) any applicable legal provision, or any decision of any judicial or administrative authority, or (ii) any resolution passed at a shareholders' meeting of the Issuer or (iii) any provision which is set out in the by-laws of the Issuer from time to time (including the maturity of the Issuer which, as of the Issue Date, is set in its by-laws at 31 December 2100). Upon having become due and payable according to the provisions above, the Securities will be redeemed at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest (as defined in the relevant Terms and Conditions of the Securities). The Issuer may redeem all, but not some only, of the relevant Securities on any Call Date at their principal amount together with any interest accrued up to, but excluding, the applicable Call Date and any outstanding Arrears of Interest. The Issuer may also redeem all, but not some only, of the relevant Securities at the applicable Early Redemption Price at any time upon the occurrence of a Withholding Tax Event, an Accounting Event, a Rating Methodology Event or a Tax Deductibility Event (each as defined in the relevant Terms and Conditions of the Securities). The Issuer may redeem all (but not some only) of the NC 5.5 Securities on any day prior to 16 April 2028 (the date falling 3 months before the NC 5.5 Securities First Reset Date) at the Make-whole Redemption Amount (as defined in the Terms and Conditions of the NC 5.5 Securities). The Issuer may redeem all (but not some only) of the NC 8.5 Securities on any day prior to 16 April 2031 (the date falling 3 months before the NC 8.5 Securities First Reset Date) at the Make-whole Redemption Amount (as defined in the Terms and Conditions of the NC 8.5 Securities). In the event that at least 75 per cent. of the aggregate principal amount of the relevant Securities issued on the Issue Date has been purchased by or on behalf of the Issuer or a Subsidiary (as defined in the relevant Terms and Conditions of the Securities) and cancelled, the Issuer may redeem all, but not some only, of the outstanding Securities at the applicable Early Redemption Price. See "*Terms and Conditions of the NC 5.5 Securities – Redemption and Purchase – Purchases and Substantial Repurchase Event*" in respect of the NC 5.5 Securities and "*Terms and Conditions of the NC 8.5 Securities – Redemption and Purchase – Purchases and Substantial Repurchase Event*" in respect of the NC 8.5 Securities.

If at any time after the Issue Date the Issuer determines that a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or an Accounting Event has occurred and is continuing, and has provided the Trustee with the relevant certificate and opinion, in the case of Condition 6.5 only, the Rating Agency Confirmation pursuant to Conditions 6.3, 6.4, 6.5 or 6.6 (as applicable), then the Issuer may, without any requirement for the consent or approval of the relevant Securityholders or relevant Couponholders and subject to the pre-conditions set out in Condition 7.2, (i) exchange the relevant Securities or (ii) vary the terms of the Securities, so that after such exchange or variation the Securities remain or become, as the case may be, eligible for the same or (from the perspective of the Issuer) more favourable tax, accounting or ratings treatment than the treatment to which they were entitled prior to the relevant event occurring. See "*Terms and Conditions of the NC 5.5 Securities – Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation*" in respect of the NC 5.5 Securities and "*Terms and Conditions of the NC 8.5 Securities – Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation*" in respect of the NC 8.5 Securities.

The Securities and the Coupons will constitute direct, unsecured and subordinated obligations of the Issuer and will at all times rank *pari passu* without any preference among themselves and with Parity Securities and senior only to the Issuer's payment obligations in respect of any Junior Securities (each as defined in the relevant Terms and Conditions of the Securities). The Securities will constitute *obbligazioni* pursuant to Article 2410 et seq. of the Italian Civil Code. The Securities will not be guaranteed.

An investment in the Securities involves certain risks. For a discussion of risks, see "Risk Factors" beginning on page 12.

This Offering Circular has been approved by the Central Bank of Ireland, as competent authority under Regulation (EU) 2017/1129, as amended and supplemented (the "**Prospectus Regulation**"). Such approval only relates to Securities, which are to be admitted to trading on a regulated market for the purposes of Directive 2014/65/EU, as amended and supplemented ("**MiFID II**") and/or which are to be offered to the public in any member state of the European Economic Area. The Central Bank of Ireland only approves this Offering Circular as meeting the standards of completeness, comprehensibility and consistency imposed by the Prospectus Regulation. Such approval should not be considered as an endorsement of the Issuer or the quality of the Securities. Investors should make their own assessment as to the suitability of investing in the Securities. Application has been made to the Irish Stock Exchange plc trading as Euronext Dublin ("**Euronext Dublin**") for the Securities to be admitted to the Official List (the "**Official List**") and to trading on its regulated market (the "**Market**"). Reference in this Offering Circular to being "listed" (and all date references) shall mean that such Securities have been admitted to the Official List and have been admitted to trading on the Market. The Market is a regulated market for the purposes of MiFID II.

This Offering Circular will be valid until the date of admission of the Securities to trading on the Euronext Dublin. The obligation to supplement this Offering Circular in the event of a significant new factor, material mistake or material inaccuracy does not apply once the Securities are admitted to trading on the Euronext Dublin.

This Offering Circular is available for viewing on the website of Euronext Dublin (https://www.euronext.com/en/markets/dublin).

Subject to and as set out in "*Terms and Conditions of the NC 5.5 Securities – Taxation*", in respect of the NC 5.5 Securities and "*Terms and Conditions of the NC 8.5 Securities – Taxation*", in respect of the NC 8.5 Securities, the Issuer shall not be liable to pay any Additional Amounts to holders of the Securities in relation to any withholding or deduction required pursuant to Italian Legislative Decree No. 239 of 1 April, 1996 (as the same may be amended or supplemented from time to time, "**Decree No. 239**") where the Securities are held by a Securityholder resident for tax purposes in a country that does not allow for a satisfactory exchange of information with Italy and otherwise in the circumstances described in "*Terms and Conditions of the NC 5.5 Securities – Taxation*" in respect of the NC 5.5 Securities and "*Terms and Conditions of the NC 8.5 Securities – Taxation*", in respect of the NC 8.5 Securities.

The Securities are expected to be rated "Baa3" by Moody's France S.A.S. (jointly with its affiliates and branches established in the EU, "**Moody's**"), "BBB-" by S&P Global Ratings Europe Limited (jointly with its affiliates and branches established in the EU, "**S&P**") and "BBB-" by Fitch Ratings Ireland Limited (jointly with its affiliates and branches established in the EU, "**Fitch**"). Each of Moody's, S&P and Fitch is established in the European Union (the "**EU**") and registered under Regulation (EC) No.1060/2009 (as amended) (the "**EU CRA Regulation**") and as such is included in the list of credit rating agencies published by the European Securities and Markets Authority ("**ESMA**") on its website (at https://www.esma.europa.eu/supervision/credit-rating-agencies/risk) in accordance with the EU CRA Regulation. The ratings issued by S&P, Fitch and Moody's are endorsed by S&P Global Ratings UK Limited, Fitch Ratings Ltd and Moody's Investors Service Limited, respectively, each of which is established in the United Kingdom (the "**UK**") and registered under Regulation (EC) No 1060/2009 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 ("**EUWA**") (the "**UK CRA Regulation**" and, together with the EU CRA

Regulation, the "**CRA Regulation**"). **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.**

Each of the NC 5.5 Securities and the NC 8.5 Securities will initially be represented by a temporary global security (the "**Temporary Global Security**"), without interest coupons, which will be deposited on or about the Issue Date with a common depositary for Euroclear Bank SA/NV ("**Euroclear**") and Clearstream Banking, S.A. ("**Clearstream**"). Interests in such Temporary Global Security will be exchangeable for interests in a permanent global security (the "**Permanent Global Security**" and, together with the Temporary Global Security, the "**Global Securities**"), without interest coupons, after 40 days after the commencement of this offering, upon certification as to non-U.S. beneficial ownership. Interests in the Permanent Global Security will be exchangeable for definitive Securities only in certain limited circumstances. See "Overview of the Terms of the Securities".

Banco Santander, S.A., BNP PARIBAS, BofA Securities Europe SA, Citigroup Global Markets Limited, Crédit Agricole Corporate and Investment Bank, Deutsche Bank Aktiengesellschaft, Goldman Sachs International, HSBC Continental Europe, Intesa Sanpaolo S.p.A., J.P. Morgan SE, Mizuho Securities Europe GmbH, Morgan Stanley & Co. International plc, MUFG Securities (Europe) N.V., NatWest Markets NV, SMBC Bank EU AG, Société Générale and UniCredit Bank AG (the "**Joint Lead Managers**"), expect to deliver the Securities to purchasers in bearer form on or about 16 January 2023.

This Offering Circular will be valid until the date of admission of the Securities to trading on the market. The obligation to supplement this Offering Circular in the event of a significant new factor, material mistake or material inaccuracy does not apply once the Securities are admitted to trading on the market.

The Securities have not been and will not be registered under the U. S. Securities Act of 1933, as amended (the "Securities Act"), or with any securities regulatory authority of any state or other jurisdiction of the United States, and are bearer securities that are subject to U.S. tax law requirements. The Securities may not be offered, sold or delivered within the United States or for the account or benefit of U.S. Persons (as defined in Regulation S under the Securities Act). For a description of these and certain further restrictions on offers, sales and transfers of Securities and distribution of this Offering Circular, see "Subscription and Sale".

Joint Lead Managers

BNP PARIBAS	BofA Securities	Citigroup
Crédit Agricole CIB	Deutsche Bank	Goldman Sachs International
HSBC	IMI – Intesa Sanpaolo	J.P. Morgan
Mizuho	Morgan Stanley	MUFG
NatWest Markets	Santander Corporate & Investment Banking	SMBC
Société Générale Corporate & Investment Banking		UniCredit

The date of this Offering Circular is 12 January 2023

NOTICE TO INVESTORS

This Offering Circular comprises a prospectus for the purposes of Article 6 of the Prospectus Regulation.

The Issuer accepts responsibility for the information contained in this Offering Circular. To the best of the knowledge of the Issuer, 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. Certain Information has been extracted from or is the result of the Issuer's elaboration on information provided by third-party sources, such as company filings, National Regulators' Annual Reports and leading information providers, which the Issuer deems to be the most reliable. The Issuer confirms that such information has been accurately reproduced and, as far as it is aware and is able to ascertain from published information, no facts have been omitted which would render the reproduced information inaccurate or misleading.

No representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Joint Lead Managers or the Trustee or any of their respective affiliates (including parent companies) as to the accuracy or completeness of the information contained or incorporated by reference in this Offering Circular or any other information provided by the Issuer in connection with the offering of the Securities.

To the fullest extent permitted by law, none of the Joint Lead Managers, the Trustee, the Principal Paying Agent or the Agent Bank (each as defined in the relevant Terms and Conditions of the Securities) accepts any responsibility or liability for the contents of this Offering Circular. Each of the Joint Lead Managers, the Trustee, the Principal Paying Agent and the Agent Bank accordingly disclaims all and any liability whether arising in tort or contract or otherwise 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 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 offering of the Securities and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, any of the Joint Lead Managers or the Trustee.

Other than in relation to the documents which are deemed to be incorporated by reference (see "*Incorporation by Reference*"), the information on the websites to which this Offering Circular refers does not form part of this Offering Circular and has not been scrutinised or approved by the Central Bank of Ireland.

Neither this Offering Circular nor any other information supplied in connection with the offering of the Securities (a) is intended to provide the basis of any credit or other evaluation or (b) should be considered as a recommendation by the Issuer, any of the Joint Lead Managers or the Trustee that any recipient of this Offering Circular or any other information supplied in connection with the offering of the Securities should purchase any Securities. Each investor contemplating purchasing any Securities should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer.

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Securities shall in any circumstances imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other information supplied in connection with the offering of the Securities is correct as of any time subsequent to the date indicated in the document containing the same. The Joint Lead Managers and the Trustee expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Securities or to advise any investor in the Securities of any information coming to their attention.

This Offering Circular does not constitute an offer to sell or the solicitation of an offer, or an invitation, to buy the Securities 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 the Securities may be restricted by law in certain jurisdictions. None of the Issuer, the Joint Lead Managers or the Trustee represents that this Offering Circular may be lawfully distributed, or that the Securities 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 assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Joint Lead Managers or the Trustee that would permit a public offering of the Securities or the distribution of this Offering Circular in any jurisdiction where action for that purpose is required. Accordingly, no Securities 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 Securities may come must inform themselves about, and observe, any such restrictions on the distribution of this Offering Circular and the offering and sale of the Securities. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of the Securities in the EEA, the United States, the United Kingdom and the Republic of Italy. See "Subscription and Sale".

Each potential investor in the Securities must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

(a) have sufficient knowledge and experience to make a meaningful evaluation of the Securities, the merits and risks of investing in the Securities and the information included in this Offering Circular or any applicable supplement;

(b) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Securities and the impact the Securities will have on its overall investment portfolio;

(c) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Securities, including where the currency for principal and interest payments is different from the potential investor's currency;

(d) understand thoroughly the terms of the Securities and be familiar with the behaviour of any relevant financial markets; and

(e) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

The Securities are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured, appropriate addition of risk to their overall portfolios. A potential investor should not invest in the Securities unless it has the expertise (either alone or with a financial adviser) to evaluate how the Securities will perform under changing conditions, the resulting effects on the value of the Securities and the impact this investment will have on the potential investor's overall investment portfolio.

One or more independent credit rating agencies may assign credit ratings to the Issuer or the Securities. 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 Securities. A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time. Notwithstanding the above, any adverse change in an applicable credit rating could adversely affect the trading price for the Securities. The Securities may be rated or unrated. Where the Securities are rated, such rating will not necessarily be the same as the rating(s) assigned to ENEL at the date of this Offering Circular or to other securities of same nature. Certain information with respect to the credit rating agencies and ratings is set out on the cover of this Offering Circular. In general, European regulated investors are restricted under the EU CRA Regulation and UK regulated investors are restricted under the UK CRA Regulation from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU or the UK and registered under the relevant CRA Regulation (and such registration has not been withdrawn or suspended), subject to transitional provisions that apply in certain circumstances. Such general restriction will also apply in the case of credit ratings issued by non-EU or non-UK credit rating agencies, unless the relevant credit

ratings are endorsed by an EU or UK registered credit rating agency or the relevant non-EU (or non-UK) rating agency is certified in accordance with the relevant CRA Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended, subject to transitional provisions that apply in certain circumstances).

The list of registered and certified rating agencies published by the ESMA or by the UK Financial Conduct Authority (the "FCA") on each of their websites in accordance with the relevant 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. If the status of the rating agency rating the Securities changes, European and UK regulated investors may no longer be able to use the rating for regulatory purposes and the Securities may have a different regulatory treatment. This may result in European and UK regulated investors selling the Securities which may have an impact on the value of the Securities. Certain information with respect to the credit rating agencies and ratings is set out on the cover of this Offering Circular.

MIFID II product governance / professional investors and ECPs only target market – Solely for the purposes of each manufacturer's product approval process, the target market assessment in respect of the Securities (as defined herein) has led to the conclusion that: (i) the target market for the Securities is eligible counterparties and professional clients only, each as defined in MiFID II; and (ii) all channels for distribution of the Securities to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Securities (a "distributor") should take into consideration the manufacturers' target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Securities (by either adopting or refining the manufacturers' target market assessment) and determining appropriate distribution channels.

UK MiFIR product governance / professional investors and ECPs only target market – Solely for the purposes of each manufacturer's product approval process, the target market assessment in respect of the Securities has led to the conclusion that: (i) the target market for the Securities is only eligible counterparties, as defined in the FCA Handbook Conduct of Business Sourcebook ("COBS"), and professional clients, as defined in the Regulation (EU) No. 10/2014 as it forms part of domestic law by virtue of European Union (Withdrawal) Act 2018 ("UK MiFIR"); and (ii) all channels for distribution of the Securities to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Securities (a "distributor") should take into consideration the manufacturer/s' target market assessment; however, a distributor subject to the FCA Handbook Product Intervention and Product Governance Sourcebook (the "UK MiFIR Product Governance Rules") is responsible for undertaking its own target market assessment in respect of the Bonds (by either adopting or refining the manufacturers' target market assessment) and determining appropriate distribution channels.

PRIIPS REGULATION / PROHIBITION OF SALES TO EEA – The Securities are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or (ii) a customer within the meaning of Directive (EU) 2016/97 (as amended, the "Insurance Distribution Directive"), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II. Consequently, no key information document required by Regulation (EU) No 1286/2014 (as amended, the "PRIIPs Regulation") for offering or selling the Securities or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Securities or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

PROHIBITION OF SALES TO UK RETAIL INVESTORS – The Securities are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available

to any retail investor in the United Kingdom ("UK"). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018 ("EUWA"); or (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the Financial Services and Markets Act 2000 (the "FSMA") to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of UK domestic law by virtue of the EUWA. Consequently no key information document required by Regulation (EU) No 1286/2014 as it forms part of UK domestic law by virtue of the EUWA (the "UK PRIIPs Regulation") for offering or selling the Securities or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Securities or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

Singapore SFA Product Classification: Solely for the purposes of its obligations pursuant to Sections 309B(1)(a) and 309B(1)(c) of the Securities and Futures Act 2001 (the "SFA"), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A of the SFA) that the Securities are "prescribed capital markets products" (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018).

IN CONNECTION WITH THE OFFERING OF THE SECURITIES, J.P. MORGAN SE (OR PERSONS ACTING ON ITS BEHALF) (TOGETHER THE "**STABILISING MANAGER**") MAY OVER-ALLOT SECURITIES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE MARKET PRICE OF THE SECURITIES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, STABILISATION ACTION 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 SECURITIES 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 SECURITIES AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE SECURITIES. ANY STABILISATION ACTION OR OVER-ALLOTMENT MUST BE CONDUCTED BY THE STABILISATION MANAGER (OR PERSON(S) ACTING ON BEHALF OF THE STABILISATION MANAGER) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.

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OVERVIEW OF THE TERMS OF THE SECURITIES

This Overview of the Terms of the NC 5.5 Securities and Terms of the NC 8.5 Securities must be read in conjunction with and is qualified in its entirety by reference to "Terms of the NC 5.5 Securities" and "Terms of the NC 8.5 Securities" appearing elsewhere in this Offering Circular. References to the "relevant Terms and Conditions of the Securities" and "relevant Conditions" are references to Conditions under "Terms of the NC 5.5 Securities" and "Terms of the NC 8.5 Securities", as appropriate. Capitalised terms used but not otherwise defined herein have the meaning ascribed to them under the caption "Terms of the NC 5.5 Securities" in respect of the NC 5.5 Securities and "Terms of the NC 8.5 Securities" in respect of the NC 8.5 Securities.

Issuer	ENEL - Società per Azioni
Legal Entity Identifier (LEI)	WOCMU6HCI0OJWNPRZS33
Issuer's website	https://www.enel.com/
Securities Offered	€1,000,000,000 Perpetual 5.5 Year Non-Call Capital Securities (the "**NC 5.5 Securities**") and €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (the "**NC 8.5 Securities**" and, together with the **NC 5.5 Securities**, the "**Securities**").
Date fixed for redemption	The Securities are perpetual securities and have no fixed date for redemption. Unless previously redeemed or purchased and cancelled as provided below, the Securities will become due and payable and will be redeemed on the date on which a winding up, dissolution or liquidation of the Issuer (otherwise than for the purpose of a solvent amalgamation, merger or reconstruction under which the assets and liabilities of the Issuer are assumed by the entity resulting from such amalgamation, merger or reconstruction and such entity assumes the obligations of the Issuer in respect of the Securities in accordance with Condition 13.2 of the relevant Terms and Conditions of the Securities) is instituted (the "**Liquidation Event Date**"), including in connection with any Insolvency Proceedings, in accordance with (i) any applicable legal provision, or any decision of any judicial or administrative authority, or (ii) any resolution passed at a shareholders' meeting of the Issuer or (iii) any provision which is set out in the by-laws of the Issuer from time to time (including the maturity of the Issuer which, as of the date of this Offering Circular, is set in its by-laws at 31 December 2100). Upon having become due and payable according to the provisions above, the Securities will be redeemed at an amount equal to their principal amount, together with any outstanding interest accrued up to, but excluding, the Liquidation Event Date and any outstanding Arrears of Interest.
Interest	The NC 5.5 Securities will bear interest on their principal amount (i) from (and including) the Issue Date to (but excluding) the NC 5.5 Securities First Reset Date, at the rate of 6.375 per cent. per annum, payable annually in arrear on each Interest Payment Date

	and (ii) from (and including) the NC 5.5 Securities First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 5.5 Securities First Reset Date to but excluding 16 July 2033, 3.486 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2033, 16 July 2038 and 16 July 2043, 3.736 per cent. per annum, and (C) in respect of any other Reset Period after 16 July 2048, 4.486 per cent. per annum, all as determined by the Agent Bank for annual payment in arrear on each Interest Payment Date, commencing 16 July 2023. The NC 8.5 Securities will bear interest on their principal amount (i) from (and including) the Issue Date to (but excluding) the NC 8.5 Securities First Reset Date, at the rate of 6.625 per cent. per annum, payable annually in arrear on each Interest Payment Date and (ii) from (and including) the NC 8.5 Securities First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 8.5 Securities First Reset Date to but excluding 16 July 2036, 3.774 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2036, 16 July 2041 and 16 July 2046, 4.024 per cent. per annum, and (C) in respect of any other Reset Period after 16 July 2051, 4.774 per cent. per annum, all as determined by the Agent Bank for annual payment in arrear on each Interest Payment Date, commencing 16 July 2023.
Interest Payment Dates	Each Security will bear interest from the date of original issuance. Interest on the NC 5.5 Securities will be payable annually in arrear on 16 July in each year, commencing on, and including, 16 July 2023. Interest on the NC 8.5 Securities will be payable annually in arrear on 16 July in each year, each commencing on, and including, 16 July 2023, to, and including the date fixed for redemption (each an "**Interest Payment Date**").
Optional Interest Deferral and Arrears of Interest	The Issuer may, at its sole discretion, elect to defer in whole, any payment of interest accrued on the relevant Securities in respect of any Interest Period (a "**Deferred Interest Payment**") by giving notice (a "**Deferral Notice**") of such election to the relevant Securityholders in accordance with Condition 12 of the relevant Terms and Conditions of the Securities, and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant Interest Payment Date. If the Issuer makes such an election, it shall have no obligation to make such payment and any such non-payment of interest shall not constitute a default by the Issuer or any other breach of obligations under the relevant Securities or for any other purpose.

Any Deferred Interest Payment will be deferred and shall constitute "**Arrears of Interest**". Any Arrears of Interest will remain outstanding until paid in full by the Issuer, but Arrears of Interest shall not itself bear interest.

Optional Settlement of Arrears of Interest

The Issuer may pay outstanding Arrears of Interest (in whole but not in part) at any time upon giving not less than 10 and not more than 15 Business Days' notice to the relevant Securityholders in accordance with Condition 12 of the relevant Terms and Conditions of the Securities (which notice shall be irrevocable and will oblige the Issuer to pay the relevant Arrears of Interest on the payment date specified in such notice) and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant due date for payment.

Mandatory Settlement of Arrears Interest

All (but not some only) of any outstanding Arrears of Interest being outstanding shall become due and payable in full and shall be paid by the Issuer on the first occurring Mandatory Settlement Date.

"**Mandatory Settlement Date**" means the earliest of:

(i) the fifth Business Day following the date on which a Mandatory Arrears of Interest Settlement Event occurs;

(ii) following any Deferred Interest Payment, on the next scheduled Interest Payment Date on which the Issuer does not elect to defer all of the interest accrued in respect of the relevant Interest Period;

(iii) the date on which the Securities are redeemed or repaid in accordance with Condition 6 of the relevant Terms and Conditions of the Securities, including at the Liquidation Event Date (unless otherwise required by mandatory provisions of applicable law).

A "**Mandatory Arrears of Interest Settlement Event**" shall have occurred in respect of the Securities if:

(a) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Junior Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Junior Securities;

(b) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Parity Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities);

(c) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Junior Securities, except where (x) such repurchase, purchase, redemption or acquisition was undertaken in connection with the satisfaction by the Issuer or any Subsidiary of its respective obligations under (i) any share buy-back program existing at the Issue Date or (ii) any stock option plan or free share allocation plan reserved for directors, officers and/or employees of the Issuer or any associated hedging transaction or (y) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Junior Securities; or

(d) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Parity Securities, except where (x) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities) or (y) such repurchase, purchase, redemption or acquisition is effected as a public tender offer or public exchange offer at a purchase price per security which is below its par value.

Purchases The Issuer or any Subsidiary may at any time purchase Securities (provided that all unmatured Coupons appertaining to the Securities are purchased with the Securities) in any manner and at any price. Such Securities may be held, reissued, resold or, at the option of the Issuer, surrendered to any Paying Agent for cancellation.

Further Issuances The Issuer may, without the consent of the Securityholders or Couponholders, create and issue further securities 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 securities or bonds of any series (including the Securities) constituted by a 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.

Status of the Securities The Securities and the Coupons constitute direct, unsecured and subordinated obligations of the Issuer and rank and will at all times rank *pari passu* without any preference among themselves and with Parity Securities and senior only to the Issuer's payment obligations in respect of any Junior Securities. The Securities constitute *obbligazioni* pursuant to Articles 2410 et seq. of the Italian Civil Code. The obligations of the Issuer in respect of the Securities and the Coupons are subordinated as described in Condition 3.2 of the Securities.

Use of Proceeds	The estimated net proceeds of the issuance of the Securities, after deduction of commissions, fees, and estimated expenses, will be used by the Issuer for general corporate purposes.
Ratings	The Securities are expected to be rated Baa3 by Moody's, BBB- by S&P and BBB- by Fitch. Each of Moody's, S&P and Fitch is established in the European Union and is registered under the CRA Regulation. As such, each of Moody's, S&P and Fitch is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website (https://www.esma.europa.eu/supervision/credit-rating-agencies/risk) in accordance with the CRA Regulation.
Optional Redemption	The Issuer may redeem all (but not some only) of the Securities on: (i) any date during the period commencing on (and including) 16 April 2028 and ending on (and including) the NC 5.5 Securities First Reset Date or upon any Interest Payment Date thereafter (each such date, a "**5.5 NC Call Date**"); (ii) any date during the period commencing on (and including) 16 April 2031 and ending on (and including) the NC 8.5 Securities First Reset Date or upon any Interest Payment Date thereafter (each such date, a "**8.5 NC Call Date**" and, together with the "5.5 **NC Call Date**" the "**Call Dates**")), in each case at their principal amount together with any accrued interest up to (but excluding) the relevant Call Date and any outstanding Arrears of Interest. The Issuer may also redeem all (but not some only) of the relevant Securities at any time at the applicable Early Redemption Price (as defined below) upon the occurrence of an Accounting Event, a Rating Methodology Event, a Tax Deductibility Event or a Withholding Tax Event. The Issuer may redeem all (but not some only) of the NC 5.5 Securities on any day prior to 16 April 2028 (the date falling 3 months before the NC 5.5 Securities First Reset Date) at the Make-whole Redemption Amount (as defined in the Terms and Conditions of the NC 5.5 Securities). The Issuer may redeem all (but not some only) of the NC 8.5 Securities on any day prior to 16 April 2031 (the date falling 3 months before the NC 8.5 Securities First Reset Date) at the Make-whole Redemption Amount (as defined in the Terms and Conditions of the NC 8.5 Securities). In the event that at least 75 per cent. of the aggregate principal amount of the relevant Securities issued on the Issue Date has been purchased by or on behalf of the Issuer or a Subsidiary (as defined in the relevant Terms and Conditions of the Securities) and has been cancelled (a "**Substantial Repurchase Event**"), the Issuer may redeem all (but not some only) of the relevant Securities in whole but not in part at any time, at the applicable

Early Redemption Price. See "*Terms and Conditions of the NC 5.5 Securities – Redemption and Purchase*" in respect of the NC 5.5 Securities and "*Terms and Conditions of the NC 8.5 Securities – Redemption and Purchase*" in respect of the NC 8.5 Securities.

The "**Early Redemption Price**" will be determined as follows:

(i) in the case of a Withholding Tax Event or a Substantial Repurchase Event at any time, 100 per cent. of the principal amount of the relevant Securities; or

(ii) in the case of an Accounting Event, a Rating Methodology Event, or a Tax Deductibility Event, either:

  (a) 101 per cent. of the principal amount of the relevant Securities then outstanding if the Early Redemption Date falls (i) prior to 16 April 2028, in the case of the NC 5.5 Securities (being the date falling three months prior to the NC 5.5 Securities First Reset Date), or (ii) prior to 16 April 2031, in the case of the NC 8.5 Securities (being the date falling three months prior to the NC 8.5 Securities First Reset Date); or

  (b) 100 per cent. of the principal amount of the relevant Securities then outstanding if the Early Redemption Date falls (i) on or after 16 April 2028 in the case of the NC 5.5 Securities (being the date falling three months prior to the NC 5.5 First Reset Date) or (ii) on or after 16 April 2031, in the case of the NC 8.5 Securities (being the date falling three months prior to the NC 8.5 Securities First Reset Date),

in each case together with any accrued interest up to, but excluding, the relevant Early Redemption Date and any outstanding Arrears of Interest. See Condition 6 – "*Redemption and Purchase*" of the Terms and Conditions of the NC 5.5 Securities in respect of the NC 5.5 Securities and Condition 6 – "*Redemption and Purchase*" of the Terms and Conditions of the NC 8.5 Securities in respect of the NC 8.5 Securities.

Intention Regarding Redemption and Repurchase of the Securities

The following paragraph shall not form part of the relevant Terms and Conditions of the Securities.

The Issuer intends (without thereby assuming a legal obligation) that it will redeem or repurchase the relevant Securities only to the extent that the part of the aggregate principal amount of the relevant Securities to be redeemed or repurchased which was assigned "equity credit" (or such similar nomenclature used by S&P from time to time) at the time of the issuance of the relevant Securities does not exceed such part of the net proceeds received by the Issuer or any Subsidiary prior to the date of such redemption or repurchase from the sale or issuance of securities by the Issuer or such Subsidiary to third-party purchasers (other

than group entities of the Issuer) which is assigned by S&P "equity credit" (or such similar nomenclature used by S&P from time to time), at the time of sale or issuance of such securities (but taking into account any changes in hybrid capital methodology or another relevant methodology or the interpretation thereof since the issuance of the relevant Securities), unless: (i) the rating (or such similar nomenclature then used by S&P) assigned by S&P to the Issuer is at least equal to the rating assigned to the Issuer on the date of the most recent hybrid security issuance (excluding any refinancing) which was assigned by S&P a "equity credit" similar to the relevant Securities and the Issuer is of the view that such rating would not fall below this level as a result of such redemption or repurchase, or (ii) in the case of a repurchase or redemption, taken together with relevant repurchases or redemptions of hybrid securities of the Issuer, such repurchase or redemption is less than 10 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 12 consecutive months and, in any case, less than 25 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 10 consecutive years, or (iii) the relevant Securities are redeemed pursuant to a Tax Deductibility Event, a Withholding Tax Event, an Accounting Event, a Substantial Repurchase Event or a Rating Methodology Event which results from an amendment, clarification or change in the "equity credit" criteria by the Rating Agencies, or (iv) the relevant Securities are not assigned an "equity credit" by S&P (or such similar nomenclature then used by S&P) at the time of such redemption or repurchase, or (v) in the case of a repurchase, such repurchase relates to an aggregate principal amount of relevant Securities which is less than or equal to the excess (if any) above the maximum aggregate principal amount of the Issuer's hybrid capital to which S&P then assigns equity content under its prevailing methodology; or (vi) such redemption or repurchase occurs on or after the Reset Date falling on 16 July 2048 in the case of NC 5.5 Securities and on 16 July 2051 in the case of NC 8.5 Securities.

Liquidation Event Date

There are no events of default in relation to the Securities.

On the Liquidation Event Date, the Securities will become due and payable at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest.

On or following the Liquidation Event Date, no payments will be made in relation to the Junior Securities of the Issuer before all amounts due, but unpaid, on the Securities have been paid by the Issuer.

	On or following the Liquidation Event Date, the Trustee at its sole discretion may (subject to its being indemnified and/or secured and/or prefunded to its satisfaction) (i) institute steps in order to obtain a judgment against the Issuer for any amounts due in respect of the Securities, including the institution of Insolvency Proceedings against the Issuer and (ii) file a proof of claim and participate in any Insolvency Proceedings or proceedings for the liquidation, dissolution or winding-up of the Issuer (in which Insolvency Proceedings, liquidation, dissolution or winding-up the Securities shall immediately become due and payable at their principal amount together with any accrued but unpaid interest up to (but excluding) the date on which the Securities become so due and payable and any outstanding Arrears of Interest).
Meetings of Securityholders	Each Trust Deed and the relevant Terms and Conditions of the Securities contain provisions for convening meetings of the relevant Securityholders to consider any matter affecting their interests. These provisions permit defined majorities to bind all relevant Securityholders, whether or not they are present at the meeting, and all relevant Couponholders.
Modification and Waiver	The Trustee may agree, without the consent of the relevant Securityholders or relevant Couponholders, to any modification (subject as set out in the relevant Trust Deed) of, or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of the relevant Securities or the relevant Trust Deed, in the circumstances and subject to the conditions described in Condition 13.3 of the relevant Terms and Conditions of the Securities.
Substitution	The Trustee may, without the consent of the relevant Securityholders or relevant Couponholders, agree with the Issuer to the substitution in place of the Issuer (or of any previous substitute under Condition 13.2) as the principal debtor under the relevant Securities, the relevant Coupons and the relevant Trust Deed of another company, in the circumstances and subject to the conditions described in Condition 13.2 of the relevant Terms and Conditions of the Securities.
Exchange or Variation	If at any time after the Issue Date the Issuer determines that a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or an Accounting Event has occurred and is continuing, and has provided the Trustee with the relevant certificate and opinion, or in the case of Condition 6.5 only, the Rating Agency Confirmation, pursuant to Conditions 6.3, 6.4, 6.5 or 6.6 (as applicable), then the Issuer may, without any requirement for the consent or approval of the Securityholders or Couponholders and subject to the pre-conditions set out in Condition 7.2, which include that the terms of the exchange or variation, in the sole opinion of the Issuer (acting reasonably) are

not prejudicial to the interests of the Securityholders, and subject to its having satisfied the Trustee immediately prior to the giving of any notice referred to in Condition 7 that the provisions of such Condition have been complied with and having given not less than 10 nor more than 60 Business Days' notice to the Trustee, the Principal Paying Agent and, in accordance with Condition 12 (*Notices*), to the relevant Securityholders (which notice shall be irrevocable), as an alternative to an early redemption of the relevant Securities at any time (i) exchange the Securities or (ii) vary the terms of the relevant Securities, so that after such exchange or variation the Securities remain or become, as the case may be, eligible for the same or (from the perspective of the Issuer) more favourable tax, accounting or ratings treatment than the treatment to which they were entitled prior to the relevant event occurring.

Transfer and Selling Restrictions

There are restrictions on the offer, sale and transfer of the Securities in the EEA, the United States, the UK, Singapore and Italy and such other restrictions as may be required in connection with the offering and sale of the Securities. See "Subscription and Sale".

Taxation; Additional Amounts

All payments of principal and interest in respect of the relevant Securities and Coupons by the Issuer will be made without withholding or deduction for or on account of any present or future Taxes imposed or levied by or on behalf of any Tax Jurisdiction, unless such withholding or deduction of the Taxes is required by law. In such event, the Issuer will pay (subject to Condition 8) such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts received by the relevant Securityholders and relevant Couponholders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the relevant Securities or, as the case may be, or the relevant Coupons in the absence of such withholding or deduction.

Notwithstanding the above, no Additional Amounts will be payable in relation to any payment in respect of any Security or Coupon:

(a) presented for payment: (i) in any Tax Jurisdiction; or (ii) by or on behalf of a holder who is liable for such Taxes in respect of such Security or Coupon by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Security or Coupon; or (iii) by or on behalf of a holder who would be able to avoid such withholding or deduction making a declaration or any other statement including, but not limited to, a declaration of residence or non-residence, but fails to do so; or (iv) more than 30 days after the Relevant Date 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 Presentation Date; or

(b) in relation to any payment or deduction on account of *imposta sostitutiva* pursuant to Decree No. 239 as amended and/or supplemented or, for the avoidance of doubt, Italian Legislative Decree No. 461 of 21 November 1997 as amended and supplemented and in all circumstances in which the procedures set forth in Decree No. 239 in order to benefit from a tax exemption have not been met or complied with; or

(c) in the event of payment by the Issuer to a non-Italian resident Securityholder, to the extent that the Securityholder is resident in a country which does not allow for a satisfactory exchange of information with the Italian authorities.

Notwithstanding anything to the contrary contained herein, the Issuer (and any other person making payments on behalf of the Issuer) shall be entitled to withhold and deduct any amounts required to be deducted or withheld pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), or otherwise imposed pursuant to (i) Sections 1471 through 1474 of the Code, or (ii) any regulations thereunder or official interpretations thereof, or (iii) an intergovernmental agreement between the United States and another jurisdiction facilitating the implementation thereof, or (iv) any law implementing such an intergovernmental agreement (any such withholding or deduction, a "**FATCA Withholding**"), and no person shall be required to pay any additional amounts in respect of FATCA Withholding.

Form and Denomination

The Securities will be issued in bearer form in denominations of €100,000 and integral multiples of €1,000 in excess thereof, up to and including €199,000.

Governing Law

The relevant Trust Deed, the relevant Securities and the related Coupons and any non-contractual obligations arising out of or in connection with the relevant Trust Deed, the relevant Securities and the Coupons are governed by, and shall be construed in accordance with, English law, except for Conditions 3.1 and 3.2, concerning status and subordination of the relevant Securities and the Coupons, which shall each be governed by Italian law. Condition 13.1 and the provisions of the relevant Trust Deed concerning the meeting of relevant Securityholders and the appointment of a joint representative of such Securityholders (*a rappresentante comune*) in respect of the Securities are subject to compliance with Italian law.

Trustee	BNY Mellon Corporate Trustee Services Limited.
Principal Paying Agent and Agent Bank	The Bank of New York Mellon, London Branch.
Listing	This Offering Circular has been approved by the Central Bank of Ireland, as competent authority under the Prospectus Regulation, as meeting the requirements imposed under Irish and European Union law pursuant to the Prospectus Regulation. Application has been made to Euronext Dublin for the Securities to be admitted to the Official List and trading on its regulated market.
Security Codes	The ISIN is XS2576550086 and the Common Code is 257655008 for the NC 5.5 Securities and the ISIN is XS2576550243 and the Common Code is 257655024 for the NC 8.5 Securities.
Risk Factors	Investing in the Securities involves substantial risks. In evaluating an investment in the Securities, you should carefully consider all of the information provided in this Offering Circular and, in particular, the specific factors set out under "Risk Factors" beginning on page 12.

RISK FACTORS

The Issuer believes that the following factors may affect its ability to fulfil its obligations under the Securities. Most of these factors are contingencies which may or may not occur.

In addition, factors which are material for the purpose of assessing the market risks associated with the Securities are also described below.

The Issuer believes that the factors described below represent the principal risks inherent in investing in the Securities, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Securities may occur for other reasons which may not be considered significant risks by the Issuer based on information currently available to it and which it may not currently be able to anticipate. In addition, if any of the following risks, or any other risk not currently known, actually occur, the trading price of the Securities could decline and Securityholders may lose all or part of their investment. Prospective investors should also read the detailed information set out elsewhere in this Offering Circular including any document incorporated by reference hereto and reach their own views, based upon their own judgement and upon advice from such financial, legal and tax advisers as they have deemed necessary, prior to making any investment decision.

References to the "relevant Securities" are to the NC 5.5 Securities and the NC 8.5 Securities, respectively and references to the "relevant Terms and Conditions of the Securities" and the "relevant Conditions" are references to Conditions under "Terms of the NC 5.5 Securities" and "Terms of the NC 8.5 Securities", respectively. Words and expressions defined in the relevant Terms and Conditions of the Securities or elsewhere in this Offering Circular have the same meanings in this section.

FACTORS THAT MAY AFFECT THE ISSUER'S ABILITY TO FULFIL THEIR OBLIGATIONS UNDER THE SECURITIES

1. Risks related to the business activities and industries of ENEL

ENEL's ability to successfully execute its 2023-2025 Strategic Plan is not assured

On 22 November 2022, ENEL's Board of Directors approved the Group's 2023-2025 Strategic Plan (the "**Strategic Plan**"), which contains the strategic guidelines and growth objectives of the Group for the relevant period, as well as some forecasts with regard to the Group's expected results of operations. The Strategic Plan contemplates, among other things, an investment program, mainly concentrated in the six core countries, of about €37 billion between 2023 and 2025 of which:

- 60% supporting the Group's integrated commercial strategy (generation, customers and services);
- 40% allocated to grids to support their role as enablers of the energy transition.

The Strategic Plan illustrates how the position is integrated across the value chain in the core countries. The strategic choices are aimed at lowering the risk/return profile, increasing the amount of fixed sales customer contracts and predigesting the Group's portfolio of business and geographies.

The Group expects to maintain a Dividend Per Share ("**DPS**") of 0.43 euros for 2023-2025, up from 0.40 euros in 2022, whereby DPS in 2024 and 2025 is to be considered as a sustainable minimum

The Strategic Plan and the projections contained therein are based on a series of assumptions, including among others the evolution of the regulatory frameworks applicable to the ENEL Group, trends in relevant macroeconomic variables, the possible evolution of demand and prices for electricity, gas, fuels and average investment costs for the plants in the markets in which the ENEL Group operates. The strategic priorities set

forth in the Strategic Plan also include an improvement of the operational efficiency (through digitalisation) and an acceleration of industrial growth as well as group simplification and decarbonisation.

In the event that one or more of the Strategic Plan's underlying assumptions proves incorrect or events evolve differently than as contemplated in the Strategic Plan (including because of events affecting the ENEL Group that may not be foreseeable or quantifiable, in whole or in part, as of the date hereof) the anticipated events and results of operations indicated in the Strategic Plan (and in this Offering Circular) and in the assumptions underlying the targets and projections could differ from actual events and results of operations.

The Group's funding strategy, which is also linked to sustainable instruments, envisages an overall stability of the cost of debt during the Strategic Plan period, despite the recent rising progression in interest rates. However, ENEL will need to finance a significant portion of its expected capex and, in the event of a significant variation of certain assumptions relating to industrial and macroeconomic variables, such financing might be more expensive than expected.

In addition, the ENEL Group has implemented two complementary business models (the Ownership model and the Stewardship model), which underpin its medium to long-term growth strategy. Such strategy hinges on a number of business objectives, including the periodic attainment of operating and financial targets and large volumes of investment by the ENEL Group in certain projects. Whether such targets or levels of investment as envisaged by the business models will be realised depends on, and may be affected by, a wide variety of factors, many of which are not within ENEL's control. These factors include demographic changes, economic growth, fuel and energy prices, changes in consumer habits or regulation and the speed of technological innovation that cannot be envisaged as at the date hereof. If any such business objectives are not realised for reasons beyond the ENEL Group's control or for any other reason, the ENEL Group's business prospects, financial condition and results of operations could be adversely affected.

The Strategic Plan should not be unduly relied upon in any way by an investor in making an investment decision with respect to any securities offered hereunder. Furthermore, this Offering Circular contains certain statements and estimates regarding the ENEL Group's competitive position in certain markets, including with respect to its pre-eminence in particular markets. Such statements are based on the best information available to the ENEL Group's management as of the date hereof. However, the ENEL Group faces competitive risks and its market positions may diverge from those expressed herein as a result of a variety of factors outside of its control. Any failure by the ENEL Group to execute its Strategic Plan or maintain its market positions could have a material adverse effect upon the ENEL Group, its business prospects, its financial condition and its results of operations.

The Group relies on time-limited government concessions in order to conduct many of its business activities

ENEL Group companies are concession-holders in Italy for the management of the ENEL Group's electricity distribution networks and hydroelectric and geothermal power stations. The ENEL Group's large hydroelectric power stations in Italy are managed under administrative concessions that are set to expire in 2029. The ENEL Group's geothermal power stations in Italy are managed under administrative concessions that are set to expire in 2024. The distribution network in Italy is managed under administrative concessions that will expire in 2030.

With specific reference to large-scale hydroelectric concessions in Italy, the legal framework represented by legislative decree no. 79/1999 (in particular, art. 12) – was modified by Decree Law no. 135 of 2018, ratified with Law no. 12 dated 11 February 2019 (the so-called "**Simplifications Decree**"), which introduced, among other aspects, certain changes regarding the granting of such concessions upon their expiry and the valorization of assets and works connected to them to be transferred to the new concession holder. The Simplifications Decree also introduced a number of changes in the matter of concession fees, establishing a fixed and variable component of fees, as well as an obligation to provide free power to public bodies (220 kWh of power for each kW of average nominal capacity of the facilities covered by the concession). In order to implement the above-mentioned decree, several Italian regions enacted regional laws. Nevertheless, as of today, such regions have

not determined the specific and detailed modalities to award large-scale hydroelectric concessions yet, consequently the assessment on the possibility of any concession renewal or any conditions to the valorization of the investments implemented on the assets during the years is not yet possible. Finally, certain regions have applied the above mentioned changes also to already existing concessions. ENEL challenged the regional implementing acts before the judicial authorities, including by raising the question of constitutional illegitimacy of both the national and regional laws. For further details on this matter, please see sections "*Significant events in 2021*" of 2021 Audited Consolidated Financial Statements, and "*Significant events in the 1st Half of 2022*" of 2022 Interim Financial Report at 30 June 2022, each incorporated by reference in this Offering Circular (see: "*Incorporation by Reference*"). On 5 August 2022, the Italian Parliament approved certain amendments to the Simplifications Decree (and consequently to legislative decree no. 79/1999); such amendments provide, *inter alia*, that outgoing concessionaires should receive a fair termination payment that takes into account the amortization of their investments on the assets under concession and expressly reconfirm the possibility of resorting to project financing to award the concessions upon their expiry. In addition, the changes to the Simplifications Decree provide that the Italian Ministry of Infrastructure and Sustainable Mobility shall act in lieu of the regional authorities that do not enact regulations to discipline the procedures for the award of large-scale hydroelectric concessions. As at the date hereof, the ENEL Group is not in a position to assess the impact that the amendments to the Simplifications Decree may have on its operations.

Endesa's hydroelectric power stations in Spain also operate under administrative concessions, which are set to expire on a variety of dates, up to 2067.

Any of the ENEL Group's concessions, including concessions not specifically discussed above, may not be renewed following their expiry or could be renewed on economic terms that are less advantageous or more burdensome for the ENEL Group. In either case, the ENEL Group could experience material and adverse effects upon its business prospects, results of operations or financial condition as a result.

The Group is exposed to risks related to the issuance and revocation of permits, concessions and administrative authorisations for the development, construction and operation of plants

The development, construction and operation of electric power production plants is subject to complex administrative procedures, which requires the procurement of numerous permits from both national and local relevant authorities.

Procedures for obtaining authorisations vary by country and requests may be rejected by the relevant authorities for various reasons or approved with delays which may be significant. The process of obtaining permits can be further delayed or hindered by changes in national or other legislation or regulation or by opposition from communities in the areas affected by a project.

Any failure or delay to obtain permits, concessions and/or necessary authorisations with regard to plants being built, and any revocation, cancellation or non-renewal of permits and/or authorisations in relation to existing plants, and objections by third parties to the issuance of these permits, concessions and authorisation may lead the Group to modify or reduce its development objectives in certain areas or technologies, and may have material adverse effects on the Group's business, financial condition and results of operations.

The ENEL Group faces risks relating to the variability of weather and seasonality and extreme weather events

Electricity and natural gas consumption levels change significantly as a result of climatic changes. Changes in weather conditions can result in significant changes in energy demand and the ENEL Group's sales mix, ultimately impacting turnover and performance of the ENEL Group. More specifically, in warmer periods of the year, gas sales decline, while during periods in which factories are closed for holidays, electricity sales decline. In addition, weather changes (for example, low wind or rain levels) affect the ENEL Group's production

from certain renewable resources. In particular, ENEL's electric power generation involves hydroelectric generation and, accordingly, ENEL is dependent upon hydrological conditions prevailing from time to time in the geographic regions where the relevant hydroelectric generation facilities are located. Hydroelectric generation performance is particularly high during the winter and early spring given the more favourable seasonable weather conditions. If hydrological conditions result in droughts or other conditions that negatively affect ENEL's hydroelectric generation business, ENEL's results of operations could be materially adversely affected. Also, adverse weather conditions can affect the regular delivery of energy due to power plants and result in networks damage and the consequent service disruption. The Group is exposed to the risk of damage to assets and infrastructures caused by extreme weather events or natural disasters and, consequentially, to the risk of prolonged unavailability of these assets.

The Group adopts sophisticated monitoring and mitigation measures consistent with internationally recognized Environmental Management Systems (EMS). Although the Group adopts initiatives to monitor, assess and quantify the impacts of the variability of weather and seasonality and extreme events on the Group, significant changes of such nature, and the occurrence of one or more of the events described or other similar events could adversely affect the business prospects, results of operations and financial condition of ENEL.

The ENEL Group is exposed to risks connected with climate change

Climate change may affect the ENEL Group through two channels: physical variable and transition scenario changes. With regard to the risks related to climate change associated with physical variables, and taking the IPCC (The Intergovernmental Panel on Climate Change) pathways as points of reference, ENEL analysed the trends in the following variables and associated operational and industrial phenomena with potential risks: (i) change in mean temperatures and potential increase and/or decrease in energy demand; (ii) change in mean rainfall and snow levels with a potential increase and/or decrease in hydroelectric generation; (iii) change in mean solar radiation and wind with a potential increase and/or decrease in solar and wind generation. However, work to perfect these analyses is ongoing. According to the scenarios used, significant, chronic changes in the variables analysed, even in the event of increases, would have a material impact mainly over the long term. In addition to chronic trends, the frequency and impact of these events have been looked at in terms of extreme events potentially resulting in unexpected physical damage to assets that could have material impact. Furthermore, with regard to the transition toward a more sustainable development, ENEL considers that the following sources of risks may have an impact on ENEL Group's operations and the realisation of its medium and long-term strategic objectives:

- introduction of laws and regulations for getting through the transition and the Paris Agreement introducing stricter emission limits and/or altering the generation mix not driven by price signals;
- increase in the level of competition and convergence of opportunities from diverse fields with opportunities to access new markets, services and/or partnerships or for the entry of new players in the energy industry; and
- regulatory changes with a view to integrating new digital and renewable technologies and to driving infrastructure resilience with potential introduction of new mechanisms of remuneration tied to environmental performance and innovation.

The Group faces risks relating to interruptions in service at its facilities

The ENEL Group is continuously exposed to the risk of malfunctions and/or interruptions in service resulting from events outside of the ENEL Group's control, including accidents, natural disasters (including earthquakes, severe storms and major unfavorable weather conditions) defects or failures in machinery or control systems or components of them. It is also subject to the risk of casualties or other similar extraordinary events. To the extent that any such events put the ENEL Group's employees or any other person in danger, the ENEL Group's

may also be subject to civil and criminal liabilities and suffer reputational damages. Any such events could result in economic losses, cost increases, or the necessity to revise the ENEL Group's investment plans. Additionally, service interruptions, malfunctions or casualties or other significant events could result in the ENEL Group being exposed to litigation, which could generate obligations to pay damages. Although the ENEL Group has insurance coverage, such coverage may prove insufficient to fully offset the cost of paying such damages. In addition, because of the nature of the industrial activities conducted at the ENEL Group's premises, there is a risk of injury or death to its employees and/or other people in the course of the ENEL Group's operation, including in connection with the potential exposure to hazardous substances, notwithstanding the safety precautions we that are taken. Therefore, the occurrence of one of more of the events described above, or other similar events, could have a material adverse effect on the business prospects, results of operations and financial condition of ENEL.

The Group is exposed to disruptions in its information technology and cyber attacks

The Group depends on its information technology and data processing systems for the efficient operation of its business, including the management of relationships with customers and other parties, and a significant malfunction or disruption in the operation of its systems could disrupt the Group's business and adversely impact its ability to compete. The Group also uses a significant number of systems and other technologies supplied by third parties. Such systems are susceptible to malfunctions and interruptions due to equipment damage, power outages, and a range of other hardware, software and network problems. Breakdowns and interruptions in the IT systems could jeopardise the Group's operations, causing errors in the execution of transactions, inefficient processes, loss of customers, production breakdowns and other business interruptions.
In addition to supporting its operations, the Group uses its information systems to collect and store confidential and sensitive data, including information about its business, clients and employees. As the Group's technology continues to evolve, it is anticipated that the Group will collect and store even more data in the future, and that its systems will increasingly use remote communication features that are sensitive to both wilful and unintentional security breaches. In the event of a breach in security that allows third parties access to this personal information, the Group is subject to a variety of ever-changing laws on a global basis that require the Group to provide notification to the data owners, and that subject the Group to lawsuits, fines and other means of regulatory enforcement.
The organisational complexity of the Group exposes the Group's assets to the risk of cyber-attacks, or threats of intentional disruption, which are increasing in terms of sophistication and frequency, with the consequence that some cyber incidents may remain undetected for long periods of time. Although the Group has adopted a model for managing these risks and, in particular, has adopted a "Cyber Security Framework" to guide and manage cyber security activities, which provides for the involvement of the relevant business areas, compliance with legal requirements and recommendations and the use of the best available technologies, ENEL may be subject to cyber-attacks and other security threats to its IT systems. In such circumstances, the Group could be unable to continue to conduct its business in an effective manner, or to prevent or respond promptly and adequately or to mitigate the adverse effects of breakdowns or interruptions in its IT infrastructure, with possible adverse effects on its reputation, financial condition, assets, business and results of operations.

ENEL is exposed to risks relating to recent and potential future acquisitions and sales of participations

During the course of 2020 and 2021, the Group carried out some acquisitions and sales of participations, in particular ENEL increased its stakes in the listed companies Enel Américas and Enel Chile and sold 50% of the share capital of Open Fiber. For further information on relevant acquisitions and sales of the Group in 2020 and 2021, see the sections "*Significant events in 2020*" of 2020 Audited Consolidated Financial Statements and "*Significant events in 2021*" of 2021 Audited Consolidated Financial Statements. In the first half of 2022 ENEL finalized the acquisition of the entire share capital of ERG Hydro and the renewal of partnership with Cinven in Ufinet Latam. On 23 September 2022, Enel S.p.A. announced that its subsidiary Enel Brasil SA, controlled

through the Chilean listed company Enel Américas SA, had signed with Equatorial Participações e Investimentos SA, a subsidiary of Equatorial Energia SA (Equatorial), an agreement for the sale of its entire stake in the Brazilian power distribution company Celg Distribuição SA - Celg-D (Enel Goiás), equal to about 99.9% of the latter's share capital. Moreover, further to the fulfilment of all the conditions, on 12 October 2022 ENEL finalized the disposal of its entire 56.43% stake in PJSC Enel Russia. For further information see section "*Significant events in the 3rd Quarter of 2022*" of the 2022 ENEL Interim Financial Report at 30 September 2022.

With respect to both past and future acquisitions and sales of participations, the Group may be exposed to liabilities not detected during the due diligence process or not covered by contractual provisions. Furthermore, other assessments of the acquired business made at the time of the initial investment could prove to be incorrect.

Acquisitions entail an execution risk – the risk that ENEL will not be able to effectively integrate the purchased assets so as to achieve the benefits and synergies expected from such transactions. In addition, acquisitions entail a financial risk – the risk of not being able to recover the purchase costs of acquired assets. ENEL may also incur unanticipated costs or assume unexpected liabilities and losses in connection with the companies or assets it acquires.

Any of the above circumstances could have an adverse effect on the Group's financial condition, business or results of operations.

The credit agreements and bond agreements that the ENEL Group has entered into contain restrictive covenants that limit its operations

The agreements relating to the long-term financial indebtedness of the Group contain covenants that must be complied with by the borrowers (ENEL and the other companies of the Group) and, in certain instances, by ENEL, as guarantor. The failure to comply with any of them could constitute a default, which could have a material adverse effect upon the Group, its business prospects, its financial condition or its results of operations. In addition, covenants such as "negative pledge" clauses, "material change" clauses and covenants requiring the maintenance of particular financial ratios or credit ratings, constrain the Group's ability to acquire or dispose of assets or incur new debt.

The Group faces risks related to the potential liabilities resulting from energy production through nuclear power plants

The Group is in the business of nuclear power generation as a result of the Group's interests in Endesa and the ongoing procedure for future decommissioning related to Slovenské elektrárne ("**SE**").

Although ENEL believes that Endesa's and SE's nuclear power plants use technologies that are internationally recognized and that they are managed according to international standards, ownership and operation of nuclear power plants nonetheless exposes the Group to a series of inherent risks, including those relating to the manipulation, treatment, disposal and storage of radioactive substances and the potential adverse effects thereof on the environment and human health.

Under current Spanish law, starting from January 2022, the Group may incur liabilities of up to €1,200 million for any nuclear damages caused during the storage, transformation, management, use or transportation of nuclear substances, regardless of the existence of willful misconduct or negligence. Liability is also provided for nuclear damages caused by exceptional natural catastrophes.

Any nuclear accident or other harmful incident (including resulting from terrorist attacks) or any challenge by non-governmental groups or organizations could have a material adverse effect on the business prospects, results of operations and financial condition of ENEL and the ENEL Group.

Potential risks also arise in relation to the decommissioning of nuclear power plants. The National Integrated Energy and Climate Plan ("**PNIEC**") includes an orderly decommissioning closure of the nuclear power plant in Spain between 2027 and 2035. The PNIEC for the period 2021-2030 was approved by the Spanish Council of Ministers on 25 March, 2021 and its current state or any variation thereof could affect the remaining useful life of the facilities and potentially lead to future costs relating to decommissioning works. The Slovakian government has established a fund to finance the present and future costs associated with the decommissioning of nuclear reactors. The deficit of this fund has not been definitively quantified, and the ENEL Group could potentially face future costs relating to decommissioning works at Bohunice and/or Mochovce, in addition to the amounts that are already required to contribute to the aforementioned fund (according to the regulation No. 22/2019 Coll. dated 9 January 2019), the contribution was determined stating the value of yearly contribution for the years 2019 through 2022 in the amount of €41,036,084 per year for Atómové elektrárne Bohunice 2 power plant (EBOV2) and €24,891,727 per year for Atómové elektrárne Mochovce unit 1 and 2 (EMO1&2). These fees will be increased accordingly to cover also the future decommissioning needs of Unit 3 and Unit 4 of Mochovce currently under construction. The fee for the year 2023 and beyond will be determined by the regulation. Following the disposal of part of its interest in SE in July 2016, ENEL owns indirectly a 33% interest in SE and accounts for such investment pursuant to the equity method.

2. Financial risks

The ENEL Group is burdened by significant indebtedness and it must generate sufficient cash flow to service its indebtedness

As of 30 June 2022, the ENEL Group's Net Financial Debt was equal to €62,238 million, compared to €51,952 million as of 31 December 2021. The ENEL Group's Net Financial Debt is reported in accordance with Guideline 39, issued on 4 March 2021, by ESMA, applicable as from 5 May 2021, and with warning notice no.5/2021 issued by CONSOB on 29 April 2021.

As of 30 June 2022, the repayment schedules of the ENEL Group's Long-Term Debt provided for the repayment of € 3,008 million in 2022 and €4,099 million in 2023. The ENEL Group's Net Short-Term Financial Debt (including current maturities of long-term debt) showed a net debtor position and amounted to €3,077 million as of 30 June 2022, compared to a net debtor position which amounted to €24 million as of 31 December 2021. Any failure by the Group to make any of its scheduled debt repayments, or to reschedule such debt on favorable terms, would have a material adverse effect on the Group, its business prospects, its financial condition and its results of operations.

Changes in the level of liquidity available to ENEL may adversely affect the ENEL Group's results of operations and financial condition

The ENEL Group may not be able to meet its payment commitments or otherwise it may be able to do so only on unfavourable conditions. This may materially and adversely affect the ENEL Group's results of operations and financial condition should the ENEL Group be obliged to incur extra costs to meet its financial commitments or, in the worst-case scenario, threaten the ENEL Group's future as a going concern and lead to insolvency. The ENEL Group's approach to liquidity risk management is to maintain a level of liquidity which is adequate for the ENEL Group to meet its payment commitments over a specific period without resorting to additional sources of financing and to have a prudential liquidity buffer sufficient to meet unexpected cash outlays. In addition, as a measure intended to ensure the ability to meet its medium-long-term payment commitments, the ENEL Group pursues a strategy aimed at diversifying its funding sources and optimising the maturity of its debt. However, these measures may not be sufficient to provide adequate cover of such risk. To the extent they are not, this may adversely affect the ENEL Group's results of operations and financial condition.

ENEL conducts its business in several different currencies and is exposed to exchange rate risks, particularly in relation to the rate of exchange between the Euro and the U.S. dollar

The Group is exposed to exchange rate risks in relation to cash flows connected to the purchase and/or sale of fuels and electricity on the international markets, cash flows related to investments or other financial income or expenses denominated in foreign currencies, such as dividends deriving from non-consolidated foreign subsidiaries, cash flows related to the purchase or sale of equity participations, and indebtedness in currencies different from those used in the countries where the Group has its principal operations. The ENEL Group has significant exposure to fluctuations of the Euro against the U.S. dollar and the currencies of the South American countries in which the ENEL Group is present, which have recently been subject to market volatility. It is worth highlighting that such exchange rate risk is higher in hyperinflationary economies like Argentina (which is a country in which ENEL operates).

With reference to the transaction risk, which is the risk arising from the revaluation of assets and liabilities, the main source of risk is represented by debt denominated in currencies different from the functional currencies of Group companies that hold the debt. At 31 December 2021, 45.2% of the Group long-term debt was denominated in currencies other than euro, compared to 51.1% as of 31 December 2020. Taking into account the hedging transactions, such percentage amounted to 17.0% at 31 December 2021, compared to 16.6% as at 31 December 2020. Furthermore, the residual exposure to currencies other than the functional currencies is negligible. Any future significant variations in exchange rates affecting the currencies in which the Group operates and/or failure of the Group's related hedging strategy could materially and adversely affect ENEL's and the Group's financial conditions and results of operations.

Revenues and costs denominated in foreign currencies may be significantly affected by exchange rate fluctuations, which may have an impact on commercial margins (*i.e.* economic risk), and commercial and financing payables and receivables denominated in foreign currencies may be significantly affected by conversion rates used for profit and loss computation.

Furthermore, because the ENEL Group's consolidated financial statements are expressed in Euro but the financial statements of several subsidiaries are expressed in other currencies, negative fluctuations, in exchange rates could negatively affect the value of consolidated foreign subsidiaries' assets, income and equity, with a concomitant adverse effect on the Group's consolidated financial statements (*i.e.*, translation risk). For instance, due to the translation effect, an appreciation of the Euro against the Group's other significant currencies, including the U.S. dollar, would adversely affect the Group's results.

Exchange rate risk is managed in accordance with the ENEL Group's financial risk management policies, which provide for the stabilisation of the effects of fluctuations in exchange rates to avoid such risk. To this end, the ENEL Group has developed operational processes that ensure the appropriate coverage of exposures through hedging strategies, which typically involve the use of financial derivatives and the posting of cash collateral to the Group's hedging counterparties. However, hedging instruments may not be successful in protecting the Group effectively from adverse exchange rate movements.

Changes in the creditworthiness of the ENEL Group's counterparties may adversely affect the ENEL Group's business and financial condition

The ENEL Group is exposed to credit risk deriving by commercial, commodity and financial operations. Credit risk is intended as the possibility that the ENEL Group's counterparties might not be able to discharge all or part of their obligations due to an unexpected change in the creditworthiness that impacts the creditor position, in terms of insolvency or changes in its market value.

Beginning in the last few years, with the instability and uncertainty of the financial markets and the global economic crisis, average payment times for trade receivables by counterparties have increased.

In this frame, the ENEL Group's general policy calls for the application of criteria in all the main regions/countries/business lines for measuring credit exposures in order to promptly identify any deterioration

in credit quality – determining any mitigation actions to implement – and to enable the monitoring and reporting of credit risk exposures at the ENEL Group level. Moreover, in most of the regions/countries/business lines the Group assesses in advance the creditworthiness of each counterparty with which it may establish its largest exposures on the basis of information supplied by independent providers and/or internal models.

In addition, for certain segments of its customer portfolio, the Group also enters into insurance contracts with leading credit bank/insurance companies.

In spite of such risk management policies and insurance, default by one or more significant counterparties of the ENEL Group may adversely affect the ENEL Group's results of operations and financial condition.

A portion of the ENEL Group's indebtedness is subject to floating interest rates, thus subjecting the Group to the risk of adverse interest rate fluctuations

Market interest rates affect the ENEL Group's results mainly through possible increases in interest expenses on floating rate indexed debt. As at 30 June 2022, the Group's Net Financial Debt was equal to €62,238 million and 33.6% of the Group's Gross financial debt was subject to floating interest rates (compared to 38.4% as at 31 December 2021). Taking into account the hedge accounting of interest rates considered effective pursuant to the IFRS-EU, 29.6% of the Group's Gross financial debt was exposed to interest rate risk at 30 June 2022 (31% at 31 December 2021). Any significant increase in interest rates could therefore lead to an increase in the Group's debt service expenses, which would have a material adverse effect on the Group, its business prospects, its financial condition and its results of operations.

The Group has adopted risk management policies that provide for the hedging of interest rate risk exposure in line with limits and targets assigned by the top management of the Group. Hedging activities typically entail the use of derivative instruments aiming at transforming floating rate liabilities into fixed rate liabilities and sometimes require the posting of cash collateral to the Group's hedging counterparties. Nevertheless, the Group has not eliminated its exposures to interest rate risk and ENEL cannot offer assurance that hedging activities will function as intended and to the extent the Group fails to adequately manage the risks inherent in interest rate volatility, its results of operations may be adversely impacted. In addition, it is possible that the hedging and derivative instruments used by the Group to establish a fixed rate for certain of its floating rate liabilities may lock the Group into interest rates that are ultimately higher than actual market interest rates. Hedging activities could also entail significant costs.

If the Group is required to write down goodwill and other intangible assets, the Group's financial results would be negatively affected

The Group's statement of financial position as of 30 June 2022, included €33,681 million of goodwill and other intangible assets or 13.9% of the Group's total assets. Such goodwill and other intangible assets have arisen principally in connection with the Group's acquisition of Endesa as well as other businesses, principally in South America.

Goodwill is not amortised, but tested for impairment at the reporting unit level. Intangible assets are generally impaired on a straight line basis over their useful life but are also tested for impairment at least annually. Goodwill is required to be tested for impairment annually and between annual tests if events or circumstances indicate that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. There are numerous risks that may cause the fair value of a reporting unit to fall below its carrying amount, which could lead to the measurement and recognition of goodwill impairment. These risks include, but are not limited to, adverse changes in legal factors or the business climate, an adverse action or assessment by a regulator, the loss of key personnel, a more-likely-than-not expectation that all or a significant portion of a reporting unit may be disposed of, failure to realize anticipated synergies from acquisitions, a sustained decline in market capitalization, significant negative variances between actual and expected financial results, and

lowered expectations of future financial results. Should the Group be required to write down its goodwill and other intangible assets following an impairment test, the Group's results of operations in the relevant period may be materially and adversely affected.

The Group is exposed to the risk related to the fluctuations of energy commodities and raw materials prices, and disruptions in their supply

In the ordinary course of business, referring to industrial, commercial and trading activities, the ENEL Group is exposed to adverse price fluctuations of energy commodities and raw materials (such as minerals and metals) and disruptions in their supply based on events outside ENEL's control. The more relevant risks are related to increases in the purchase prices of power, gas, fuel and other commodities. The Group is also exposed to the risk of decreases in the sale prices of power and gas in the countries where it operates.

The ENEL Group adopted risk management policies providing principles for the hedging of price risk in line with limits and targets assigned by the top management. Hedging activities typically entail the use of derivative instruments aiming at reducing the risk. Nevertheless, the Group has not eliminated its exposures to these risks and, in addition, hedging contracts for the price of power, gas, fuel, other energy commodities and raw materials are available in the market only for limited forward periods, hence not protecting against adverse price movements in the medium-long term. Consequently, significant variations in power, gas, fuel, other energy commodities and raw materials prices, and any relevant interruption in supplies, could have a material adverse effect on the business prospects, results of operations and financial condition of the ENEL Group.

For additional information on the Group's risk management policies and its hedging activities, see note 47 "Risk Management" of the 2021 Audited Consolidated Financial Statements and note 32 "*Risk Management*" of the 2022 Interim Financial Report at 30 June 2022.

As regards power sold, the Group mainly uses fixed-price agreements in the form of bilateral physical contracts (PPAs) and financial contracts (e.g. contracts for difference, in which differences are paid to the counterparty, if the market price exceeds the strike price, or to the Group, in the opposite case). The residual exposure related to the uncontracted volume of power to be sold is aggregated by homogeneous risk factors and managed by means of hedging transactions on the energy market. Nevertheless, sales agreements and hedging strategies may be ineffective, and significant changes in power prices could adversely affect the business prospects, results of operations and financial condition of ENEL.

3. Risks relating to macro-economic conditions and country risks

ENEL's business may be impacted by the conflict between Russia and Ukraine

As a result of the conflict between Russia and Ukraine, countries and multinational organizations (i.e. as the United Nations Security Council) such as the United States, the European Union, the United Kingdom, Switzerland, Canada, Japan, and Australia have announced and implemented sanctions of various types against Russia, such as the designation of a number of persons and entities, including major Russian banks, in "blocked person" lists, the removal of certain Russian banks from the SWIFT system that facilitates the transfer of money between banks, a prohibition on providing certain types of financing and financial services to certain companies or banks that are under public control or publicly owned, a prohibition on transactions with certain Russian counterparties, and the imposition of restrictions on the export to Russia of certain goods and technologies (such as goods and technologies that are dual-use or could contribute to the military, technological or industrial enhancement of Russia, goods and technologies suitable for oil refining and liquefaction of natural gas, and goods and technologies suitable for use in the aviation or aerospace industry).

Further to the above, during the course of 2022, international tensions resulted in natural gas and electricity benchmark prices remaining elevated. The United States has also imposed a ban on the importation into the United States of oil, oil products, liquefied natural gas ("LNG") and coal from Russia. Conversely, the European

Union has sought to safeguard the importation and transportation of fossil fuels, particularly, oil, oil products and natural gas, from or through Russia in order to secure critical energy supplies within the European Union, while imposing restrictions on the import of coal and solid fossil fuels. The imposition or maintenance of further sanctions could result in adverse reactions from Russia, such as disruption of natural gas supplies to the European Union and/or the increase of the gas sale price.

A shortage of natural gas supplies resulting from such a disruption could result not only in higher natural gas prices (and the resulting increase in the prices of electricity and other goods that consumers use as substitutes for natural gas) but also in greater difficulty in obtaining the natural gas needed to meet customer demands, causing a decrease in the volume of natural gas sold by us to end customers and a consequent reduction in the ENEL Group's margins, particularly in the retail segment, which could have a material adverse effect on the ENEL Group's business, results of operations or financial condition.

Similarly to the other energy industry players, the ENEL Group is exposed to the risk that governments in the countries in which it operates may adopt measures that impose restrictions on the consumption of natural gas and electricity, with a possible consequent reduction in ENEL Group's revenues. In addition, in the context of the military conflict currently underway in Ukraine, it may be possible that the infrastructure used to transport natural gas from the countries in conflict will be damaged or destroyed, causing a decrease in or interruption of natural gas supplies for even significant periods of time, even in the absence of measures restricting the import or export of natural gas, to obtain regular supplies of natural gas and, consequently, to be able to meet the demands of end customers. This could have a material adverse effect globally in Europe and, to some extent, on business, results of operations or financial condition of the ENEL Group.

In the event of a sudden shortage of gas, it is possible that a series of measures defined in the national and European natural gas contingency plans, as well as specific regulatory intervention, will be initiated, which could provide for the prioritization and rationing of natural gas supplies to individual customers, with retail customers (i.e. households) taking priority. With reference to volumes, the national emergency plans, which are already formalized and public, provide for measures that can be enacted by the various Member States to deal with crisis situations and have been defined in compliance with EU Regulation 2017/1938. The same regulation provides for the adoption of common preventive action plans at regional levels and the possibility for a Member State in emergency to request assistance from the other Member States. For Italy, for example, the national emergency plan is adopted by the Ministry for Ecological Transition and provides for both measures to increase the availability of natural gas on the network (from imports or from Italy's strategic reserve) and measures for the mandatory reduction of natural gas consumption.

These measures mainly concern thermoelectric plants and industrial customers, with prioritization of natural gas supplies to business retail customers. In addition, the continuation of the conflict between Russia and Ukraine and the increase in tensions between Russia and the countries in which the ENEL Group operates could negatively affect global macroeconomic conditions and the economies of the countries in which the ENEL Group operates, leading to a possible decrease in demand and, consequently, a reduction in generation. Consequently, in the context of an economic global recession, ENEL Group's business and micro-business customers may reduce their consumption of the products and services offered, may seek to renegotiate payment terms, or may not be able to pay for the products and services they purchase from the ENEL Group, which could have a material adverse effect on business, results of operations or financial condition of the ENEL Group.

The Group is vulnerable to any severe slowdown in power demand as a consequence of COVID-19 and other industrial sector weaknesses or potential energy intensity

The environment in which the Enel Group currently operates is marked by the weakness of macroeconomic conditions worldwide, including low levels of consumption and industrial production.

As shown by the data provided by the transmission system operators, which may be updated from time to time, electricity and gas consumption are strongly affected by the level of economic activity in a given country.

The crises in the banking system and financial markets in recent years, together with other factors, could result in a slowdown in the expected growth in many of the countries where the ENEL Group operates, such as Italy, Spain, other countries in the EU, the U.K. and the United States. As for temperatures above the seasonal average in the first months of 2020 and then major slowdown deriving from the lock-downs imposed in countries due to the worldwide presence of the COVID-19 pandemic, electricity demand in Italy decreased by 5.3% in 2020 in comparison to 2019 according to Terna (the Italian transmission system operator). In Spain, according to Red Electrica, the demand for electricity decreased by 5.5% in 2020 in comparison to 2019. However, during 2021, electricity demand in Italy and Spain increased by 5.4% and 2.5% respectively compared to 2020 recovering to pre-pandemic consumption levels driven by the progressive easing of mobility restrictions and the recovery of the industrial sector.

With respect to Latin America, due to the COVID-19 pandemic, in 2020 electricity demand fell significantly in most of the countries in which the Enel Group operates, albeit with different dynamics. While Peru and Colombia according respectively to Coes and Sistema de Informacion Electrico were the countries hardest hit by the pandemic, with a decrease in electricity consumption of 7% and 2% respectively compared to 2019, Brazil and Argentina as published respectively by EPE (*Empresa de Pesquisa Energetica*) and Cammesa (*Compania Administradora del Mercado Mayorista Electrico*) were more resilient, with decreases of 1.3% and 1.2% respectively in 2020 compared to 2019. As collected and declared by the Coordinador Electrico Nacional, Chile performed even better, with an increase of 0.8% in 2020 compared to 2019.

As described for the European countries, even in Latin America, consumption in 2021 rebounded sharply compared to the same period of the previous year, with a full recovery to pre-pandemic levels. In all the countries mentioned above, electricity demand increased by more than 3.5% and, in particular, Peru and Argentina are the two countries with the greatest rebound, respectively +9.7% and 5.3% comparing 2021 to 2020, on the basis of the sources stated above.

In 2022, the current Russian-Ukrainian conflict (see "*Changes in macro-economic, geo-political and market conditions, globally and in the countries in which the ENEL Group operates, as well as any regulatory changes, may adversely affect the ENEL Group's business and financial condition*") and the consequent increase in gas prices and power prices, has impacted negatively on electricity demand in European countries.

In fact, in the last months of this year electricity demand reached its lowest level in the last 10 years, partly due to unseasonably warm weather, but also due to the unfavourable energy context, which pushed down electricity demand in particular of industrial sector. In October provisional levels of electricity demand for Italy was 24,8 TWh (-6,3% compared to October 2021) and for Spain was 18,2 TWh (-4% compared to the same month of previous year).

If these economies fail to recover for a significant period of time, or worsen, energy consumption may decrease or continue to decrease in such markets, and this could have a material adverse effect upon the Enel Group, its business prospects, its financial condition and/or its results of operations.

Risks related to the adverse financial and macroeconomic conditions within the Eurozone

Global economic cycles can significantly affect the Group's activities due to their direct effects on national GDP growth rates. Over the last few years, the stability of the Eurozone has been impacted by several events such as the COVID-19 pandemic crisis that led to significant supply-chain disruptions, and the more recent Russia-Ukraine military conflict. Since the Eurozone is among the most exposed economies due its geographical proximity to the conflict area and heavy reliance on gas imports from Russia, several spillover effects have markedly impacted both GDP growth and inflation outlook. The latter has been initially affected

by rising energy and commodities prices; subsequently, the pass through of businesses' higher input costs into non-energy industrial goods inflation have generated persistent inflationary dynamics that represent a key risk factor to be carefully monitored. Indeed, such energy crisis is eroding households' purchasing power and weighing on production and, in turn, potentially leading the economic sentiment to shrink. As response to such inflationary pressures, the European Central Bank (as well as most central banks in both advanced and emerging economies) has been conducting a tightening monetary policy that, if more substantial and prolonged, might undermine Eurozone's economic activity and financial stability further.

Oppositely, in terms of monetary stimulus, on 21 July 2020, the governments of the Member States of the European Union agreed upon the establishment of a Recovery Fund of €750 billion, including €390 billion of grants and €360 billion of loans, to be disbursed over the 2021-2024 period, as part of the 2021-2027 EU budget. Pursuant to the terms of the final agreement, the volume of grants has been reduced to €390 billion (from the initial €500 billion proposal), the northern countries of the European Union have been allowed to keep their budget rebates and certain compromises regarding the governance of the Recovery Fund have been included. However, despite the stimulus, any potential draining of liquidity may adversely impact growth in Eurozone countries, including the countries in which the Group operates, with potential negative impacts on the Group's business and results of operations.

To conclude, there can be no assurance that the economy in Europe will not worsen, nor can there be any assurance that current or future assistance packages or measures granted to certain Eurozone countries will be available or, even if provided, will be sufficient to stabilize the affected countries and markets and secure the position of the Euro. These risks are especially significant in Italy and Spain, where a large proportion of the Group's European operations are concentrated. The economic downturn may also impact the Group's customers, may result in their inability to pay the amounts owed to the Group and may affect demand for ENEL's goods and services. Continuation of further worsening of these difficult financial and macroeconomic conditions could have a material adverse effect upon the Group, its business prospects, its financial condition and its results of operations.

The Group faces risks related to the impact of COVID-19

The outbreak of a novel and highly contagious form of coronavirus disease (COVID-19) (and any future outbreaks) of COVID-19 led (and may continue to lead) to disruptions in the global economy and may result in adverse impacts on the global economy in general. The outbreak was declared as a public health emergency of international concern by the World Health Organization, and the Health and Human Services Secretary declared a public health emergency in the United States in response to the outbreak. These circumstances led to volatility in the capital markets and may lead to volatility in or disruption of the credit markets at any time and may adversely affect the value of the Securities. However, as COVID-19 continues to spread, the potential impacts, including a global, regional, or other economic recession, are increasingly uncertain and difficult to assess. Although the most recent variant of COVID-19, Omicron, has been a mild strain, leading to less stringent measures on mobility and economic activities across the world compared to the previous variant, concerns about new strains remain.

Investors should note the risk that the COVID-19, or any governmental or societal response thereto, may affect the business activities and financial results of the Issuers and the Group, and/or may impact the functioning of the financial system(s) needed to make regular and timely payments under the Securities, and therefore the ability of the Issuers to make payments on the Securities.

For further impacts of the spread of COVID-19 on the Group's financial position, please see the section: "*Notes to the condensed interim consolidated financial statements – COVID-19*" of the 2022 Interim Financial Report at 30 June 2022.

The ENEL Group faces risks relating to political, social or economic instability in some of the countries where the Group operates

The Group's activities outside of Italy (in particular Russia and certain South American countries) are subject to a range of country-specific business risks, including changes to government policies or regulations in the countries in which it operates, changes in the commercial practice, the imposition of monetary and other restrictions on the movement of capital for foreign corporations, economic crises, state expropriation of assets, the absence, loss or non-renewal of favourable treaties or similar agreements with foreign tax authorities and general political, social and economic instability. Such countries may also be characterised by inadequate creditors' protection due to a lack of efficient bankruptcy procedures, investment restrictions and significant exchange rate volatility.

Systemic (i.e. not diversifiable) risks, referred to as "country risks", could have a material adverse effect on ENEL's business returns and, in order to effectively monitor them, ENEL regularly carries out a qualitative assessment process of the risks associated with each country where the ENEL Group operates. In addition, ENEL has developed a quantitative model using a shadow rating approach in order to support capital allocation and investments evaluation processes in the context of industrial planning and business development. This model is aimed at detecting Group exposures to socio-political risk factors, as in Latin America.

There can be no assurance that these policies cover all of the potential liabilities which may arise in connection with country risks. Therefore, the occurrence of an event not covered, or only partially covered, could have a material adverse effect upon the ENEL Group, its business prospects, financial condition, results of operations and the ability of ENEL Group to satisfy the relevant obligations under the Securities and/or the market value and/or the liquidity of the Securities in the secondary market.

Changes in macro-economic, geo-political and market conditions, globally and in the countries in which the ENEL Group operates, as well as any regulatory changes, may adversely affect the ENEL Group's business and financial condition

Given the international span of the Group's operations, changes in the political situation in a country or region or political decisions that have an impact on a specific activity or geographic area, could have a significant impact on demand for the Group's products and services. Additionally, uncertainties regarding future trade arrangements and industrial policies in various countries or regions, both within and outside Europe, such as policies on energy savings and the possible introduction of new customs duties or export restrictions, may create additional macroeconomic risk. In 2018, the U.S. administration began introducing tariffs and export restrictions on various categories of goods, and threatens to introduce further tariffs and restrictions; in response, the EU, China and other jurisdictions have introduced tariffs on U.S. goods. The global economy has recently experienced one of its sharpest downturns in history as a result of the COVID-19 pandemic, and potential global turmoil is occurring in connection with the ongoing conflict between Russia and Ukraine, which is causing severe social and economic consequences for the countries directly involved as well as the European continent, as tension between Russia, the European Union, the United States and other countries continues to increase. Furthermore, ENEL's business may be impacted by the global economic environment, increasing in interest rates and instability in securities markets around the world generated by international conflicts, including the ongoing conflict between Russia and Ukraine and the potential significant impact of financial and economic sanctions on the regional and, in particular on the Eurozone, and global economy. Specifically, the escalation of the Russia–Ukraine conflict, including the imposition of international economic sanctions on Russian entities and persons, may have material adverse effects on the industry in which ENEL operates as well as on the Group's business, results of operations and financial condition.

Any developments involving the above-mentioned factors could have an adverse impact on the Group's business and operating results as well as the Group's financial condition and assets.

The Group faces risks relating to the process of energy market liberalisation, which continues to unfold in many of the markets in which the Group operates. The Group may face new competition in the markets in which it operates, also due to the evolution of the energy sector

The energy markets in which the ENEL Group operates are undergoing a process of gradual liberalisation, which is being implemented through different approaches and on different timetables in the various countries in which the ENEL Group operates. As a result of the process of liberalisation, new competitors have entered and may in the future continue to enter many of the ENEL Group's markets. It cannot be excluded that the process of liberalisation in the markets in which the ENEL Group operates might continue in the future and, therefore, the ENEL Group's ability to develop its businesses and improve its financial results may be affected by such new competition. In particular, competition in Italy is increasing particularly in the electricity business, in which ENEL competes with other producers and traders within Italy and from outside of Italy who sell electricity in the Italian market to industrial, commercial and residential clients. This could have an impact on the prices paid or received in ENEL's electricity production and trading activities. The ENEL Group may moreover be unable to offset the financial effects of decreases in production and sales of electricity through efficiency improvements, or expansion into new business areas or markets. Moreover, since the energy market is in continuous evolution, the ENEL Group may also face risks related to the technological progress in the sector, such as: (i) the entry in the market of new production processes and innovative products, aimed at replacing the traditional technologies; (ii) the relationship between the costs of technologies and their components; and (iii) a more stringent regulatory framework demanding that market operators adopt technologies necessary to comply with the applicable laws.

Furthermore, as a result of such rapid evolution of the energy sector, new entrants seeking to gain market share by introducing new technology and new products could create increased pricing pressure, in turn reducing profit margins, slowing the pace of any sales increases, increasing marketing expenses or reducing market share, any of which may significantly affect the realisation of the Group's long-term strategic objectives, and/or its operating results and financial condition.

Although the ENEL Group has sought to face the challenge of liberalisation and market evolution by increasing its presence and client base in free (non-regulated) areas of the energy markets in which it competes and by focusing on technological progress and research of business innovation of strategic importance, it may not be successful in doing so.

ENEL is subject to risks associated with residents' opposition

ENEL currently operates in a vast geographical area, with a presence in over 40 countries and five continents. It conducts business activities that require the development of infrastructure in local areas, which can cause either criticism or potential disputes with communities in some cases. In turn, ENEL may be exposed to potential negative economic-financial and reputational risks due to delays in the execution of projects for new sites or risk that may affect the operational continuity of existing sites. On the other hand, ENEL's commitment to decarbonize its energy mix could have a potential negative impact in local areas which are dependent on affected operations (extraction and energy generation) in terms of job losses and socio-economic development. This could ultimately expose ENEL to reputational risks or even delay the Group's achievement of the decarbonization goals set out in its Strategic Plan.

4. Legal and regulatory risks

The ENEL Group is subject to different regulatory regimes in all the countries in which it operates. These regulatory regimes are complex and their changes could potentially affect the financial results of the Group

The Group is subject to the laws of various countries and jurisdictions, including Italy, Spain and the EU, as well as the regulations of particular regulatory agencies, including, in Italy, the Authority for Electricity and

Gas (*Autorità di Regolazione per Energia, Reti e Ambiente*) (the "**Authority**") and, in Spain, the *Comisión Nacional de los Mercados y la Competencia* ("**CNMC**"). These laws and regulations may change and the Group may become subject to new legislation or regulatory requirements that could have a material effect on the Group's business prospects, results of operations and financial condition.

In particular, in Spain, TED/171/2020 of 24 February 2020 amended the remuneration parameters applicable to both standard plants and to certain plants for the generation of electricity from renewable sources, cogeneration and waste, with effect for both from 1 January 2020. Any revision of the remuneration under this regime could adversely affect the business prospects, results of operations and financial condition of ENEL by causing a deviation in the market price.

Sectorial regulation, including on foreign investments, affects many aspects of the Group's business and, in many respects, determines the manner in which the Group conducts its business and sets the fees it charges or obtains for its products and services. For further details on the legislative and regulatory context in which the Group operates, see also the section entitled "*Regulatory and rate issues*" in 2021 Audited Consolidated Financial Statements. Changes in applicable legislation and regulation, whether at a national or European level, and the manner in which they are interpreted, could negatively impact the Group's current and future operations, its cost and revenue-earning capabilities and in general the development of its business.

Future changes in the directives, laws and regulations issued by the EU, the Italian Republic, Spain, the Authority, CNMC, or governments or authorities in the other countries and/or markets in which the Group operates could materially and adversely affect ENEL's and the Group's business prospects, financial condition and results of operations. See also *"The Group relies on time-limited government concessions in order to conduct many of its business activities"*.

ENEL is subject to a large variety of litigation and regulatory proceedings and cannot offer assurances regarding the outcomes of any particular proceedings

In the ordinary course of its business, the Group is subject to numerous civil (including in relation to antitrust and tax violations) and administrative proceedings (including in relation to antitrust and tax violation), as well as criminal (including in connection with environmental violations, manslaughter and omission of accident prevention measures) and arbitral proceedings. ENEL made provisions in its consolidated financial statements for contingent liabilities related to particular proceedings in accordance with the advice of internal and external legal counsel. Such provisions amounted to €901 million as of 30 June 2022 compared to €834 million as of 31 December 2021 and €918 million as of 30 June 2021.

The Group confirms that the assessment of any potential liability arising from or in connection with a dispute and its description in the financial statement of the Group are carried out in full compliance with and according to the applicable international accounting principles and, in particular, pursuant to IAS 37. For further information, please see "*Significant events in the 1st Half of 2022*" and "*Contingent assets and liabilities*" of the 2022 Interim Financial Report at 30 June 2022 and "*Significant events in 2021*" and "*Contingent assets and liabilities*" of the 2021 Audited Consolidated Financial Statements, each incorporation by reference in this Offering Circular (see: "*Incorporation by Reference*") in which the Group provides updated and relevant information concerning the above-mentioned potential liabilities deriving from proceedings.

Notwithstanding the foregoing, the Group has not recorded provisions in respect of all of the disputes to which it is subject. In particular, it has not recorded provisions in cases in which it is not possible to quantify any negative outcome and in cases in which it currently believes that negative outcomes are not likely. There can be no assurance, therefore, that the Group will not be ordered to pay an amount of money with respect to a given matter for which it has not recorded an equivalent provision, or any provision at all. For further information, see section "*Description of ENEL - Litigation*". The variability in the outcomes of existing

proceedings may determine a situation in which the provisions set aside may not be sufficient to cover the relevant losses.

As a consequence, if future losses arising from the pending proceedings are materially in excess of the provisions made, there may be a material adverse effect on the Group's business, cash flow, financial condition and results of operations.

In addition, although the Group maintains internal monitoring systems (including an internal control model pursuant to Italian Legislative Decree No. 231 of 8 June, 2001), it may be unable to detect or prevent certain crimes including, *inter alia*, bribery, corruption, environmental violations, manslaughter, violations of rules regarding health and safety in the workplace committed by its directors, officers, employees or agents, which could lead to civil, criminal and administrative liability for the Group (including in the form of pecuniary sanctions and operational bans), as well as the application of reputational damages.

The Group faces significant costs associated with environmental laws and regulation and may be exposed to significant environmental liabilities

The ENEL Group's businesses are subject to extensive environmental regulation on a national, European, and international scale. Applicable environmental regulations address, among other things, carbon dioxide ("**CO2**") emissions, biodiversity protection, water and land pollution, the disposal of waste deriving from energy production (including as a result of the decommissioning of plants), and atmospheric contaminants such as sulphur dioxide ("**SO2**"), nitrogen oxides ("**NOx**") and particulate matter, among other things.

The ENEL Group incurs significant costs to keep its plants and businesses in compliance with the requirements imposed by various environmental and related laws and regulations. Such regulations require the ENEL Group to adopt preventative or remedial measures and influence the ENEL Group's business decisions and strategy. Failure to comply with environmental requirements in the countries where the ENEL Group operates may lead to fines, litigation and up to suspension loss of licences, permits and authorisations for more critical events or non-compliance.

In light of the current public focus on environmental matters, it is not possible to exclude the possibility that more rigorous environmental rules may be introduced at the Italian, Spanish or European level or that more rigorous measures may be introduced in other countries where the Group operates, which could increase costs or cause the Group to face environmental liabilities. Such environmental liabilities could increase costs, including clean-up costs, for the Group. Due to tariff regulations and market competition in Italy and other countries in which the Group operates, increases in costs that the Group incurs for environmental protection may not be fully offset by the increases in ENEL's prices. As a result, new environmental regulation could have a material adverse effect on the Group's business prospects, results of operations and financial condition.

Legislation and other regulation concerning CO_2 emissions is one of the key factors affecting the ENEL Group's operations and is also one of the greatest challenges the ENEL Group faces in safeguarding the environment. With respect to the control of CO_2 emissions, EU legislation governing the CO_2 emissions trading scheme imposes costs for the electricity industry, which could rise substantially in the future. In this context, the instability of the emission allowance market accentuates the difficulties of managing and monitoring the situation. The ENEL Group monitors the development and implementation on EU and Italian legislation, diversifies its generation mix towards the use of low-carbon technologies and resources with a focus on renewables, develops strategies to acquire allowances at competitive prices and enhances the environmental performances of its generation plants, increasing their energy efficiency. However, these measures and strategies undertaken by the Enel Group to mitigate risks associated with CO_2 regulation and to reduce its CO_2 emissions may be ineffective or insufficient, which could have a material adverse effect on the business prospects, results of operations and the financial condition of ENEL and the ENEL Group. The Group is also subject to numerous EU, international, national, regional and local laws and regulations regarding the impact

of its operations on the health and safety of employees, contractors, communities and properties. Breaches of health and safety laws expose the Group's employees to criminal and civil liability and the Group to the risk of criminal/administrative liabilities and liabilities associated with compensation for health or safety damage, as well as damage to its reputation.

The ENEL Group is exposed to a number of different tax uncertainties, which would have an impact on its tax expenses

The ENEL Group is required to pay taxes in multiple jurisdictions in which it operates. The ENEL Group determines the taxes it is required to pay, based on its interpretation of the applicable tax laws and regulations in the jurisdictions in which it operates. Therefore, and as a result of its presence and operation in multiple jurisdictions (including, in addition to Italy and The Netherlands, *inter alia*, Spain, South America, Romania and the United States), the ENEL Group may be subject to unfavourable changes in the applicable tax laws and regulations (such as the lowering of the 30% EBITDA threshold to 20% for purposes of the Dutch earnings stripping interest deduction limitation rule and the increase of the marginal top Dutch corporate income tax rate from 25% to 25.8% as from 1 January 2022 in the Netherlands), or in the interpretation of such tax laws and regulations by the competent tax authorities. The financial position of the ENEL Group and its ability to service the obligations under its indebtedness, including the Securities, may be adversely affected by new laws or changes in the interpretation of existing tax laws. In addition, the European Commission published on 22 December 2021 a proposal for a Council Directive "on ensuring a global minimum level of taxation for multinational groups in the Union" aimed at implementing the OECD Pillar Two Model Rules ("**Pillar 2 Directive**"). The proposal has been unanimously approved by all 27 Member States, which are required to implement these rules into their national systems before 31 December 2023. The extent of the implementation of Pillar 2 Directive in the jurisdictions in which the Enel Group operates is still uncertain. In particular, it is unclear whether and to what extent interest payments accrued in respect of certain equity accounted instruments such as the Securities would be considered as being deductible for tax purposes. If, following the implementation of the Pillar 2 Directive in Italy, interest payments under the Securities become not deductible by the Issuer for corporate income tax purposes, this may result in the occurrence of a Tax Deductibility Event (please see *Risks relating to the specific characteristics of the Securities – Early redemption risk*).

The Group is exposed to risks connected with the protection of personal data

ENEL has the largest customer base in the public services sector (approximately 70 million customers), and currently employs 67,117 people. Consequently, the Group's new business model requires the management of an increasingly large and growing volume of personal data in order to achieve the financial and business results envisaged in the Strategic Plan.

This exposes ENEL to the risks connected with the protection of personal data (an issue that must also take account of the substantial growth in privacy legislation in most of the countries in which ENEL operates). These risks may result in the loss of confidentiality, integrity or availability of the personal information of customers, employees and others (e.g. suppliers), with the risk of incurring fines up to 4% of the Group's total global turnover, the prohibition of the use of certain processes and consequent financial losses and reputational harm.

In order to manage and mitigate this risk, ENEL has adopted a model for the global governance of personal data that provides for the establishment of positions responsible for privacy issues at all levels, including the appointment of Data Protection Officers at the global and country levels, and digital compliance tools to map applications and processes and manage risks with an impact on protecting personal data, in compliance with specific local regulations in this field.

5. Risks relating to ENEL's credit ratings and shareholding

ENEL's ability to access credit and bond markets on acceptable terms is in part dependent on its credit ratings, which have come under scrutiny due to its level of debt

ENEL's long-term debt is currently rated "BBB+" (negative outlook) by S&P, "BBB+" (stable outlook) by Fitch and "Baa1" (negative outlook) by Moody's. S&P, Moody's and Fitch are established in the EU and registered under the EU CRA Regulation. Each of Moody's, S&P and Fitch is included in the list of registered credit rating agencies published by the ESMA on its website in accordance with the EU CRA Regulation. The ratings issued by S&P, Fitch and Moody's are endorsed by S&P Global Ratings UK Limited, Fitch Ratings Ltd and Moody's Investors Service Limited, respectively, each of which is established in the UK and registered under the UK CRA Regulation, each are included in the list of registered credit rating agencies published by the FCA on its website in accordance with the UK CRA Regulation. Each of these ratings is near the low-end of the respective rating agency's scale of investment-grade ratings. ENEL's ability to access the capital markets and other forms of financing (or refinancing), and the costs connected with such activities, depend on the credit ratings assigned to ENEL. In addition, any future downgrade of the sovereign credit rating of Italy and/or Spain or the perception that such a downgrade may occur may adversely affect the market's perception of ENEL's creditworthiness and have a negative impact on the Group's credit ratings. Any worsening of credit ratings could limit ENEL's ability to access capital markets and other forms of financing (or refinancing), or increase the costs related thereto, with related adverse effects on ENEL's and the Group's business prospects, financial condition and results of operations as well as its ability to implement the Strategic Plan, which contemplates a significant amount of capital expenditure (see "*— ENEL's ability to successfully execute the 2023-2025 Strategic Plan is not assured*").

Certain credit agreements entered into by companies belonging to the ENEL Group state that the overall pricing applicable to the loans thereunder may vary according to ENEL's credit rating by S&P or Moody's. Any downgrade could thus adversely affect the amount of interest payable by ENEL. In addition, the possibility of access to the capital markets and to other forms of financing and the associated costs are also dependent, amongst other things, on the rating assigned to the Group.

Therefore, any downgrade of such ratings could limit ENEL's access to the capital markets and could increase the cost of borrowing and/or of the refinancing of existing debt. Any downgrade could therefore have adverse effects on ENEL's and the Group's business prospects, financial condition and results of operations.

ENEL is subject to the "de facto" control of the Italian Ministry of the Economy and Finance (the "MEF"), which has managed so far to appoint the majority of ENEL's Directors

As of the date of this Offering Circular, ENEL is controlled by the MEF – pursuant to Article 2359, first paragraph, no. 2) of the Italian Civil Code, as recalled by Article 93 of the Italian Consolidated Financial Act – which holds a 23.59% direct stake in ENEL's ordinary shares and to date has managed to appoint the majority of the directors of the Company, in accordance with the slate-based voting mechanism set forth in Article 14 of ENEL's by-laws. As a result, other shareholders' ability to influence decisions on matters submitted to a vote of ENEL's shareholders may be limited. However, the MEF is not involved in managing and coordinating ENEL, and ENEL makes its management decisions on a fully independent basis in accordance with the structure of duties and responsibilities assigned to its corporate bodies.

RISKS RELATED TO THE SECURITIES

1. Risks relating to the specific characteristics of the Securities

The Issuer's payment obligations in respect of the Securities are subordinated

The Securities will be unsecured and subordinated obligations of the Issuer and will rank junior to the claims of unsubordinated and other subordinated creditors of the Issuer, except for subordinated creditors whose claims are expressed to rank *pari passu* with the Securities. See Condition 3 (*Status and Subordination*) of the relevant Terms and Conditions of the Securities. By virtue of such subordination, upon the occurrence of a winding-up, insolvency, dissolution or liquidation of the Issuer, payments on the Securities will be subordinated in right of payment to the prior payment in full of all other liabilities of the Issuer, except for payments in respect of any Parity Securities or Junior Securities. The obligations of the Issuer under the Securities are intended to be senior only to its obligations to the holders of (i) any class of the Issuer's share capital and (ii) any other securities issued by the Issuer or any securities issued by a company other than the Issuer which have the benefit of a guarantee or similar instrument from the Issuer, which securities of the Issuer, or guarantee or similar instrument granted by the Issuer, rank or are expressed to rank *pari passu* with any class of the Issuer's share capital and/or junior to the Securities. A Securityholder may therefore recover less than the holders of unsubordinated or other subordinated liabilities of the Issuer.

Subject to applicable law, no Securityholder may exercise or claim any right of set-off in respect of any amount owed to it by the Issuer arising under or in connection with the Securities and each Securityholder shall, by virtue of being a Securityholder, be deemed to have waived all such rights of set-off.

Securityholders are advised that unsubordinated liabilities of the Issuer may also arise out of obligations that are not reflected in the financial statements of the Issuer, including, without limitation, the issuance of guarantees on an unsubordinated basis. Claims made under such guarantees will become unsubordinated liabilities of the Issuer which, in a winding-up, insolvency, dissolution or liquidation of the Issuer, will need to be paid in full before the obligations under the Securities may be satisfied.

Although subordinated debt securities may pay a higher rate of interest than comparable debt securities which are not subordinated, there is a real risk that an investor in subordinated securities such as the Securities will lose all or some of his investment should the Issuer become insolvent.

The Securities are perpetual securities; holders of the Securities may be required to bear the financial risks of an investment in the Securities for a long period

The Securities are perpetual securities and have no fixed date for redemption, and unless previously redeemed or purchased and cancelled by the Issuer as provided in the relevant Terms and Conditions, the Securities will become due and payable and will be redeemed on the Liquidation Event Date, including in connection with any Insolvency Proceedings in accordance with (i) any applicable legal provision, or any decision of any judicial or administrative authority, or (ii) any resolution passed at a shareholders' meeting of the Issuer or (iii) any provision which is set out in the by-laws of the Issuer from time to time (including the maturity of the Issuer which, as of the date of this Offering Circular, is set in its by-laws at 31 December 2100). The Issuer is under no obligation to redeem or repurchase the Securities, although it may elect to do so in certain circumstances. Securityholders have no right to call for the redemption of the Securities and the Securities will only become due and payable on the Liquidation Event Date. Securityholders should therefore be aware that they may be required to bear

the financial risks associated with an investment in long-term securities and that they may not recover their investment in the foreseeable future.

Deferral of interest payments

The Issuer may elect to defer in whole, but not in part, payment of interest in respect of the Securities in respect of any interest period by giving a Deferral Notice to the relevant Securityholders. If the Issuer makes such an election, the Issuer shall have no obligation to make such payment and any such non-payment of interest will not constitute a default by the Issuer for any purpose. Any interest in respect of the Securities the payment of which is deferred will, so long as the same remains outstanding, constitute Arrears of Interest. Arrears of Interest will be payable as outlined in Condition 4 of relevant Terms and Conditions of the Securities. No interest will accrue on any outstanding Arrears of Interest. While the deferral of payment of interest continues, the Issuer is not prohibited from making payments on any instrument ranking senior to the Securities and in such event, the Securityholders are not entitled to claim immediate payment of interest so deferred.

As a result, any deferral of interest payments, or perception that the Issuer will exercise its deferral right, will likely have an adverse effect on the market price of the Securities. In addition, as a result of the interest deferral provisions of the Securities, the market price of the Securities may be more volatile than the market prices of other debt securities on which original issue discount or interest accrues that are not subject to such deferrals and may be more sensitive generally to adverse changes in the financial condition of the Issuer.

Early redemption risk

The Issuer may redeem all (but not some only) of the NC 5.5 Securities on any 5.5 NC Call Date at their principal amount together with accrued interest to, but excluding, the relevant Call Date and any outstanding Arrears of Interest. The Issuer may redeem all (but not some only) of the NC 8.5 Securities on any 8.5 NC Call Date at their principal amount together with accrued interest to, but excluding, the relevant Call Date and any outstanding Arrears of Interest.

The Issuer may also redeem all (but not some only) of the relevant Securities at the applicable Early Redemption Price at any time following the occurrence of a Withholding Tax Event, a Tax Deductibility Event, a Rating Methodology Event or an Accounting Event, as outlined in Conditions 6.3, 6.4, 6.5 and 6.6 of the relevant Terms and Conditions of the Securities. The Issuer may also redeem all (but not some only) of the NC 5.5 Securities on any Business Day prior to 16 April 2028 (the date falling 3 months before the NC 5.5 Securities First Reset Date) at the Make-whole Redemption Amount, as outlined in Condition 6.7 of the Terms and Conditions of the NC 5.5 Securities. The Issuer may also redeem all (but not some only) of the NC 8.5 Securities on any day prior to 16 April 2031 (the date falling 3 months before the NC 8.5 Securities First Reset Date) at the Make-whole Redemption Amount, as outlined in Condition 6.7 of the Terms and Conditions of the NC 8.5 Securities. In addition, as outlined in Condition 6.8, in the event that at least 75 per cent. of the aggregate amount of the relevant Securities issued on the Issue Date has been purchased by or on behalf of the Issuer or a Subsidiary and cancelled, the Issuer may redeem all (but not some only) of the outstanding relevant Securities at the applicable Early Redemption Price. The Early Redemption Price may be less than the then current market value of the relevant Securities.

During any period when the Issuer may elect to redeem or is perceived to be able to redeem the relevant Securities, the market value of such Securities 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 the relevant Securities when its cost of borrowing for similar securities is lower than the interest rate on such relevant Securities, or if it no longer requires the relevant Securities as part of its capital structure. An investor may not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the relevant Securities being redeemed and may only be able to reinvest the redemption proceeds at a significantly lower rate. Potential investors should consider their reinvestment risk in light of other investments available at that time.

There is no limitation on the Issuer issuing senior or pari passu securities

There is no restriction on the amount of securities or other liabilities which the Issuer may issue or incur and which rank senior to, or *pari passu* with, the Securities. The issue of any such securities or the incurrence of any such other liabilities may reduce the amount (if any) recoverable by Securityholders on an insolvency of the Issuer and/or may increase the likelihood of a deferral of interest payments under the relevant Securities.

Resettable fixed rate securities carry a market risk

A holder of fixed rate securities is particularly exposed to the risk that the price of such securities falls as a result of changes in market interest rates. While the interest rate of the relevant Securities is fixed until the relevant NC 5.5 Securities First Reset Date or NC 8.5 Securities First Reset Date, as the case may be, (with a reset of the initial fixed rate on every relevant Reset Date as set out in the Conditions of the relevant Securities), market interest rates typically change on a daily basis. As the market interest rate changes, the price of the Securities also changes, but in the opposite direction. If the market interest rate increases, the price of the Securities would typically fall. If the market interest rate falls, the price of the Securities would typically increase. Securityholders should be aware that movements in these market interest rates can adversely affect the price of the Securities and can lead to losses for the Securityholders if they sell the Securities.

Interest rate reset may result in a decline of yield

A holder of securities with a fixed interest rate that will be reset during the term of the securities (as will be the case for the Securities on each relevant Reset Date if not previously redeemed) is exposed to the risk of fluctuating interest rate levels and uncertain interest income.

After the relevant NC 5.5 Securities First Reset Date or NC 8.5 Securities First Reset Date, as the case may be, the interest rate in respect of the relevant Securities will be reset periodically by reference to a mid-swap rate, which may be affected by changes in benchmark regulation

After the NC 5.5 Securities First Reset Date in respect of the NC 5.5 Securities, the interest rate will (if the NC 5.5 Securities are not redeemed) be reset on the NC 5.5 Reset Date by reference to a prevailing EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 5.5 Securities First Reset Date to but excluding 16 July 2033, 3.486 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2033, 16 July 2038 and 16 July 2043, 3.736 per cent. per annum, and (C) in respect of any other Reset Period after 16 July 2048, 4.486 per cent. per annum.

After the NC 8.5 Securities First Reset Date in respect of the NC 8.5 Securities, the interest rate will (if the NC 8.5 Securities are not redeemed) be reset on the NC 8.5 Reset Date by reference to a prevailing EUR 5 year Swap Rate plus (A) in respect of the Reset Period commencing on the NC 8.5 Securities First Reset Date to but excluding 16 July 2036, 3.774 per cent. per annum, (B) in respect of the Reset Periods commencing on 16 July 2036, 16 July 2041 and 16 July 2046, 4.024 per cent. per annum, and (C) in respect of any other Reset Period after 16 July 2051, 4.774 per cent. per annum.

The relevant Terms and Conditions of the Securities include fall-back provisions as set out in Condition 4.1(b) (*Interest and Interest Deferral – Determination of EUR 5 year Swap Rate*) which apply in the event the EUR 5 year Swap Rate does not appear on the EUR Reset Screen Page on the relevant Reset Interest Determination Date. Applying such fall-back provisions will result in the relevant Securities performing differently (which may include payment of a lower Prevailing Interest Rate) than they would if the EUR 5 year Swap Rate were available.

As at the time of pricing of the initial issue of the relevant Securities, the current market practice is to derive the EUR 5 year Swap Rate in part from the Euro interbank offered rate ("**EURIBOR**") calculated by the European Money Markets Institute (as administrator of EURIBOR). The EUR 5 year Swap Rate, EURIBOR and other interest rates or other types of rates and indices which are deemed to be "benchmarks" are the subject of ongoing national and international regulatory reform. Following the implementation of any such potential reforms, the manner of administration of benchmarks may change, with the result that they may perform differently than in the past, or benchmarks could be eliminated entirely, or there could be other consequences which cannot be predicted. Any such consequence could affect the manner in which interest determinations are required to be made pursuant to the relevant Conditions, as set out in Condition 4.1(b) (*Interest and Interest Deferral – Determination of EUR 5 year Swap Rate*) of the relevant Terms and Conditions of the Securities, and have a material adverse effect on the value of and return on any the Securities.

Key international reforms of "benchmarks" include the International Organization of Securities Commission's ("**IOSCO**") proposed Principles for Financial Market Benchmarks (July 2013) (the "**IOSCO Benchmark Principles**") and the EU's Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as Benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (the "**Benchmarks Regulation**").

The IOSCO Benchmark Principles aim to create an overarching framework of principles for benchmarks to be used in financial markets, specifically covering governance and accountability, as well as the quality and transparency of benchmark design and methodologies. A review published in February 2015 on the status of the voluntary market adoption of the IOSCO Benchmark Principles noted that, as the benchmarks industry is in a state of change, further steps may need to be taken by IOSCO in the future, but that it is too early to determine what those steps should be. The review noted that there has been a significant market reaction to the publication of the IOSCO Benchmark Principles, and widespread efforts being made to implement the IOSCO Benchmark Principles by the majority of administrators surveyed.

On 17 May 2016, the Council of the European Union adopted the Benchmarks Regulation. The Benchmarks Regulation was published in the Official Journal of the EU on 29 June 2016 and entered into force on 30 June 2016. Subject to various transitional provisions, the Benchmarks Regulation has applied since 1 January 2018, except that the regime for "critical benchmarks" has applied from 30 June 2016 and certain amendments to Regulation (EU) No 596/2014 (the "**Market Abuse Regulation**") have applied from 3 July 2016. The Benchmarks Regulation applies to "contributors", "administrators" and "users of" benchmarks in the EU, and, among other things, (i) requires Benchmark administrators to be authorised or registered (or, if non-EU-based, to be subject to an equivalent regulatory regime or otherwise recognised or endorsed) and to comply with extensive requirements in relation to the administration of "benchmarks" and (ii) bans the use of benchmarks of unauthorised administrators. The scope of the Benchmarks Regulation is wide and, in addition to so-called "critical benchmark" indices such as EURIBOR, could also potentially apply to many other interest rate indices, as well as equity, commodity and foreign exchange rate indices and other indices

(including "proprietary" indices or strategies) which are referenced in listed financial instruments (including listed Securities), financial contracts and investment funds.

As at the date of this Offering Circular, the European Money Markets Institute appears on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority ("**ESMA**") pursuant to article 36 of the Benchmark Regulation and the ICE Benchmark Administration Limited appears on the register of the Financial Conduct Authority pursuant to Article 36 of the Benchmarks Regulation as it forms part of UK domestic law by virtue of the EUWA. ICE Benchmark Administration Limited is not included in the register of administrators and benchmarks established and maintained by ESMA. However, the EU Benchmarks Regulation provides that third country benchmarks can still be used by supervised entities until 31 December 2021 in the European Union if the benchmark is already used in the European Union as a reference for financial instruments, financial contracts, or for measuring the performance of an investment fund before that date.

It is not possible to predict with certainty whether, and to what extent a Benchmark will continue to be supported going forwards. This may cause certain Benchmarks to perform differently than they have done in the past, and may have other consequences which cannot be predicted. The reform of EURIBOR to adopt a hybrid methodology and to provide a fallback by reference to a euro risk-free rate (based on a euro overnight risk-free rate as adjusted by a methodology to create a term rate), or the elimination of any other Benchmark, or changes in the manner of administration of any Benchmark, could require an adjustment to the conditions of the relevant Securities or result in other consequences in respect of the Securities.

If a Benchmark Event (which, amongst other events, includes the permanent discontinuation of the EUR 5 year Swap Rate) occurs, the Issuer shall use its reasonable endeavours to appoint and consult with an Independent Adviser. The Independent Adviser shall act in good faith and in a commercially reasonable manner as an expert and in consultation with the Issuer and shall endeavour to determine a Successor Rate or Alternative Rate to be used in place of the EUR 5 year Swap Rate. The use of any such Successor Rate or Alternative Rate to determine the Prevailing Interest Rate will result in the Securities performing differently (which may include payment of a lower Prevailing Interest Rate) than they would do if the EUR 5 year Swap Rate were to continue to apply in its current form.

If a Successor Rate or Alternative Rate is determined by the Independent Adviser, the relevant Terms and Conditions of the Securities also provide that an Adjustment Spread shall be determined by the Independent Adviser and applied to such Successor Rate or Alternative Rate. The use of any Successor Rate or Alternative Rate (including with the application of the applicable Adjustment Spread) will still result in the Securities performing differently (which may include payment of a lower Prevailing Interest Rate) than they would if the EUR 5 year Swap Rate were to continue to apply in its current form.

Furthermore, if any Successor Rate or Alternative Rate and, in each case, the applicable Adjustment Spread is determined by the Independent Adviser, the relevant Terms and Conditions of the Securities provide that the Issuer shall vary the relevant Terms and Conditions of the Securities, if determined by the Independent Adviser, to ensure the proper operation of such Successor Rate, Alternative Rate and/or Adjustment Spread, without any requirement for consent or approval of the relevant Securityholders.

Accordingly, while any Adjustment Spread may be expected to be designed to eliminate or minimise any potential transfer of value between counterparties, the application of the Adjustment Spread to the Securities may not do so and may result in the Securities performing differently (which may include

payment of a lower interest rate) than they would do if the EUR 5 year Swap Rate were to continue to apply in its current form.

The Issuer may be unable to appoint an Independent Adviser or the Independent Adviser may not be able to determine a Successor Rate or Alternative Rate in accordance with the terms and conditions of the relevant Securities

Where the Issuer is unable to appoint an Independent Adviser in a timely manner, or the Independent Adviser is unable to determine a Successor Rate or Alternative Rate before the next Reset Interest Determination Date, the EUR 5 year Swap Rate for the next succeeding Reset Period will be the last available EUR 5 year mid swap rate for euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page.

Applying the last available EUR 5 year mid swap rate for euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page will result in the Securities performing differently (which may include payment of a lower Prevailing Interest Rate) than they would do if the EUR 5 year Swap Rate were to continue to apply, or if a Successor Rate or Alternative Rate could be determined.

Where the Issuer has been unable to appoint an Independent Adviser or the Independent Adviser is unable to determine a Successor Rate or Alternative Rate in respect of any given Reset Interest Determination Date, it will continue to attempt to appoint an Independent Adviser in a timely manner before the next succeeding Reset Interest Determination Date, and/or the Independent Adviser will continue to attempt to determine a Successor Rate or Alternative Rate to apply to the next succeeding and any subsequent Reset Periods, as necessary.

If the Issuer is unable to appoint an Independent Adviser or, the Independent Adviser fails to determine a Successor Rate or Alternative Rate for the life of the Securities, the initial Prevailing Interest Rate, or the last available EUR 5 year mid swap rate for euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page, will continue to apply to the date on which the Securities will become due and payable and will be redeemed in accordance with the relevant Terms and Conditions of the Securities. This will result in the relevant Securities, in effect, becoming fixed rate securities.

Notwithstanding any of the provisions of Condition 4.4 of the relevant Terms and Conditions of the Securities, no Benchmark Amendments will be made, if and to the extent that, in the determination of the Issuer, the same could reasonably be expected to cause a reduction in or loss of equity credit to occur in connection with the Securities. This will result in the relevant Securities, in effect, becoming fixed rate securities.

The Securities are subject to provisions relating to modification, waivers, substitution of the Issuer and modification or variation of the Securities

Each Trust Deed contains provisions for convening meetings of the Securityholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Securityholders including Securityholders who did not attend and vote at the relevant meeting and Securityholders who voted in a manner contrary to the majority.

Each Trust Deed also provides that the Trustee may, without the consent of the Securityholders, 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 Securities, or (ii) the substitution of another company as principal debtor under the Securities in place of the Issuer, in the circumstances described in and subject to the provisions of Condition 13 of relevant Terms and Conditions of the Securities.

Furthermore, each Trust Deed also provides that the Trustee shall, subject to the fulfilment of certain requirements as set out in the relevant Trust Deed, without the consent of the Securityholders, agree to the variation or the exchange of the relevant Securities upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event.

There is a risk that, after the issue of the relevant Securities, a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event may occur which would entitle the Issuer, without any requirement for the consent or approval of the Securityholders, to exchange or vary the relevant Securities, subject to certain conditions intended to protect the interests of the Securityholders, so that after such exchange or variation the relevant Securities remain or become, as the case may be, eligible for the same or (from the perspective of the Issuer) more favourable tax, accounting or ratings treatment than the treatment to which they were entitled prior to the relevant event occurring. Any such exchange or variation may have an adverse impact on the price of, and/or the market for, the relevant Securities.

Whilst the Exchanged Securities or Varied Securities, as the case may be, are required to have terms which are not materially less favourable to the Securityholders (as a class) than the terms of the Securities, there can be no assurance that the Exchanged Securities or Varied Securities, as the case may be, will not have a significant adverse impact on the price of, and/or market for, the Securities or the circumstances of individual Securityholders.

There are no events of default

The Terms and Conditions of each Series of Securities do not provide for events of default allowing acceleration of the Securities if certain events occur. Accordingly, if the Issuer fails to meet any obligations under the Securities, including the payment of any interest, investors will not have the right to require the early redemption of the Securities.

On the Liquidation Event Date, the Securities will become due and payable at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest. On or following the Liquidation Event Date, no payments will be made in relation to the Junior Securities of the Issuer before all amounts due, but unpaid, on the Securities have been paid by the Issuer.

In addition, in the event of a winding-up, insolvency, dissolution or liquidation of the Issuer, the claims of relevant Securityholders will be subordinated as further described in Condition 3 of the relevant Terms and Conditions of the Securities. Accordingly, the claims of holders of all obligations to which the Securities are subordinated will first have to be satisfied in any winding-up or analogous proceedings before the relevant Securityholders may expect to obtain any recovery in respect of the Securities and prior thereto relevant Securityholders will have only limited ability to influence the conduct of such winding-up or analogous proceedings.

2. **Risks relating to changes of law and the Italian insolvency law regime**

Changes of law may affect the terms and conditions of the relevant Securities

Each Trust Deed, the Securities and the related Coupons and any non-contractual obligations arising out of or in connection with each Trust Deed, the Securities and the Coupons are governed by, and shall be construed in accordance with, English law, except for the provisions of each Trust Deed concerning status and subordination of the relevant Securities and the Coupons, which shall each be governed by Italian law. See Conditions 3.1 and 3.2 of the relevant Terms and Conditions of the

Securities. The provisions of each Trust Deed concerning the meeting of Securityholders and the appointment of a joint representative of Securityholders (a *rappresentante comune*) in respect of the Securities are subject to compliance with Italian law. See Condition 13.1 of the relevant Terms and Conditions of the Securities. No assurance can be given as to the impact of any possible judicial decision or change to English or Italian law or administrative practice after the date of this Offering Circular.

Change of law

The Conditions of the Securities are based on English law in effect as at the date of this Offering Circular, save that provisions related to the subordination of the Securities, the convening of meetings of holders of the Securities and the appointment of a *rappresentante comune* in respect of the Securities are subject to compliance with mandatory provisions of Italian law. No assurance can be given as to the specific impact that any possible judicial decision or change to English law and/or Italian law (as the case may be) or administrative practice after the date of this Offering Circular may have on the Securities.

Italian Insolvency Laws are applicable to the Issuer and may not be as favourable to holders of Securities as those of other jurisdictions with which investors may be more familiar

Under Italian law, if certain requirements are met, the Issuer could become subject to certain Insolvency Proceedings, as described in the section "*Overview of the applicable Italian Insolvency Laws Regime in force*" of this Offering Circular. The Italian Insolvency Laws may not be as favourable to Securityholders' interests as creditors as the laws of other jurisdictions with which the Securityholders may be familiar.

For instance, if the Issuer becomes subject to certain Insolvency Proceedings, payments made by the Issuer in favour of the Securityholders or the Trustee on their behalf prior to the commencement of the relevant proceeding may be liable to claw-back by the relevant trustee.

Furthermore, under Italian law, Securityholders would not have a right as a class to appoint a representative to a creditors' committee. Consequently, Securityholders should be aware that they will generally have limited ability to influence the outcome of any Insolvency Proceedings which may apply to the Issuer under Italian law, especially in light of the current capital structure of the Issuer.

3. **Risks relating to the credit rating of the Securities**

Credit Rating

On or around the Issue Date, the Securities are expected to be assigned a rating of Baa3 by Moody's, BBB- by S&P and BBB- by Fitch. 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. Any adverse change in an applicable credit rating could adversely affect the trading price for the Securities.

In general, European regulated investors are restricted under the EU CRA Regulation and UK regulated investors are restricted under the UK CRA Regulation from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU or the UK and registered under the relevant CRA Regulation (and such registration has not been withdrawn or suspended), subject to transitional provisions that apply in certain circumstances. Such general restriction will also apply in the case of credit ratings issued by non-EU or non-UK credit rating agencies, unless the relevant credit ratings are endorsed by an EU or UK registered credit rating agency or the relevant non-EU (or non-UK) rating agency is certified in accordance with the relevant CRA

Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended, subject to transitional provisions that apply in certain circumstances).

In general, European regulated investors are restricted under the EU CRA Regulation and UK regulated investors are restricted under the UK CRA Regulation from using credit ratings for regulatory purposes if such rating is not issued by a credit rating agency established in the EU or the UK and registered under the relevant CRA Regulation (and such registration has not been withdrawn or suspended), unless (1) the rating is provided by a credit rating agency (a) not established in the EEA but endorsed by a credit rating agency established in the EEA and registered under the EU CRA Regulation or (b) and not established in the UK but is endorsed by a credit rating agency established in the UK and registered under the UK CRA Regulation (2) the rating is provided by a credit rating agency (a) not established in the EEA which is certified under the EU CRA Regulation or (b) not established in the UK which is certified under the UK CRA Regulation. S&P, Moody's and Fitch appear on the latest update of the list of registered credit rating agencies on the ESMA website https://www.esma.europa.eu/supervision/credit-rating-agencies/risk.

4. **Risks relating to the trading market for the Securities**

There is no active trading market for the Securities, and if a market does develop, it may be volatile

Although application has been made to admit the Securities to trading on Euronext Dublin, the Securities will have no secondary market when issued, and one may never develop. If a market does develop, it may not be liquid. Therefore, investors may not be able to sell their Securities 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 securities that are especially sensitive to interest rate, currency or market risks, are designed for specific investment objectives or strategies or have been prepared to meet the investment requirements of limited categories of investors. These types of securities generally would have a more limited secondary market and more price volatility than conventional debt securities. Illiquidity may have a severely adverse effect on the market value of the Securities.

Delisting of the Securities

Application may be made for the Securities to be listed on the official list of Euronext Dublin and admitted to trading on the regulated market of Euronext Dublin. If the listing of the Securities on such market becomes unduly burdensome, the Securities may subsequently be delisted despite the best efforts of the Issuer to maintain such listing and, although no assurance is made as to the liquidity of the Securities as a result of listing, any delisting of the Securities may have a material effect on a Securityholder's ability to resell the Securities on the secondary market.

5. **Risks relating to taxation and accounting treatment of the Securities**

Taxation

The tax regime in Italy and in any other relevant jurisdiction (including, without limitation, the jurisdiction in which each Securityholder is resident for tax purposes) may be relevant to the acquiring, holding and disposing of the Securities and the receiving of payments of interest, principal and/or other income under the Securities. Prospective investors in the Securities should consult their own tax advisers as to which countries' tax laws could be relevant and the consequences of such actions under the tax laws of those countries.

Payments in respect of the relevant Securities may in certain circumstances be made subject to withholding or deduction of tax

All payments in respect of the relevant Securities will be made free and clear of withholding or deduction of Italian taxation, unless the withholding or deduction is required by law. In that event, the Issuer will pay such additional amounts as will result in the Securityholders receiving such amounts as they would have received in respect of such Securities had no such withholding or deduction been required. The Issuer's obligation to gross up is, however, subject to a number of exceptions, including withholding or deduction of *imposta sostitutiva* (Italian substitute tax), pursuant to Italian Legislative Decree No. 239 of 1 April 1996 a brief description of which is set out below.

Prospective purchasers of Securities should consult their tax advisers as to the overall tax consequences of acquiring, holding and disposing of Securities and receiving payments of interest, principal and/or other amounts under the Securities, including in particular the effect of any state, regional or local tax laws of any country or territory. See also the section headed "Taxation" below.

Imposta sostitutiva

Imposta sostitutiva (Italian substitute tax) is applied to payments of interest and other income (including the difference between the redemption amount and the issue price) at a rate of 26 per cent. to (i) certain Italian resident Securityholders and (ii) non-Italian resident Securityholders who have not filed in due time with the relevant depository a declaration (*autocertificazione*) stating, inter alia, that he or she is resident for tax purposes in a country which allows for an adequate exchange of information with the Italian tax authorities.

The current IFRS accounting classification of financial instruments such as the Securities as equity instruments may change, which may result in the occurrence of an Accounting Event

In June 2018, the IASB (International Accounting Standards Board) published the discussion paper DP/2018/1 on "Financial Instruments with Characteristics of Equity" (the "**DP/2018/1 Paper**") and the Financial Instruments with Characteristics of Equity project was recently moved to standard setting. If the proposals set out in the DP/2018/1 Paper are implemented in their current form, or if alternative changes are proposed and implemented, the current IFRS accounting classification of financial instruments such as the Securities as equity instruments may change and this may result in the occurrence of an "Accounting Event" (as described in the relevant Terms and Conditions of the Securities). In such an event, the Issuer may have the option to redeem, in whole but not in part, the Securities pursuant to the relevant Terms and Conditions of the Securities. The implementation of any of the proposals set out in the DP/2018/1 Paper or any other similar such proposals that may be made in the future, including the extent and timing of any such implementation, if at all, is still uncertain.

At the December 2020 meeting of the IASB, it was agreed that the Financial Instruments with Characteristics of Equity project would move to a standard setting project, but no final decisions have been made yet.

At the April 2021 meeting of the IASB, it was tentatively decided to continue discussions on potential refinements to the DP/2018/1 Paper, including disclosure, without changing the classification of financial obligations that only arise on liquidation of the entity.

Accordingly, no assurance can be given as to the future classification of the Securities from an accounting perspective or whether any such change may result in the occurrence of an Accounting Event, thereby providing the Issuer with the option to redeem the Securities pursuant to the relevant Terms and Conditions of the Securities. The occurrence of an Accounting Event may result in Securityholders receiving a lower than expected yield.

The redemption of the Securities by the Issuer or the perception that the Issuer will exercise its optional redemption right might negatively affect the market value of the Securities. During any period when the Issuer may elect to redeem the Securities, the market value of the Securities generally will not rise substantially above the price at which they can be redeemed.

INCORPORATION BY REFERENCE

The following documents, which have previously been published and have been filed with the Central Bank of Ireland, shall be incorporated in and form part of this Offering Circular:

(a) the English translation of ENEL's annual financial report 2021 as of and for the year ended 31 December 2021, and the English translations of the auditor's reports thereon which can be found on ENEL's website at https://www.enel.com/content/dam/enel-com/documenti/investitori/informazioni-finanziarie/2021/annuali/en/integrated-annual-report_2021.pdf (the "**2021 Audited Consolidated Financial Statements**");

(b) the English translation of ENEL's annual financial report 2020 as of and for the year ended 31 December 2020, and the English translations of the auditor's reports thereon which can be found on ENEL's website at https://www.enel.com/content/dam/enel-com/documenti/investitori/informazioni-finanziarie/2020/annuali/en/integrated-annual-report_2020.pdf (the "**2020 Audited Consolidated Financial Statements**" and together with the 2021 Audited Consolidated Financial Statements, the "**Audited Consolidated Financial Statements**");

(c) the English translation of the half-year financial report at 30 June 2022 of ENEL and related notes thereto ("**2022 Interim Financial Report at 30 June 2022**") which includes the independent auditors' review report on the condensed interim consolidated financial statements of ENEL as at and for the six-month period ended 30 June 2022, available on ENEL's website at https://www.enel.com/content/dam/enel-com/documenti/investitori/informazioni-finanziarie/2022/interim/en/half-year-financial-report_30june2022.pdf;

(d) the translation into English of the unaudited condensed consolidated interim financial report of ENEL as at and for the nine month period ended 30 September 2022 ("**2022 ENEL Interim Financial Report at 30 September 2022**"), available on ENEL's website at https://www.enel.com/content/dam/enel-com/documenti/investitori/informazioni-finanziarie/2022/interim/en/interim-financial-report_september2022.pdf ;

(e) the section headed "*Description of ENEL*" contained in the €35,000,000,000 Euro Medium Term Note Programme Base Prospectus dated 19 December 2022 (the "**EMTN Base Prospectus**"), which can be found on ENEL's website at https://www.enel.com/content/dam/enel-com/documenti/investitori/investire-in-enel/programmi-principali/medium-term-notes/2023/base-prospectus_19december2022.pdf

(f) the English translation of the press release dated 7 October 2022 headed "*Enel successfully launches new multi-tranche 4 billion U.S. dollar Sustainability-Linked Bonds*" available on ENEL's website at https://www.enel.com/media/explore/search-press-releases/press/2022/10/enel-successfully-launches-new-multi-tranche-4-billion-us-dollar-sustainability-linked-bonds- ; and

(g) the English translation of the press release dated 12 October 2022 headed "*Enel finalized the sale of its entire stake in PJSC Enel Russia*" available on ENEL's website at https://www.enel.com/content/dam/enel-common/press/en/2022-october/PR%20Closing%20Enel%20Russia%20ENG.pdf;

(h) the English translation of the press release dated 25 October 2022 headed "*Enel publishes 2022 third quarter and nine months Group operating data Report*" available on ENEL's website at https://www.enel.com/media/explore/search-press-releases/press/2022/10/enel-publishes-2022-third-quarter-and-nine-months-group-operating-data-report-;

(i) the English translation of the press release dated 3 November 2022 headed "*Enel: in first nine months 2022 further investments in renewables and grids*" available on ENEL's website at https://www.enel.com/media/explore/search-press-releases/press/2022/11/enel-in-first-nine-months-2022-further-investments-in-renewables-and-grids-to-accelerate-energy-independence-approved-2022-interim-dividend-of-20-euro-cents-per-share--53-compared-to-2021-interim-dividend;

(j) the English translation of the press release dated 22 November 2022 headed "*Enel 2023-2025 strategy: repositioning of businesses and geographies, focus on sustainable electrification*" available on ENEL's website at https://www.enel.com/media/explore/search-press-releases/press/2022/11/enel-2023-2025-strategy-repositioning-of-businesses-and-geographies-focus-on-sustainable-electrification-securing-growth-and-financial-strength-creating-value-for-all-stakeholders;

(k) the English translation of the press release dated 9 December 2022 headed "*Enel Group finalized sale of electricity transmission business in Chile*" available on ENEL's website at https://www.enel.com/content/dam/enel-common/press/en/2022-december/PR%20Enel%20Transmision%20Chile%20closing.pdf;

(l) the English translation of the press release dated 14 December 2022 headed "*Enel's Board of Directors approves the issue of hybrid bonds up to a maximum of 2 billion euros*" available on ENEL's website at https://www.enel.com/content/dam/enel-common/press/en/2022-december/Authorization%20issuance%20hybrid%20bonds.pdf;

(m) the English translation of the press release dated 14 December 2022 headed "*Enel enters exclusive negotiations with PPC on sale of all Romanian operations*" available on ENEL's website at: https://www.enel.com/media/explore/search-press-releases/press/2022/12/enel-enters-exclusive-negotiations-with-ppc-on-sale-of-all-romanian-operations;

(n) the English translation of the press release dated 23 December 2022 headed "*Enel signs a 12 billion euro revolving credit facility guaranteed by SACE*" available on ENEL's website at: https://www.enel.com/media/explore/search-press-releases/press/2022/12/enel-signs-a-12-billion-euro-revolving-credit-facility-guaranteed-by-sace; and

(o) the English translation of the press release dated 29 December 2022 headed "*Enel group finalized sale of Brazilian electricity distributor in Goiás*" available on ENEL's website at: https://www.enel.com/media/explore/search-press-releases/press/2022/12/enel-group-finalized-sale-of-brazilian-electricity-distributor-in-gois-.

each to the extent specified in the cross-reference list below and save that any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Offering Circular to the extent that a statement contained in any subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Offering Circular.

Any documents which are themselves incorporated by reference in the documents incorporated by reference in this Offering Circular, shall not form part of this Offering Circular (unless they are being separately incorporated by reference in this Offering Circular under this section).

Copies of documents incorporated by reference in this Offering Circular can be obtained from the registered office of the Issuer.

The Audited Consolidated Financial Statements and the 2022 Interim Financial Report at 30 June 2022 the notice and press releases listed above, the EMTN Base Prospectus are incorporated herein by reference, and the

following cross reference lists are provided to enable investors to identify specific items of information so incorporated. Any information contained in any of the documents specified above, including any documents incorporated by reference therein, which is not incorporated by reference in this Offering Circular is either not relevant to investors or is covered elsewhere in this Offering Circular:

Document	Information incorporated	Location
Audited consolidated financial statements of ENEL and related notes thereto as of and for the year ended 31 December 2021	Corporate boards	pp. 42-43
	Performance by Business Line	pp. 170-204
	Significant events in 2021	pp. 223-230
	Regulatory and rate issues	pp. 231-251
	Consolidated Income Statement	p. 262
	Statement of Consolidated Comprehensive Income	p. 263
	Statement of Consolidated Financial Position	pp. 264-265
	Statement of Changes in Consolidated Equity	pp. 266-267
	Consolidated Statement of Cash Flows	p. 268
	Notes to the consolidated financial statements	pp. 269-436
	Declaration of the Chief Executive Officer and the officer and the officer in charge of financial reporting of the ENEL Group at December 31, 2021	p. 437
	Report of the Audit Firm	pp. 454-458
Audited consolidated financial statements of ENEL and related notes thereto as of and for the year ended 31 December 2020	Corporate Boards	p. 35
	Results by Business Line	pp. 136-172
	Significant events in 2020	pp. 189-198
	Regulatory and rate issues	pp. 199-212
	Income Statement	p. 224
	Statement of Comprehensive Income	p. 225
	Statement of Financial Position	pp. 226-227

Document	Information incorporated	Location
	Statement of Changes in Equity	pp. 228-229
	Statement of Cash Flows	p. 230
	Notes to the consolidated financial statements	pp. 231-396
	Declaration of the Chief Executive Officer and the officer in charge of financial reporting of the ENEL Group at December 31, 2020	p. 397
	Independent auditors' report	pp. 414-420
ENEL's condensed interim consolidated financial statements of ENEL as at and for the six months period ended 30 June 2022	ENEL Group's assets and liabilities, financial position and profits and losses, organizational model, significant events and summary of the regulatory framework in which ENEL Group operates:	
	ENEL Organizational Model	pp. 23-24
	Significant events in the 1st Half of 2022	pp. 120-122
	Regulatory and rate issues	pp. 123-142
	Consolidated Income Statement	p. 150
	Statement of Consolidated Comprehensive Income	p. 151
	Statement of Consolidated Financial Position	pp. 152-153
	Statement of Changes in Consolidated Equity	pp. 154-155
	Consolidated Statement of Cash Flows	p. 156
	Notes to the condensed interim consolidated financial statements	pp. 157-214
	Report of the Audit Firm	pp. 216-218
2022 ENEL Interim Financial Report at 30 September 2022	Significant events in the 3rd Quarter of 2022	pp. 19-21
	Condensed Consolidated Income Statement	p. 75
	Statement of Consolidated Comprehensive Income	p.76
	Condensed Consolidated Statement of Financial Position	p. 77

Document	Information incorporated	Location
	Statement of Changes in Consolidated Equity	pp. 78-79
	Condensed Consolidated Statement of Cash Flows	p. 80
	Notes to the Condensed Consolidated quarterly Financial Statements at 30 September 2022	pp. 81-122
EMTN Base Prospectus	Description of ENEL	pp. 141-204
Press release dated 7 October 2022 headed "*Enel successfully launches new multi-tranche 4 billion U.S. dollar Sustainability-Linked Bonds"*	Entire Document	
Press release dated 25 October 2022 headed "*Enel publishes 2022 third quarter and nine months Group operating data Report"*	Entire Document	
Press release dated 12 October 2022 headed "*Enel finalized the sale of its entire stake in PJSC Enel Russia"*	Entire Document	
Press Release dated 3 November 2022 headed *"Enel: in first nine months 2022 further investments in renewables and grids*"	Entire Document	
Press Release dated 22 November 2022 headed *"Enel 2023-2025 strategy: repositioning of businesses and geographies, focus on sustainable electrification*"	Entire Document	
Press Release dated 9 December 2022 headed "*Enel Group finalized sale of electricity transmission business in Chile*"	Entire Document	
Press Release dated 14 December 2022 headed "*Enel's Board of Directors approves the issue of hybrid bonds up to a maximum of 2 billion euros*"	Entire Document	
Press Release dated 14 December 2022 headed "*Enel enters exclusive negotiations with PPC on sale of all Romanian operations*"	Entire Document	

Document	Information incorporated	Location
Press Release dated 23 December 2022 headed "*Enel signs a 12 billion euro revolving credit facility guaranteed by SACE*"	Entire Document	
Press release dated 29 December 2022 headed "*Enel group finalized sale of Brazilian electricity distributor in Goiás*"	Entire Document	

PRESENTATION OF FINANCIAL AND OTHER INFORMATION

The Group's financial information as of and for the six-months period ended 30 June 2022 has been derived from the 2022 Interim Financial Report at 30 June 2022. The 2022 Interim Financial Report at 30 June 2022 was approved by the board of directors of ENEL on 21 July 2022. The information contained in the 2022 Interim Financial Report at 30 June 2022 are not necessarily indicative of the results of operations that may be expected for any other interim period in 2022 or for the full year.

The 2022 Interim Financial Report at 30 June 2022 of the Group at and for the six months ended at 30 June 2022 has been prepared pursuant to Article 154-*ter* of Legislative Decree 58 of 24 February 1998 as amended by Legislative Decree 195 of 6 November 2007 and Article 81 of the Issuers Regulation as amended.

The condensed interim consolidated financial statements for the six months ended at 30 June 2022 included in the 2022 Interim Financial Report at 30 June 2022 have been prepared in compliance with the international accounting standards (International Accounting Standards - IAS and International Financial Reporting Standards - IFRS) issued by the International Accounting Standards Board (IASB) as well as the interpretations of the International Financial Reporting Interpretations Committee (IFRIC) and the Standing Interpretations Committee (SIC), recognized by the European Union pursuant to Regulation (EC) no. 1606/2002 and in effect at the same date.

More specifically, the financial statements have been drafted in compliance with "IAS 34 – Interim financial reporting" and consist of the consolidated income statement, statement of consolidated comprehensive income, statement of consolidated financial position, statement of changes in consolidated equity, consolidated statement of cash flows and notes thereto, as at and for the six months ended 30 June 2022. The 2022 Interim Financial Report at 30 June 2022 was subject to limited review made by KPMG S.p.A.

The Group's financial information as of and for the years ended 31 December 2021 and 2020 has been derived from the 2021 Audited Consolidated Financial Statements and the 2020 Audited Consolidated Financial Statements, respectively. The 2021 Audited Consolidated Financial Statements and the 2020 Audited Consolidated Financial Statements (together, the "**Audited Consolidated Financial Statements**") were approved by the board of directors of ENEL on 17 March 2022 and on 18 March 2021, respectively.

The Audited Consolidated Financial Statements were prepared in accordance with IFRS as issued by the International Accounting Standards Board and endorsed by the European Union and the Italian regulation implementing Article 9 of Legislative Decree No. 38/05.

The 2021 Audited Consolidated Financial Statements has been audited by KPMG S.p.A.; a convenience translation into English of their reports thereon, dated 14 April 2022 is incorporated by reference in this Offering Circular.

The 2020 Audited Consolidated Financial Statements has been audited by KPMG S.p.A.; a convenience translation into English of their reports thereon, dated 16 April 2021 is incorporated by reference in this Offering Circular.

The Audited Consolidated Financial Statements are incorporated by reference in this Offering Circular. A translation into English of the Audited Consolidated Financial Statements and the accompanying notes thereto are incorporated by reference to this Offering Circular.

In the 2021 Audited Consolidated Financial Statements the 2020 figures have been adjusted to take account of the reclassification of the result of (i) the measurement of contracts for the purchase of commodities with physical settlement (IFRS 9) from "Other operating costs" to "Electricity, gas and fuel" and "Services and other

materials" and (ii) the measurement at fair value of assets in respect of concession arrangements (IFRIC 12) from financial income to revenue from contracts with customers (IFRS 15).

The 2021 Audited Consolidated Financial Statements provides in note 7 additional information with respect to this change.

Capitalised terms used in the following discussion are defined under "— Certain defined terms" below.

In making an investment decision, investors must rely upon their own examination of the financial statements and financial information included in the Offering Circular and should consult their professional advisors for an understanding of, among other things: (i) the differences between IFRS and other systems of generally accepted accounting principles, including U.S. GAAP, and how those differences might affect the financial information included in this Offering Circular; and (ii) the impact that future additions to, or amendments of, IFRS principles may have on the Group's results of operations and/or financial condition, as well as on the comparability of prior periods.

Alternative Performance Measures

This Offering Circular (including the documents incorporated by reference herein) contains certain alternative performance measures ("**APMs**") which are different from the EU-IFRS financial indicators obtained directly from the audited consolidated financial statements for the years ended 31 December 2021 and 2020 and from the unaudited consolidated interim financial report of ENEL as at and for the six months ended 30 June 2022 and 2021 and which are useful to present the results and the financial performance of the ENEL Group.

With regard to those indicators, on 29 April, 2021, CONSOB issued warning notice no. 5/21, which gives force to the Guidelines issued on 4 March, 2021 by the European Securities and Markets Authority (ESMA) on disclosure requirements under Regulation (EU) 2017/1129 (the Prospectus Regulation), which took effect on 5 May, 2021. The Guidelines update the previous CESR Recommendations (ESMA/2013/319, in the revised version of 20 March, 2013) with exception of those concerning the special issuers referred to in Annex no. 29 of Delegated Regulation (EU) 2019/980, which were not converted into Guidelines and remain applicable. The Guidelines are intended to promote the usefulness and transparency of alternative performance indicators included in regulated information or prospectuses within the scope of application of Directive 2003/71/EC in order to improve their comparability, reliability and comprehensibility.

In line with the Guidelines mentioned above, the criteria used to construct the APMs is the *Net short-term debt (or Net Short-Term Financial Debt)*: a financial structure indicator, calculated as the sum of "Current portion of long-term bank borrowings", "Short-term bank borrowings", "Bonds issued (current portion)", "Other borrowings (current portion)", "Commercial paper", "Cash collateral and other financing on derivatives" and "Other short-term financial borrowings" net of "Current portion of long-term loans assets", "Financial assets and cash collateral", "Other short-term financial assets" and "Cash and cash equivalents with banks and short-term securities".

In addition, the Enel Group uses the following non-IFRS financial measure called "net financial debt" reported in accordance with Guideline 39, issued on 4 March 2021, by ESMA, applicable as from 5 May 2021, and with warning notice no. 5/2021 issued by CONSOB on 29 April 2021.

Investors should not place undue reliance on these APMs and should not consider any APMs as: (i) an alternative to operating profit or profit as determined in accordance with IFRS; (ii) an alternative to cash flow from operating, investing or financing activities (as determined in accordance with IFRS) as a measure of the ENEL Group's ability to meet cash needs; or (iii) an alternative to any other measure of performance under IFRS.

Except for those reported in the section "Selected Financial Data" of this Offering Circular and in documents incorporated by reference herein, such APMs have been derived from historical financial information of the Group and are not intended to provide an indication on the future financial performance, financial position or cash flows of the Group itself. It should be noted that:

i. the APMs are based exclusively on Group historical data and are not indicative of future performance;

ii. the APMs are not derived from IFRS, they are derived from the consolidated financial statements of the Group prepared in conformity with these principles, and they are not subject to audit;

iii. the APMs are non-IFRS financial measures and are not recognised as a measure of performance or liquidity under IFRS and should not be recognised as alternative to performance measures derived in accordance with IFRS or any other generally accepted accounting principles;

iv. the APMs should be read together with financial information for the Group taken from the consolidated financial statements of the Issuer;

v. as the APMs are non-IFRS measures, the definitions of APMs used by the Group may differ from, and therefore not be comparable to, those used by other companies/groups; and

vi. the APMs and definitions used herein are consistent and standardised for all the period for which financial information in this Offering Circular and in the documents incorporated by reference herein are included.

These measures are used by ENEL's management to monitor the performance of the ENEL Group.

More specifically, ENEL's management believes that:

- Net Financial Debt provides prospective investors with information to evaluate the overall level of the Group's indebtedness; and
- EBITDA provides prospective investors with adequate information to evaluate the Group's operating performance and its ability to repay its borrowings through its operating cash flows.

Market information

This Offering Circular contains statements related to, among other things, the following: (i) the size of the sectors and markets in which the ENEL Group operates; (ii) growth trends in the sectors and markets in which ENEL operates; and (iii) ENEL's relative competitive position in the sectors and markets in which it operates and the position of its competitors in those same sectors and markets.

Whether or not this is stated, where such information is presented, such information is based on third- party studies and surveys as well as ENEL's experience, market knowledge, accumulated data and investigation of market conditions. While ENEL believes such information to be reliable and believes any estimates contained in such information to be reasonable, there can be no assurance that such information or any of the assumptions underlying such estimates are accurate or correct, and none of the internal surveys or information on which ENEL has relied have been verified by any independent sources. Accordingly, undue reliance should not be placed on such information. In addition, information regarding the sectors and markets in which ENEL operates is normally not available for certain periods and, accordingly, such information may not be current as of the date of this Offering Circular.

Certain defined terms

In this Offering Circular:

- References to "ENEL", the "Issuer" or the "Parent" are to ENEL S.p.A., unless the context requires otherwise.
- References to "Euro" or "€" are to the currency of the member states of the European Union participating in the third stage of the Economic and Monetary Union.
- References to "$", "U.S. $" or "U.S. dollar" refer to United States dollars.
- References to "IFRS" are to the International Financial Reporting Standards issued by the International Accounting Standards Board, including interpretations of the International Financial Reporting Interpretations Committee (IFRIC), previously referred to as the "Standing Interpretations Committee" (SIC), and, including also, International Accounting Standards (IAS) where the context requires, as endorsed by the European Commission for use in the European Union. IFRS as endorsed by the European Commission for use in the European Union differ in certain aspects from IFRS issued by the International Accounting Standards Board.
- References to the "Consolidated Financial Act" are to Legislative Decree No. 58 of 24 February 1998, "*Testo unico delle disposizioni in materia di intermediazione finanziaria*," as amended.

Rounding

Certain numerical figures set out in this Offering Circular, including financial data presented in millions or thousands and certain percentages, have been subject to rounding adjustments and, as a result, the totals of the data in columns or rows of tables in this Offering Circular may vary slightly from the actual arithmetic totals of such information.

Forward-Looking Statements

This Offering Circular contains forward-looking statements, including (without limitation) statements containing the words "anticipates", "believes", "estimates", "expects", "intends", "may", "plans", "projects", "will", "would" and similar words. These statements are based on ENEL's current expectations and projections about future events and involve substantial uncertainties. All statements, other than statements of historical facts, contained herein regarding ENEL's strategy, goals, plans, future financial position, projected revenues and costs or prospects are forward-looking statements. Forward-looking statements are subject to inherent risks and uncertainties, some of which cannot be predicted or quantified. Future events or actual results could differ materially from those set forth in, contemplated by or underlying forward-looking statements. ENEL does not undertake any obligation to publicly update or revise any forward-looking statements.

Furthermore, this Offering Circular contains certain statements and estimates regarding the competitive position in certain markets of Enel and its subsidiaries (collectively, the "Group"), including with respect to the Group's pre-eminence in particular markets. Such statements are based on the best information available to the Group's management as of the date hereof. However, the Group faces competitive risks and its market positions may diverge from those expressed herein as a result of a variety of factors. Any failure of the Group to execute upon its plans or maintain its market positions could have a material adverse effect upon the Group, its business prospects, its financial condition and its results of operations. See "Presentation of Financial and Other Information — Market information".

Enel may not actually achieve or realise the plans, intentions or expectations disclosed in its forward-looking statements and prospective investors should not place undue reliance on them. There can be no assurance that actual results of the Issuer's activities and operations will not differ materially from the expectations set forth in such forward-looking statements. Factors that could cause actual results to differ from such expectations include, but are not limited to, those described under "Risk Factors".

USE AND ESTIMATED AMOUNT OF PROCEEDS

The estimated net proceeds of the issuance of the NC 5.5 Securities, after deduction of commissions, fees, and estimated expenses (expected to amount to €994,500,000), will be used by the Issuer for general corporate purposes.

The estimated net proceeds of the issuance of the NC 8.5 Securities, after deduction of commissions, fees, and estimated expenses (expected to amount to €744,750,000), will be used by the Issuer for general corporate purposes.

TERMS AND CONDITIONS OF THE NC 5.5 SECURITIES

The following is the text of the Terms and Conditions of the NC 5.5 Securities which (subject to modification) will be endorsed on each NC 5.5 Security in definitive form (if issued).

Text set out within the Terms and Conditions of the NC 5.5 Securities in italics is provided for information only and does not form part of the Terms and Conditions of the NC 5.5 Securities.

The €1,000,000,000 Perpetual 5.5 Year Non-Call Capital Securities (the "**Securities**", which expression shall in these Conditions, unless the context otherwise requires, include any further securities issued pursuant to Condition 15 and forming a single series with the Securities) of Enel S.p.A. (the "**Issuer**") are constituted by a Trust Deed dated 16 January 2023, as amended or supplemented from time to time (the "**Trust Deed**") made between the Issuer and BNY Mellon Corporate Trustee Services Limited (the "**Trustee**", which expression shall include its successor(s)) as trustee for the holders of the Securities (the "**Securityholders**") and the holders of the interest coupons appertaining to the Securities (the "**Couponholders**" and the "**Coupons**" respectively, which expressions shall, unless the context otherwise requires, include the talons for further interest coupons (the "**Talons**") and the holders of the Talons).

The statements in these Conditions include summaries of, and are subject to, the detailed provisions of and definitions in the Trust Deed. Copies of the Trust Deed and the agency agreement dated 16 January 2023 (as amended or supplemented from time to time, the "**Agency Agreement**") made between the Issuer, The Bank of New York Mellon, London Branch, as principal paying agent (the "**Principal Paying Agent**") and agent bank (the "**Agent Bank**") (which shall be responsible for making certain determinations, as described in these Terms and Conditions) and the Trustee are available for inspection by appointment during normal business hours by the Securityholders and the Couponholders at the registered office for the time being of the Trustee, being at the date of issue of the Securities at One Canada Square, London E14 5AL, and at the specified office of each of the Paying Agents or at the Trustee's or Paying Agent's (as the case may be) option may be provided by email to such holder requesting copies of such documents, subject to the Paying Agent or the Trustee (as applicable) being supplied by the Issuer with copies of such documents. The Securityholders and the Couponholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the provisions of the Agency Agreement applicable to them.

1 Form, Denomination and Title

1.1 Form and Denomination

The Securities are in bearer form, serially numbered, in the denominations of €100,000 and integral multiples of €1,000 in excess thereof, up to and including €199,000, with Coupons and one Talon attached on issue.

1.2 Title

Title to the Securities and to the Coupons will pass by delivery.

1.3 Holder Absolute Owner

The Issuer, any Paying Agent and the Trustee may (to the fullest extent permitted by applicable laws) deem and treat the bearer of any Security or Coupon as the absolute owner for all purposes (whether or not the Security or Coupon shall be overdue and notwithstanding any notice of ownership or writing on the Security or Coupon or any notice of previous loss or theft of the Security or Coupon or of any trust or interest therein) and shall not be required to obtain any proof thereof or as to the identity of such bearer and no person shall be liable for so treating such holder.

2 Definitions and Interpretation

As used in these Conditions:

An "**Accounting Event**" shall occur if as a result of a change in the accounting practices or principles applicable to the Issuer, which currently are the international accounting standards (International Accounting Standards — IAS and International Financial Reporting Standards — IFRS) issued by the International Accounting Standards Board (IASB), the interpretations of the International Financial Reporting Interpretations Committee (IFRIC) and the Standing Interpretations Committee (SIC), adopted by the European Union pursuant to Regulation (EC) 1606/2002 ("**IFRS**"), or any other accounting standards that may replace IFRS which becomes effective after the Issue Date (the "**Change**"), the obligations of the Issuer in respect of the Securities, following the official adoption of such Change, which may fall before the date on which the Change will come into effect, can no longer be recorded as "equity" (*strumento di capitale*), in accordance with accounting practices or principles applicable to the Issuer at the time of the next Financial Statements, and a recognised accountancy firm of international standing, acting upon instructions of the Issuer, has delivered an opinion, letter or report addressed to the Issuer to that effect, and the Issuer cannot avoid the foregoing by taking reasonable measures available to it.

"**Accrual Period**" has the meaning given to it in Condition 4.1(c).

"**Additional Amounts**" has the meaning given to it in Condition 8.1.

"**Adjustment Spread**" means either (a) a spread (which may be positive, negative or zero) or (b) a formula or methodology for calculating a spread, in each case to be applied to the Successor Rate or the Alternative Rate (as the case may be) and is the spread, formula or methodology which:

(A) in the case of a Successor Rate, is formally recommended in relation to the replacement of the EUR 5-year Swap Rate with the Successor Rate by any Relevant Nominating Body; or (if no such recommendation has been made, or in the case of an Alternative Rate);

(B) the Independent Adviser determines, is customarily applied to the relevant Successor Rate or the Alternative Rate (as the case may be) in international debt capital markets transactions to produce an industry-accepted replacement rate for the EUR 5-year Swap Rate; or (if the Independent Adviser determines that no such spread is customarily applied);

(C) the Independent Adviser determines, is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the EUR 5-year Swap Rate, where such rate has been replaced by the Successor Rate or the Alternative Rate (as the case may be).

"**Alternative Rate**" means an alternative benchmark or screen rate which the Independent Adviser determines in accordance with Condition 4.4(b) is customary in market usage in the international debt capital markets for the purposes of determining rates of interest (or the relevant component part thereof) in Euro and with an interest period of a comparable duration to the relevant Reset Period.

"**Arrears of Interest**" has the meaning given to it in Condition 4.2(a).

"**Bankruptcy Law**" means Italian Royal Decree number 267 of 16 March 1942 as amended and supplemented from time to time, as well as, where still applicable.

"**Benchmark Amendments**" has the meaning given to it in Condition 4.4(d).

"**Benchmark Event**" means:

(A) the EUR 5-year Swap Rate ceasing to be published for a period of at least 5 Business Days or ceasing to exist or to be administered; or

(B) a public statement by the administrator of the EUR 5-year Swap Rate that it has ceased or that it will cease publishing the EUR 5-year Swap Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue publication of the EUR 5-year Swap Rate); or

(C) a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate, that the EUR 5-year Swap Rate has been or will, by a specified date on or prior to the next Reset Interest Determination Date, be permanently or indefinitely discontinued; or

(D) a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate as a consequence of which the EUR 5-year Swap Rate will be prohibited from being used or that its use will be subject to restrictions or adverse consequences either generally, or in respect of the Securities, in each case on or prior to the next Reset Interest Determination Date; or

(E) it has become unlawful for the Principal Paying Agent, the Agent Bank, the Issuer or other party to calculate any payments due to be made to any Securityholder using the EUR 5-year Swap Rate; or

(F) the making of a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate announcing that such EUR 5-year Swap Rate is no longer representative or may no longer be used, in each case in circumstances where the same shall be applicable to the Securities,

provided that in the case of sub-paragraphs (B), (C) and (D), the Benchmark Event shall occur on the later of (i) the date which is six months prior to the date of the cessation of publication of the EUR 5-year Swap Rate, the discontinuation of the EUR 5-year Swap Rate, or the prohibition of use of the EUR 5-year Swap Rate, as the case may be and (ii) the date of the relevant public statement.

"**Business Day**" means a day which is both 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 London and Milan and a TARGET2 Settlement Day.

"**Calculation Amount**" has the meaning given to it in Condition 4.1(c).

"**Calculation Date**" means the third Business Day preceding the Make-whole Redemption Date.

"**Call Date**" has the meaning given to it in Condition 6.2.

"**Code**" has the meaning given to it in Condition 8.1.

"**Code of Business Crisis and Insolvency**" or "**Insolvency Code**" means the Legislative Decree No. 14 of 12 January 2019, as amended and supplemented from time to time, containing the regulations of the "Business Crisis and Insolvency Code" (*Codice della Crisi d'Impresa e dell'Insolvenza*).

"**Decree No. 239**" means Italian Legislative Decree No. 239 of 1 April 1996, as amended.

"**Decree No. 917**" means Italian Presidential Decree No. 917 of 22 December 1986, as amended.

"**Deferral Notice**" has the meaning given to it in Condition 4.2(a).

"**Deferred Interest Payment**" has the meaning given to it in Condition 4.2(a).

"**Determination Period**" has the meaning given to it in Condition 4.1(c).

"**Early Redemption Date**" means the date of redemption of the Securities pursuant to Conditions 6.3 to 6.8.

"**Early Redemption Price**" will be the amount determined by the Agent Bank on the Redemption Calculation Date as follows:

(A) in the case of a Withholding Tax Event or a Substantial Repurchase Event at any time, 100 per cent. of the principal amount of the Securities then outstanding; or

(B) in the case of an Accounting Event, a Rating Methodology Event or a Tax Deductibility Event, either:

(i) 101 per cent. of the principal amount of the Securities then outstanding if the Early Redemption Date falls prior to 16 April 2028 (being the date falling three months prior to the First Reset Date); or

(ii) 100 per cent. of the principal amount of the Securities then outstanding if the Early Redemption Date falls on or after 16 April 2028 (being the date falling three months prior to the First Reset Date),

and in each case together with any accrued interest to, but excluding, the relevant Early Redemption Date and any outstanding Arrears of Interest.

"**equity credit**" shall include such other nomenclature as any Rating Agency may use from time to time to describe the degree to which an instrument exhibits the characteristics of an ordinary share.

"**EUR 5 year Swap Rate**" has the meaning given to it in Condition 4.1(b).

"**EUR 5 year Swap Rate Quotation**" means, in relation to any Reset Period, the arithmetic mean of the bid and offered rates for the annual fixed leg (calculated on a 30/360 day count basis) of a fixed-for-floating euro interest rate swap which (i) has a term of 5 years commencing on the relevant Reset Interest Determination Date, (ii) is in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market, and (iii) has a floating leg based on the 6-month EURIBOR rate (calculated on an Actual/360 day count basis);

"**EUR Reset Reference Bank Rate**" means the percentage rate determined by the Agent Bank on the basis of the EUR 5 year Swap Rate Quotations provided by the EUR Reset Reference Banks to the Issuer and notified to the Agent Bank at approximately 11:00 a.m. (CET) on the relevant Reset Interest Determination Date.

"**EUR Reset Reference Banks**" means five major banks in the Euro-zone interbank market selected by the Issuer.

"**EUR Reset Screen Page**" means the Thomson Reuters screen "ICESWAP2 / EURSFIXA" (or such other page as may replace it on Thomson Reuters or, as the case may be, on such other information service that may replace Reuters providing or sponsoring the information appearing there for the purpose of displaying rates comparable to the EUR 5 Year Swap Rate).

"**EURIBOR**" means the Euro-zone interbank offered rate.

"**Euronext Dublin**" means the Irish Stock Exchange plc trading as Euronext Dublin.

"**Exchanged Securities**" has the meaning given to it in Condition 7.1.

"**FATCA Withholding**" has the meaning given to it in Condition 8.1.

"**Financial Statements**" means either of:

(A) audited annual consolidated financial statements of the Issuer; or

(B) unaudited condensed consolidated half-year financial statements of the Issuer which are subject to a formal "review" from an independent auditor,

in each case prepared in accordance with IFRS or any successor accounting standards applicable to the Issuer.

"**First Reset Date**" means 16 July 2028.

"**Fitch**" means, jointly, Fitch Ratings Ireland Limited and its affiliates and branches established in the EU.

"**Group**" or "**ENEL Group**" means the Issuer and its Subsidiaries from time to time.

"**Independent Adviser**" means an independent financial institution of international repute or an independent financial adviser with appropriate expertise in the international capital markets, in each case appointed by the Issuer under Condition 4.4(a).

"**Insolvency Proceedings**" means any insolvency proceedings (*procedura concorsuale*) or proceedings equivalent or analogous thereto under the laws of any applicable jurisdiction, including, but not limited to, judicial liquidation (*liquidazione giudiziale*), composition with creditors in the judicial liquidation (*concordato nella liquidazione giudiziale*), dissolution, bankruptcy (*fallimento*) (as far as applicable pursuant to the Bankruptcy Law), extraordinary administration (*amministrazione straordinaria*), extraordinary administration of the insolvent companies (*amministrazione straordinaria delle grandi imprese in stato di insolvenza*), compulsory winding up (*liquidazione coatta amministrativa*), insolvency proceedings (*procedure concorsuali*) (including the insolvency proceedings and the further tools providing for the composition of the crisis and insolvency under the Bankruptcy Law and the Law Decree no. 118 of 24 August 2021, as far as applicable), the tools for the composition of business crisis/insolvency provided under the Insolvency Code, including, *inter alia*, the debt restructuring agreements (also simplified debt restructuring agreements and those with "extended effects" as well as the standstill agreements (*convenzioni di moratoria*), the certified restructuring plan as well as the related agreement, the restructuring plan subject to homologation, the composition with creditors proceeding (*concordato preventivo*), the filing of any petition under articles 40 and followings of the Insolvency Code (including the simplified petitions under article 44 of the Insolvency Code), the appointment of an independent expert pursuant to the Insolvency Code, the assignment of assets to creditors (*cessione di beni ai creditori*) pursuant to Article 1977 of Italian Civil Code, the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*), the simplified composition with creditors proceeding for the liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) as well as any other proceedings and/or tools qualified as an "insolvency proceeding" (*procedura concorsuale*), a "restructuring proceeding" (*procedura di risanamento*) or a "liquidation proceeding" (*procedura di liquidazione*) under the relevant legislation, as amended from time to time (in particular Insolvency Code, Italian Banking Act, Legislative Decree no. 170 of 21 May 2004, Regulation EU 2015/848 and Directive 2019/1023/EU related to insolvency procedure and Directive 2014/59/EU and the relevant implementing laws, including, without limitation the procedures for the resolution of the over-indebtedness crisis (*procedure per la composizione della crisi da sovraindebitamento*), any of the situations provided for under articles 2446, 2447, 2482-*bis* or 2482-*ter* of the Italian Civil Code or any similar situation), as well as any similar proceedings in any jurisdiction.

"**Interest Payment Date**" means 16 July in each year, commencing on, and including, 16 July 2023.

"**Interest Period**" means the period from (and including) the Issue Date to (but excluding) the first Interest Payment Date and each successive period from (and including) an Interest Payment Date to (but excluding) the next succeeding Interest Payment Date ending on the date fixed for redemption.

"**Issue Date**" means 16 January 2023.

"**Italian Insolvency Laws**" means Royal Decree No. 267 of 1942, as amended from time to time, including pursuant to the Insolvency Code.

"**Junior Securities**" means:

(A) the ordinary shares (*azioni ordinarie*) of the Issuer;

(B) any other class of the Issuer's share capital (including savings shares (*azioni di risparmio*) and preferred shares (*azioni privilegiate*)); and

(C)

(i) any securities of the Issuer (including *strumenti finanziari* issued under Article 2346 of the Italian Civil Code); and

(ii) any securities issued by a company other than the Issuer which have the benefit of a guarantee or similar instrument from the Issuer,

which securities (in the case of (C)(i)) or guarantee or similar instrument (in the case of (C)(ii)) rank or are expressed to rank *pari passu* with the claims described under (A) and (B) above and/or junior to the Securities.

"**Liquidation Event Date**" has the meaning given to it in Condition 6.1.

"**Make-whole Redemption Amount**" means the amount which is equal to (i) the greater of (a) the principal amount of the Securities and (b) the sum of the then present values of the remaining scheduled payments of principal and interest on the Securities (determined on the basis of redemption of the Securities at their principal amount on 16 April 2028 (the date falling 3 months before the First Reset Date), and excluding any interest accrued up to (but excluding) the Make-whole Redemption Date and any outstanding Deferred Interest Payment) discounted to the Make-whole Redemption Date on an annual basis at a discount rate equal to the Make-whole Redemption Rate plus 0.65 per cent., plus (ii) any interest accrued up to (but excluding) the Make-whole Redemption Date and any outstanding Arrears of Interest, all as determined by the Reference Dealers and as notified on the Calculation Date by the Reference Dealers to the Issuer.

"**Make-whole Redemption Date**" has the meaning given to it in Condition 6.7.

"**Make-whole Redemption Rate**" means (a) the mid-market yield to maturity of the Reference Security which appears on the Relevant Make-whole Screen Page at 11:00 a.m. (Central European Time) on the Calculation Date or (b) to the extent that the mid-market yield to maturity does not appear on the Relevant Make-whole Screen Page at such time, the arithmetic average of the number of quotations given by the Reference Dealers of the mid-market yield to maturity of the Reference Security at or around 11:00 a.m. (Central European Time) on the Calculation Date.

A "**Mandatory Arrears of Interest Settlement Event**" shall have occurred if:

(A) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Junior Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Junior Securities; or

(B) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Parity Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities); or

(C) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Junior Securities, except where (x) such repurchase, purchase, redemption or acquisition was undertaken in connection with the satisfaction by the Issuer or any Subsidiary of its respective obligations under (i) any share buy-back programme existing at the Issue Date or (ii) any stock option plan or free share allocation plan reserved for directors, officers and/or employees of the Issuer or any associated hedging

transaction or (y) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Junior Securities; or

(D) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Parity Securities, except where (x) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities) or (y) such repurchase, purchase, redemption or acquisition is effected as a public tender offer or public exchange offer at a purchase price per security which is below its par value.

"**Mandatory Settlement Date**" means the earliest of:

(A) the fifth Business Day following the date on which a Mandatory Arrears of Interest Settlement Event occurs;

(B) following any Deferred Interest Payment, on the next scheduled Interest Payment Date on which the Issuer does not elect to defer all of the interest accrued in respect of the relevant Interest Period; and

(C) the date on which the Securities are redeemed or repaid in accordance with Condition 6, including at the Liquidation Event Date (unless otherwise required by mandatory provisions of applicable law).

"**Moody's**" means, jointly, Moody's France S.A.S. and its affiliates and branches established in the EU.

"**Parity Securities**" means:

(A) any securities or other instruments issued by the Issuer which rank, or are expressed to rank, *pari passu* with the Issuer's obligations under the Securities and includes the Issuer's €1,250,000,000 Perpetual Capital Securities and having a principal amount outstanding equal to €297,424,000 (ISIN: XS0954675129); the Issuer's U.S.$1,250,000,000 Capital Securities due 2073 (ISIN: X Securities IT0004961808 N Securities IT0004961816 — X Receipt US29265WAA62 N Receipt US29265WAB46); the Issuer's €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (ISIN: XS1713463559); the Issuer's €750,019,000 Perpetual 5.5 Year Non-Call Capital Securities (ISIN: XS1713463716); the Issuer's €900,001,000 Perpetual 6 Year Non-Call Capital Securities (ISIN: XS2000719992); the Issuer's €600,000,000 Perpetual 6.5 Years Non-Call Capital Securities (ISIN: XS2228373671); the Issuer's €1,250,000,000 Perpetual 6.5 Years Non-Call Capital Securities (ISIN: XS2312744217); and the Issuer's €1,000,000,000 Perpetual 9.5 Years Non-Call Capital Securities (ISIN: XS2312746345); and

(B) any securities or other instruments issued by a company other than the Issuer which have the benefit of a guarantee or similar instrument from the Issuer, which guarantee or similar instrument ranks or is expressed to rank *pari passu* with the Issuer's obligations under the Securities.

"**Prevailing Interest Rate**" means the rate of interest payable on the Securities applicable from time to time pursuant to Condition 4.

"**Rating Agency**" means any of Moody's, S&P, Fitch and any other rating agency substituted for any of them by the Issuer with the prior written approval of the Trustee and, in each case, any of their respective successors to the rating business thereof.

"**Rating Agency Confirmation**" means a written confirmation from a Rating Agency which has assigned ratings to the Issuer on a basis sponsored by the Issuer which is either received by the Issuer directly from the relevant Rating Agency or indirectly via publication by such Rating Agency.

A "**Rating Methodology Event**" shall be deemed to have occurred if the Issuer has received a Rating Agency Confirmation stating that:

(A) due to an amendment, clarification or change in the "equity credit" (or such similar nomenclature then used by such Rating Agency) criteria of such Rating Agency, which amendment, clarification or change has occurred after the Relevant Rating Date, (i) the Securities are eligible for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date or (ii) the period of time during which such Rating Agency assigns to the Securities a particular level of equity credit will be shortened as compared to the period of time for which such Rating Agency had assigned to the Securities that level of equity credit on the Relevant Rating Date; or

(B) following a Refinancing Event, the Securities would have become eligible (had such Refinancing Event not occurred), due to an amendment, clarification or change in the "equity credit" (or such similar nomenclature then used by such Rating Agency) criteria, for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date;).

"**Redemption Calculation Date**" means the fourth Business Day prior to the relevant Early Redemption Date.

"**Reference Dealers**" means 5 major investment banks in the swap, money or securities market as may be selected by the Issuer.

"**Reference Security**" means DBR 0 ½ 02/15/28 (ISIN: DE0001102440). If a Reference Security is no longer outstanding, a Similar Security will be chosen by the Reference Dealers at 11:00 a.m. (Central European Time) on the Calculation Date, quoted in writing by the Reference Dealers to the Issuer and published in accordance with Condition 12, and such Similar Security shall replace the previous Reference Security for the purposes of determination of the Make-whole Redemption Amount.

"**Refinancing Event**" means the refinancing, in whole or in part, of the Securities following the Relevant Rating Date and, as a result of such refinancing, the Securities having become eligible for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date.

"**Relevant Date**" means the date on which any payment first becomes due but, if the full amount payable has not been received by the Principal Paying Agent or the Trustee on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect has been duly given to the Securityholders by the Issuer in accordance with Condition 12.

"**Relevant Make-whole Screen Page**" means the relevant Bloomberg screen page (or any successor or replacement page, section or other part of the information service), or such other page, section or other part as may replace it on the information service or such other information service, in each case, as may be nominated by the person providing or sponsoring the information appearing there for the purpose of displaying the mid-market yield to maturity for the Reference Security

"**Relevant Nominating Body**" means, in respect of a benchmark or screen rate (as applicable):

(A) the European Central Bank, or any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable); or

(B) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the European Central Bank, (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable), (c) a group of the

aforementioned central banks or other supervisory authorities or (d) the Financial Stability Board or any part thereof.

"**Relevant Rating Date**" means the Issue Date or, if later, the date on which the Securities are assigned equity credit by the relevant Rating Agency for the first time;

"**Reset Date**" means the First Reset Date and each date falling on the fifth anniversary thereafter.

"**Reset Interest Determination Date**" means, in respect of any Reset Period, the day falling two Business Days prior to the beginning of the relevant Reset Period.

"**Reset Period**" means each period from and including the First Reset Date to but excluding the next following Reset Date and thereafter from and including each Reset Date to but excluding the next following Reset Date.

"**S&P**" means, jointly, S&P Global Ratings Europe Limited and its affiliates and branches established in the EU.

"**Similar Security**" means a reference security or reference securities issued by the same issuer as the Reference Security having actual or interpolated maturity comparable with the remaining term of the Securities that would be utilised, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the first Call Date of the Securities.

"**Subsidiary**" means any entity which is a subsidiary (*società controllata*) of the Issuer within the meaning of Article 2359 of the Italian Civil Code and Article 93 of Legislative Decree No. 58 of 24 February 1998, as amended.

A "**Substantial Repurchase Event**" shall be deemed to have occurred if, prior to the giving of the relevant notice of redemption, at least 75 per cent. of the aggregate principal amount of the Securities issued on the Issue Date has been purchased by or on behalf of the Issuer or a Subsidiary and has been cancelled.

"**Successor Rate**" means the rate that the Independent Adviser determines is a successor to or replacement of the EUR 5 year Swap Rate and which is formally recommended by any Relevant Nominating Body.

"**TARGET2 Settlement Day**" means any day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System is open.

A "**Tax Deductibility Event**" shall be deemed to have occurred if, as a result of a Tax Law Change, payments of interest by the Issuer in respect of the Securities are no longer, or within 90 calendar days of the date of any opinion provided pursuant to Condition 6.4(b)(ii) will no longer be, deductible in whole or in part for Italian corporate income tax purposes, and the Issuer cannot avoid the foregoing by taking reasonable measures available to it. For the avoidance of doubt, a Tax Deductibility Event shall not occur if payments of interest by the Issuer in respect of the Securities are not deductible in whole or in part for Italian corporate income tax purposes solely as a result of general tax deductibility limits set forth by Article 96 of Decree No. 917 as at (and on the basis of the general tax deductibility limits calculated in the manner applicable as at) the Issue Date.

"**Tax Jurisdiction**" means the Republic of Italy and/or such other taxing jurisdiction to which the Issuer becomes subject or any political subdivision or any authority thereof or therein having power to tax.

"**Tax Law Change**" means: (i) any amendment to, clarification of, or change in, the laws or treaties (or any regulations thereunder) of a Tax Jurisdiction affecting taxation; (ii) any governmental action or (iii) any amendment to, clarification of, or change in the official position or the interpretation of such governmental action (including an amendment, clarification or change resulting from a publicly available reply to a ruling or a circular letter issued by a governmental authority) that differs from the previously generally accepted official position or interpretation resulting from a publicly available reply to a ruling or a circular letter, in each case,

by any legislative body, court, governmental authority or regulatory body, which amendment, clarification, change or governmental action is effective, on or after the Issue Date.

"**Taxes**" means any present or future taxes or duties, assessments or governmental charges of whatever nature.

"**Varied Securities**" has the meaning given to it in Condition 7.1.

A "**Withholding Tax Event**" shall be deemed to have occurred if, following the Issue Date:

(A) as a result of a Tax Law Change, the Issuer has or will become obliged to pay Additional Amounts in respect of the Securities and such obligation cannot be avoided by the Issuer taking reasonable measures available to it; or

(B) a person into which the Issuer is merged or to whom it has conveyed, transferred or leased all or substantially all of its assets and who has been substituted in place of the Issuer as principal debtor under the Securities is required to pay Additional Amounts in respect of the Securities and such obligation cannot be avoided by such person taking reasonable measures available to it, unless the sole purpose of such a merger, conveyance, transfer or lease would be to permit the Issuer to redeem the Securities.

3 Status and Subordination

3.1 Status

The Securities and the Coupons constitute direct, unsecured and subordinated obligations of the Issuer and rank and will at all times rank *pari passu* without any preference among themselves and with Parity Securities. The Securities constitute *obbligazioni* pursuant to Articles 2410 *et seq*. of the Italian Civil Code. The obligations of the Issuer in respect of the Securities and the Coupons are subordinated as described in Condition 3.2.

3.2 Subordination

The obligations of the Issuer to make payment in respect of principal and interest on the Securities and the Coupons, including its obligations in respect of any Arrears of Interest, will, in the event of the winding-up, insolvency, dissolution or liquidation of the Issuer, rank:

(a) senior only to the Issuer's payment obligations in respect of any Junior Securities;

(b) *pari passu* among themselves and with the Issuer's payment obligations in respect of any Parity Securities; and

(c) junior to all other payment obligations of the Issuer, present and future, whether subordinated (including any claims pursuant to Article 2411, first paragraph, of the Italian Civil Code) or unsubordinated,

in each case except as otherwise required by mandatory provisions of applicable law.

Nothing in this Condition 3.2 shall affect or prejudice the payment of costs, charges, expenses, liabilities or remuneration of the Trustee or Agents or the rights and remedies of the Trustee or the Agents in respect thereof.

3.3 No Set-off

To the extent and in the manner permitted by applicable law, no Securityholder or Couponholder may exercise, claim or plead any right of set-off, counterclaim, compensation or retention in respect of any amount owed to it by the Issuer in respect of, or arising from, the Securities or the Coupons and each Securityholder and Couponholder will, by virtue of his holding of any Security or Coupon, be deemed to have waived all such rights of set-off, counterclaim, compensation or retention. The Issuer may not

set off any claims it may have against the Securityholders against any of its obligations under the Securities or the Coupons.

4 Interest and Interest Deferral

4.1 Interest

(a) Interest Rates and Interest Payment Dates

Unless previously redeemed or repurchased and cancelled in accordance with these Conditions and subject to the further provisions of this Condition 4, the Securities will bear interest on their principal amount as follows:

(i) from (and including) the Issue Date to (but excluding) the First Reset Date, at the rate of 6.375 per cent. per annum, payable annually in arrear on each Interest Payment Date; and

(ii) from (and including) the First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus:

(A) in respect of the Reset Period commencing on the First Reset Date to but excluding 16 July 2033, 3.486 per cent. per annum;

(B) in respect of the Reset Periods commencing on 16 July 2033, 16 July 2038 and 16 July 2043, 3.736 per cent. per annum; and

(C) in respect of any other Reset Period after 16 July 2048, 4.486 per cent. per annum;

all as determined by the Agent Bank for annual payment in arrear on each Interest Payment Date, commencing on the First Interest Payment Date.

(b) Determination of EUR 5 year Swap Rate

(i) For the purposes of these Conditions, the relevant "**EUR 5 year Swap Rate**", in respect of a Reset Period, shall be the annual mid-swap rate as displayed on the EUR Reset Screen Page as at 11:00 a.m. (CET) on the relevant Reset Interest Determination Date.

(ii) If the relevant EUR 5 year Swap Rate does not appear on the EUR Reset Screen Page on the relevant Reset Interest Determination Date, the Issuer shall request each of the EUR Reset Reference Banks to provide it with its EUR 5 year Swap Rate Quotation (such EUR 5 year Swap Rate Quotation to be notified by the Issuer to the Agent Bank) and the Agent Bank will determine the EUR 5 year Swap Rate as the EUR Reset Reference Bank Rate on the relevant Reset Interest Determination Date.

(iii) If at least three quotations are provided by the EUR Reset Reference Banks, the EUR 5 year Swap Rate will be determined by the Agent Bank on the basis of the arithmetic mean of the quotations provided, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest).

(iv) If only two quotations are provided, the EUR 5 year Swap Rate will be the arithmetic mean of the quotations provided.

(v) If only one quotation is provided, the EUR Reset Reference Banks Rate will be the quotation provided.

(vi) If no quotations are provided, the EUR Reset Reference Bank Rate for the relevant period will be equal to the last available EUR 5 year mid swap rate for euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page.

(c) Calculation of Interest

The interest payable on each Security on any Interest Payment Date shall be calculated per €1,000 in principal amount of the Securities (the "**Calculation Amount**"). The amount of interest payable per Calculation Amount for any period shall be equal to the product of the Prevailing Interest Rate for the Interest Period ending immediately prior to such Interest Payment Date, the Calculation Amount and the day-count fraction for the relevant period, rounding the resulting figure to the nearest cent (half a cent being rounded upwards).

The day-count fraction will be calculated on the following basis:

(a) if the Accrual Period is equal to or shorter than the Determination Period during which it falls, the day-count fraction will be the number of days in the Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and

(b) if the Accrual Period is longer than one Determination Period, the day-count fraction will be the sum of:

(i) the number of days in such Accrual Period falling in the Determination Period in which it begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and

(ii) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year

where:

"**Accrual Period**" means the relevant period for which interest is to be calculated (from and including the first such day to but excluding the last); and

"**Determination Period**" means the period from and including 16 July in any year to but excluding the next 16 July.

4.2 Interest Deferral

Subject to the provisions of the following paragraphs, on each Interest Payment Date, the Issuer shall pay interest on the Securities accrued to (but excluding) that date in respect of the Interest Period ending immediately prior to such Interest Payment Date.

(a) Optional Interest Deferral

The Issuer may, at its sole discretion, elect to defer in whole, but not in part, any payment of interest accrued on the Securities in respect of any Interest Period (a "**Deferred Interest Payment**") by giving notice (a "**Deferral Notice**") of such election to the Securityholders in accordance with Condition 12 and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant Interest Payment Date. If the Issuer makes such an election, the Issuer shall have no obligation to make such payment and any such non-payment of interest shall not constitute a default of the Issuer or any other breach of obligations under the Securities or for any other purpose.

Any Deferred Interest Payment will be deferred and shall constitute "**Arrears of Interest**". Any Arrears of Interest will remain outstanding until paid in full by the Issuer, but Arrears of Interest shall not itself bear interest.

(b) Optional Settlement of Arrears of Interest

The Issuer may pay outstanding Arrears of Interest (in whole but not in part) at any time upon giving not less than 10 and not more than 15 Business Days' notice to the Securityholders in accordance with Condition 12 (which notice shall be irrevocable and will oblige the Issuer to pay the relevant Arrears of Interest on the payment date specified in such notice) and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant due date for payment.

(c) Mandatory Settlement of Arrears of Interest

All (but not some only) of any outstanding Arrears of Interest from time to time in respect of all Securities for the time being outstanding shall become due and payable in full and shall be paid by the Issuer on the first occurring Mandatory Settlement Date.

Notice of the occurrence of any Mandatory Settlement Date shall be given to the Securityholders in accordance with Condition 12 and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant due date for payment.

(d) Notification of Mandatory Settlement Date

Upon the occurrence of a Mandatory Settlement Date, the Issuer shall promptly deliver to the Trustee a certificate signed by two duly authorised representatives of the Issuer confirming the occurrence thereof upon which the Trustee may rely absolutely without liability to any person for so doing.

4.3 Accrual of Interest

The Securities will cease to bear interest from (and including) the calendar day on which they are due for redemption. If the Issuer fails to redeem the Securities upon due presentation and surrender thereof when due, interest will continue to accrue as provided in the Trust Deed.

4.4 Benchmark discontinuation

(a) Independent Adviser

If a Benchmark Event occurs in relation to the EUR 5 year Swap Rate on any Reset Interest Determination Date, then the Issuer shall use its reasonable endeavours to appoint and consult with an Independent Adviser, as soon as reasonably practicable, to determine a Successor Rate, failing which an Alternative Rate (in accordance with Condition 4.4(b)) and, in either case, an Adjustment Spread and any Benchmark Amendments (in accordance with Condition 4.4(d)) by no later than five business days prior to the Determination Date relating to the next Determination Period for which the Reset Interest (or any component part thereof) is to be determined by reference to the EUR 5 year Swap Rate.

An Independent Adviser appointed pursuant to this Condition 4.4 shall act in good faith and in a commercially reasonable manner as an expert and in consultation with the Issuer. In the absence of fraud and gross negligence, the Independent Adviser shall have no liability whatsoever to the Issuer, the Paying Agents or the Securityholders for any determination made by it pursuant to this Condition 4.4.

If: (i) the Issuer is unable to appoint an Independent Adviser; or (ii) the Independent Adviser appointed by it fails to determine a Successor Rate or, failing which, an Alternative Rate in accordance with this Condition 4.4(a) prior to the relevant Reset Interest Determination Date, the EUR 5 year Swap Rate applicable to the next succeeding Reset Period shall be the last available EUR 5 year mid swap rate for

euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page. For the avoidance of doubt, this Condition 4.4(a) shall apply to the relevant next succeeding Reset Period only and any subsequent Reset Periods are subject to the subsequent operation of, and to adjustment as provided in, this Condition 4.4(a).

(b) Successor Rate or Alternative Rate

If the Independent Adviser determines that:

(i) there is a Successor Rate, then such Successor Rate and the applicable Adjustment Spread shall subsequently be used in place of the EUR 5 year Swap Rate to determine the Prevailing Interest Rate (or the relevant component part thereof) for all future payments of interest on the Securities (subject to the operation of this Condition 4.4); or

(ii) there is no Successor Rate but that there is an Alternative Rate, then such Alternative Rate and the applicable Adjustment Spread shall subsequently be used in place of the EUR 5 year Swap Rate to determine the Prevailing Interest Rate (or the relevant component part thereof) for all future payments of interest on the Securities (subject to the operation of this Condition 4.4).

(c) Adjustment Spread

The Adjustment Spread (or the formula or methodology for determining the Adjustment Spread) shall be applied to the Successor Rate or the Alternative Rate (as the case may be). If the Independent Adviser (if required to determine a Successor Rate, failing which an Alternative Rate and, in either case, an Adjustment Spread, according to Condition 4.4(a)) is unable to determine the quantum of, or a formula or methodology for determining, such Adjustment Spread, then the Successor Rate or Alternative Reference Rate (as applicable) will apply without an Adjustment Spread.

(d) Benchmark Amendments

If any Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread is determined in accordance with this Condition 4.4 and the Independent Adviser determines (i) that amendments to these Conditions are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread (such amendments, the "**Benchmark Amendments**") and (ii) the terms of the Benchmark Amendments, then the Issuer shall, subject to giving notice thereof in accordance with Condition 4.4(e), without any requirement for the consent or approval of Securityholders, vary these Conditions to give effect to such Benchmark Amendments with effect from the date specified in such notice.

In connection with any such variation in accordance with this Condition 4.4(d), the Issuer shall comply with the rules of any stock exchange on which the Securities are for the time being listed or admitted to trading.

Benchmark Amendments may comprise, by way of example, the following amendments: (A) amendments to the definition of "EUR 5 year Swap Rate"; (B) amendments to the day-count fraction and the definitions of "business day", "Interest Payment Date", "Rate of Interest", and/or "Interest Period" (including the determination of whether the Alternative Rate will be determined in advance of or prior to the relevant Interest Period or in arrear on or prior to the end of the relevant Interest Period); and/or (C) any change to the business day convention.

Notwithstanding any other provision of this Condition 4.4, no Successor Rate or Alternative Rate will be adopted, nor will the applicable Adjustment Spread be applied, nor will any Benchmark Amendments

be made, if and to the extent that, in the determination of the Issuer, the same could reasonably be expected to cause a reduction in or loss of equity credit to occur.

At the request of the Issuer, but subject to receipt by the Trustee of a certificate signed by two duly authorised representatives of the Issuer pursuant to Condition 4.4(e), the Trustee shall (at the expense of the Issuer), without any requirement for the consent or approval of the Securityholders, be obliged to concur with the Issuer in effecting any Benchmark Amendments (including, inter alia, by the execution of a deed supplemental to or amending the Trust Deed), provided that the Trustee shall not be obliged to agree to any Benchmark Amendments which, in the sole opinion of the Trustee, would have the effect of (i) exposing the Trustee to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction; or (ii) increasing the obligations, responsibilities or duties, or decreasing the protections, of the Trustee under the Trust Deed and/or the Conditions in any way.

(e) Notices etc

Any Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread and the specific terms of any Benchmark Amendments, determined under this Condition 4.4 will be notified promptly by the Issuer to the Trustee, the Principal Paying Agent and the Agent Bank and, in accordance with Condition 12 (*Notices*), the Securityholders. Such notice shall be irrevocable and shall specify the effective date of the Benchmark Amendments, if any.

No later than notifying the Trustee of the same, the Issuer shall deliver to the Trustee a certificate signed by two duly authorised representatives of the Issuer:

(a) confirming (i) that a Benchmark Event has occurred, (ii) the Successor Rate or, as the case may be, the Alternative Rate, (iii) the applicable Adjustment Spread and (iv) the specific terms of the Benchmark Amendments (if any), in each case as determined in accordance with the provisions of this Condition 4.4; and

(b) certifying that the Benchmark Amendments (if any) are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and (in either case) the applicable Adjustment Spread.

The Trustee shall be entitled to rely on such certificate (without liability to any person) as sufficient evidence thereof. The Successor Rate or Alternative Rate and the Adjustment Spread and the Benchmark Amendments (if any) specified in such certificate will (in the absence of manifest error or bad faith in the determination of the Successor Rate or Alternative Rate and the Adjustment Spread and the Benchmark Amendments (if any) and without prejudice to the Trustee's, the Agent Bank's or the Principal Paying Agent's ability to rely on such certificate as aforesaid) be binding on the Issuer, the Trustee, the Calculation Agent, the Paying Agents and the Securityholders.

(f) Survival of EUR 5 year Swap Rate

Without prejudice to the obligations of the Issuer under Condition 4.4(a), (b), (c) and (d), the EUR 5 year Swap Rate and the fallback provisions provided for in Condition 4.1(b) will continue to apply unless and until a Benchmark Event has occurred.

5 Payment and Exchanges of Talons

Provisions for payments in respect of Global Securities are set out under "Summary of Provisions Relating to the Securities while represented by the Global Securities" below.

5.1 Payments in respect of Securities

Payments of principal and interest in respect of each Security will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the Security, except that payments of interest due on an Interest Payment Date will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the relevant Coupon, in each case at the specified office outside the United States of any of the Paying Agents.

5.2 Method of Payment

Payments will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

5.3 Missing Unmatured Coupons

Upon the date on which any Security becomes due and repayable, all unmatured Coupons appertaining to the Security (whether or not attached) shall become void and no payment shall be made in respect of such Coupons.

5.4 Payments subject to Applicable Laws

Payments will be subject in all cases to any other applicable fiscal or other laws and regulations in the place of payment or other laws and regulations to which the Issuer or its agents agree to be subject and, save as provided in Condition 8 below, the Issuer will not be liable for any Taxes imposed or levied by such laws, regulations or agreements.

5.5 Payment only on a Presentation Date

A holder shall be entitled to present a Security or Coupon for payment only on a Presentation Date and shall not be entitled to any further interest or other payment if a Presentation Date is after the due date for payment of any amount in respect of any Security or Coupon.

"**Presentation Date**" means a day which (subject to Condition 9):

(a) is or falls after the relevant due date for payment of any amount in respect of any Security or Coupon;

(b) is 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 place of the specified office of the Paying Agent at which the Security or Coupon is presented for payment; and

(c) in the case of payment by credit or transfer to a euro account as referred to above, is a TARGET2 Settlement Day.

5.6 Exchange of Talons

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon comprised in the Coupon sheet may be surrendered at the specified office of any Paying Agent in exchange for a further Coupon sheet (including any appropriate further Talon), subject to the provisions of Condition 9. Each Talon shall, for the purposes of these Conditions, be deemed to mature on the Interest Payment Date on which the final Coupon comprised in the relative Coupon sheet matures.

5.7 Initial Paying Agents

The names of the initial Paying Agents and their initial specified offices are set out at the end of these Conditions. The Issuer reserves the right, subject to the prior written approval of the Trustee, at any time

to vary or terminate the appointment of any Paying Agent and to appoint additional or other Paying Agents provided that:

(a) there will at all times be a Principal Paying Agent;

(b) there will at all times be a Paying Agent in a jurisdiction within Europe, other than the jurisdiction in which the Issuer is incorporated; and

(c) there will at all times be an Agent Bank.

Notice of any termination or appointment and of any changes in specified offices will be given to the Securityholders promptly by the Issuer in accordance with Condition 12.

6 Redemption and Purchase

6.1 No fixed redemption

Unless previously redeemed or purchased and cancelled as provided below, the Securities will become due and payable and will be redeemed on the date on which a winding up, dissolution or liquidation of the Issuer (otherwise than for the purpose of a solvent amalgamation, merger or reconstruction under which the assets and liabilities of the Issuer are assumed by the entity resulting from such amalgamation, merger or reconstruction and such entity assumes the obligations of the Issuer in respect of the Securities in accordance with Condition 13.2) is instituted (the "**Liquidation Event Date**"), including in connection with any Insolvency Proceedings, in accordance with (i) any applicable legal provision, or any decision of any judicial or administrative authority, or (ii) any resolution passed at a shareholders' meeting of the Issuer or (iii) any provision which is set out in the by-laws of the Issuer from time to time (including the maturity of the Issuer which, as of the Issue Date, is set in its by-laws at 31 December 2100). Upon having become due and payable according to the provisions above, the Securities will be redeemed at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest.

6.2 Optional Redemption

The Issuer may redeem all of the Securities (but not some only) on any date during the period commencing on (and including) 16 April 2028 and ending on (and including) the First Reset Date or upon any Interest Payment Date thereafter (each such date, a "**Call Date**"), in each case at their principal amount together with any accrued interest up to (but excluding) the relevant Call Date and any outstanding Arrears of Interest, on giving not less than 10 and not more than 60 calendar days' notice to the Securityholders in accordance with Condition 12.

6.3 Early Redemption following a Withholding Tax Event

(a) If a Withholding Tax Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice to the Trustee and the Securityholders in accordance with Condition 12, provided that no such notice shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such Additional Amounts were a payment in respect of the Securities then due.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.3, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.3 have been satisfied; and

(ii) an opinion of independent legal or tax advisers, appointed by the Issuer at its own expense, of recognised standing in the jurisdiction of incorporation of the Issuer to the effect that the Issuer has or will become obliged to pay Additional Amounts as a result of (in the case of paragraph (A) of the definition of Withholding Tax Event) a Tax Law Change or (in the case of paragraph (B) of the definition of Withholding Tax Event) the relevant merger, conveyance, transfer or lease,

and the Trustee shall be entitled to accept and rely on the above certificate and opinion as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.4 Early Redemption following a Tax Deductibility Event

(a) If a Tax Deductibility Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.4, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.4 have been satisfied; and

(ii) an opinion of an independent legal or tax adviser, appointed by the Issuer at its own expense, of recognised standing in the jurisdiction of incorporation of the Issuer to the effect that payments of interest by the Issuer in respect of the Securities are no longer, or within 90 calendar days of the date of that opinion will no longer be, deductible in whole or in part for Italian corporate income tax purposes as a result of a Tax Law Change,

and the Trustee shall be entitled to accept and rely on the above certificate and opinion as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.5 Early Redemption following a Rating Methodology Event

(a) If a Rating Methodology Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.5, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.5 have been satisfied; and

(ii) a copy of the Rating Agency Confirmation relating to the applicable Rating Methodology Event unless the delivery of such Rating Agency Confirmation would constitute a breach of the terms on which such confirmation is delivered to the Issuer,

and the Trustee shall be entitled to accept and rely on the above certificate and, if applicable, copy of the Rating Agency Confirmation as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein, in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.6 Early Redemption upon the occurrence of an Accounting Event

(a) If an Accounting Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

The Issuer may notify the redemption of the Securities as a result of the occurrence of an Accounting Event from (and including) the date on which the Change is officially adopted, which may fall before the date on which the Change will come into effect.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.6, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.6 have been satisfied; and

(ii) a copy of the opinion, letter or report of a recognised accountancy firm of international standing, appointed by the Issuer at its own expense, as set forth in the definition of "Accounting Event",

and the Trustee shall be entitled to accept and rely on the above certificate and opinion, letter or report as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein, in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.7 Make-whole redemption at the option of the Issuer

The Issuer may redeem all (but not some only) of the Securities on any day prior to 16 April 2028 (the date falling 3 months before the First Reset Date) at the applicable Make-whole Redemption Amount on giving not less than 10 and not more than 60 calendar days' notice (which shall specify the date fixed for redemption (the "**Make-whole Redemption Date**")) to the Trustee and the Securityholders in accordance with Condition 12.

6.8 Purchases and Substantial Repurchase Event

The Issuer or any Subsidiary may at any time purchase Securities (provided that all unmatured Coupons appertaining to the Securities are purchased with the Securities) in any manner and at any price. Such Securities may be held, reissued, resold or, at the option of the Issuer, surrendered to any Paying Agent for cancellation.

If a Substantial Repurchase Event occurs, the Issuer may redeem all (but not some only) of the outstanding Securities at any time at the applicable Early Redemption Price, subject to the Issuer having given the Trustee and the Securityholders not less than 10 and not more than 60 calendar days' notice in accordance with Condition 12.

6.9 Cancellations

All Securities which are redeemed or exchanged pursuant to Condition 7 (*Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation*) will forthwith be cancelled, together with all unmatured

Coupons attached to the Securities or surrendered with the Securities at the time of redemption. All Securities so cancelled and any Securities purchased and cancelled pursuant to Condition 6.8 above shall be forwarded to the Principal Paying Agent and accordingly may not be held, reissued or resold.

6.10 Notices Final

A notice of redemption given pursuant to any of Conditions 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 or 6.8 shall be irrevocable and upon the expiry of any such notice, the Issuer shall be bound to redeem the Securities in accordance with the terms of the relevant Condition.

The following does not form a part of the terms of the Securities:

The Issuer intends (without thereby assuming a legal obligation) that it will redeem or repurchase the Securities only to the extent that the part of the aggregate principal amount of the Securities to be redeemed or repurchased which was assigned "equity credit" (or such similar nomenclature used by S&P from time to time) at the time of the issuance of the Securities does not exceed such part of the net proceeds received by the Issuer or any Subsidiary of the Issuer prior to the date of such redemption or repurchase from the sale or issuance of securities by the Issuer or such Subsidiary to third party purchasers (other than group entities of the Issuer) which is assigned by S&P "equity credit" (or such similar nomenclature used by S&P from time to time) at the time of sale or issuance of such securities (but taking into account any changes in hybrid capital methodology or another relevant methodology or the interpretation thereof since the issuance of the Securities), unless:

(i) the rating (or such similar nomenclature then used by S&P) assigned by S&P to the Issuer is at least equal to the rating assigned to the Issuer on the date of the most recent hybrid security issuance (excluding any refinancing) which was assigned by S&P a "equity credit" similar to the Securities and the Issuer is of the view that such rating would not fall below this level as a result of such redemption or repurchase, or

(ii) in the case of a repurchase or redemption, taken together with relevant repurchases or redemptions of hybrid securities of the Issuer, such repurchase or redemption is less than 10 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 12 consecutive months and, in any case, less than 25 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 10 consecutive years; or

(iii) the Securities are redeemed pursuant to a Tax Deductibility Event or a Withholding Tax Event, or an Accounting Event or a Substantial Repurchase Event or a Rating Methodology Event which results from an amendment, clarification or change in the "equity credit" criteria by the Rating Agencies; or

(iv) the Securities are not assigned an "equity credit" by S&P (or such similar nomenclature then used by S&P) at the time of such redemption or repurchase, or

(v) in the case of a repurchase, such repurchase relates to an aggregate principal amount of Securities which is less than or equal to the excess (if any) above the maximum aggregate principal amount of the Issuer's hybrid capital to which S&P then assigns equity content under its prevailing methodology; or

(vi) such redemption or repurchase occurs on or after the Reset Date falling on 16 July 2048.

7 Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation

7.1 If the Issuer determines that a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or an Accounting Event has occurred and is continuing, and has provided the Trustee with the relevant certificate and opinion, or in the case of Condition 6.5 only, the Rating Agency Confirmation, pursuant to Condition 6.3, 6.4, 6.5 or 6.6 (as applicable), then the Issuer may, subject to Condition 7.2 below (without any requirement for the consent or approval of the Securityholders or Couponholders), subject to its having satisfied the Trustee immediately prior to the giving of any notice referred to herein that the provisions of this Condition 7 have been complied with and having given not less than 10 nor more than 60 Business Days' notice to the Trustee, the Principal Paying Agent and, in accordance with Condition 12 (Notices), to the Securityholders (which notice shall be irrevocable), as an alternative to an early redemption of the Securities at any time:

(i) exchange the Securities (the "**Exchanged Securities**"), or

(ii) vary the terms of the Securities (the "**Varied Securities**"),

so that:

(A) in the case of a Tax Deductibility Event, the Issuer is entitled to claim a deduction or a higher deduction (as the case may be) in respect of interest paid when computing its tax liabilities for Italian corporation income tax purposes as compared with the entitlement (in the case of the Issuer) after the occurrence of the relevant Tax Deductibility Event,

(B) in the case of a Withholding Tax Event, in making any payments in respect of the Exchanged Securities or Varied Securities the Issuer is only required to pay lesser or no Additional Amounts in respect of the Exchanged Securities or Varied Securities,

(C) in the case of an Accounting Event, immediately following such exchange or variation, no Accounting Event apply in respect of the Exchanged Securities or Varied Securities, as the case may be, or

(D) in the case of a Rating Methodology Event, immediately following such exchange or variation, no Rating Methodology Event apply in respect of the Exchanged Securities or Varied Securities, as the case may be,

and the Trustee shall, subject to the following provisions of this Condition 7, and subject to the receipt by it of the certificate by two duly authorised representatives of the Issuer referred to in Condition 7.2 below, agree to such exchange or variation.

Upon expiry of such notice, the Issuer shall either vary the terms of or, as the case may be, exchange the Securities in accordance with this Condition 7 and cancel such Exchanged Securities.

The Trustee shall (at the expense of the Issuer) enter into a supplemental trust deed and/or supplemental agency agreement with the Issuer (including indemnities satisfactory to the Trustee) solely in order to effect the exchange of the Securities, or the variation of the terms of the Securities, provided that the Trustee shall not be obliged to enter into such supplemental trust deed and/or supplemental agency agreement if the terms of the Exchanged Securities or the Varied Securities would impose, in the Trustee's opinion, more onerous obligations upon it or expose it to liabilities or reduce its protections. If the Trustee does not enter into such supplemental trust deed and/or supplemental agency agreement (and the Trustee shall have no liability or responsibility to any person if it does not do so), the Issuer may redeem the Securities as provided in Condition 6 (Redemption and Purchase).

7.2 Any such exchange or variation shall be subject to the following conditions:

(i) for as long as the Securities are listed on any stock exchange, the Issuer complying with the rules of the relevant stock exchange (or any other relevant authority) on which the Securities

are for the time being admitted to trading, and (for so long as the rules of such exchange require) the publication of any appropriate supplement, listing particulars or offering circular in connection therewith, and the Exchanged Securities or Varied Securities continue to be admitted to trading on the same stock exchange as the Securities were admitted to trading immediately prior to the relevant exchange or variation;

(ii) the Issuer paying any outstanding Arrears of Interest in full prior to such exchange or variation or providing for the accrual of an amount equal to the Arrears of Interest under the terms of the Exchanged Securities or the Varied Securities (as applicable);

(iii) the Exchanged Securities or Varied Securities shall: (A) rank at least *pari passu* with the ranking of the Securities prior to the exchange or variation, and (B) benefit from the same interest rates and the same Interest Payment Dates, the same First Reset Date and early redemption rights (provided that the relevant exchange or variation may not itself trigger any early redemption right), a maturity date which shall not be longer than the maturity date of the Issuer as provided from time to time under the relevant by-laws, the same rights to accrued interest or Arrears of Interest and any other amounts payable under the Securities which, in each case, has accrued to the Securityholders and has not been paid, the same rights to principal and interest, and, if publicly rated by a Rating Agency which has provided a solicited rating at the invitation or with the consent of the Issuer, immediately prior to such exchange or variation, at least the same credit rating immediately after such exchange or variation by each such Rating Agency, as compared with the relevant solicited rating(s) immediately prior to such exchange or variation (as determined by the Issuer using reasonable measures available to it including discussions with the Rating Agencies to the extent practicable) (C) not contain terms providing for the mandatory deferral or cancellation of interest and (D) not contain terms providing for loss absorption through principal write-down or conversion to shares;

(iv) the terms of the exchange or variation, in the sole opinion of the Issuer (acting reasonably) not being prejudicial to the interests of the Securityholders, including compliance with (iii) above, as certified to the Trustee by two duly authorised representatives of the Issuer, having consulted in good faith with an independent financial institution of international repute or an independent financial adviser experienced in the international capital markets, and any such certificate shall be final and binding on all parties;

(v) the preconditions to exchange or variation set out in the Trust Deed having been satisfied, including the issue of legal opinions addressed to the Trustee (in form and substance satisfactory to the Trustee) (copies of which shall be made available to the Securityholders by appointment at the specified offices of the Trustee during usual office hours or at the Trustee's option may be provided by email to such holder requesting copies of such documents, subject to the Trustee (as applicable) being supplied by the Issuer with copies of such documents) from one or more international law firms of good reputation selected by the Issuer and confirming (x) that the Issuer has capacity to assume all rights, duties and obligations under the Exchanged Securities or Varied Securities (as the case may be) and has obtained all necessary corporate or governmental authorisation to assume all such rights and obligations and (y) the legality, validity and enforceability of the Exchanged Securities or Varied Securities;

(vi) the delivery to the Trustee of a certificate signed by two duly authorised representatives of the Issuer certifying each of the points set out in paragraphs (i) to (v) above.

The Trustee may rely absolutely upon and shall be entitled to accept such certificates and any such opinions, as are referred to in this Condition 7, without any liability to any person for so doing and without any further inquiry as sufficient evidence of the satisfaction of the criteria set out in such paragraphs, in which event it shall be conclusive and binding on the Securityholders and the Couponholders.

8 Taxation

8.1 Payment without Withholding

All payments of principal and interest in respect of the Securities and Coupons by the Issuer will be made without withholding or deduction for or on account of any Taxes imposed or levied by or on behalf of any Tax Jurisdiction, unless such withholding or deduction of the Taxes is required by law. In such event, the Issuer will pay such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts received by the Securityholders and Couponholders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Securities or, as the case may be, Coupons in the absence of such withholding or deduction; except that no Additional Amounts shall be payable:

(a) in respect of any Security or Coupon presented for payment

(i) in any Tax Jurisdiction; or

(ii) by or on behalf of a holder who is liable for such Taxes in respect of such Security or Coupon by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Security or Coupon; or

(iii) by or on behalf of a holder who would be able to avoid such withholding or deduction by making a declaration or any other statement including, but not limited to, a declaration of residence or non-residence, but fails to do so; or

(iv) more than 30 days after the Relevant Date 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 Presentation Date (as defined in Condition 5); or

(b) in relation to any payment or deduction on account of *imposta sostitutiva* pursuant to Decree No. 239 as amended and/or supplemented or, for the avoidance of doubt, Italian Legislative Decree No. 461 of 21 November 1997 as amended and supplemented and in all circumstances in which the procedures set forth in Decree No. 239 in order to benefit from a tax exemption have not been met or complied with; or

(c) in the event of payment by the Issuer to a non-Italian resident holder, to the extent that the holder is resident in a country which does not allow for a satisfactory exchange of information with the Italian authorities.

Notwithstanding anything to the contrary contained herein, the Issuer (and any other person making payments on behalf of the Issuer) shall be entitled to withhold and deduct any amounts required to be deducted or withheld pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), or otherwise imposed pursuant to (i) Sections 1471 through 1474 of the Code, or (ii) any regulations thereunder or official interpretations thereof, or (iii) an intergovernmental agreement between the United States and another jurisdiction facilitating the implementation thereof, or (iv) any law implementing such an intergovernmental agreement (any such

withholding or deduction, a "**FATCA Withholding**"), and no person shall be required to pay any additional amounts in respect of FATCA Withholding.

8.2 Additional Amounts

Any reference in these Conditions to any amounts in respect of the Securities shall be deemed also to refer to any Additional Amounts which may be payable under this Condition or under any undertakings given in addition to, or in substitution for, this Condition pursuant to the Trust Deed.

9 Prescription

The Securities and Coupons (which for this purpose shall not include Talons) will become void unless presented for payment within periods of 10 years (in the case of principal) and 5 years (in the case of interest) from the Relevant Date in respect of the Securities or, as the case may be, the Coupons, subject to the provisions of Condition 5. There shall not be included in any Coupon sheet issued upon exchange of a Talon any Coupon which would be void upon issue under this Condition or Condition 5.

10 Enforcement on the Liquidation Event Date and No Events of Default

10.1 No Events of Default

There are no events of default in relation to the Securities.

On the Liquidation Event Date, the Securities will become due and payable at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest.

On or following the Liquidation Event Date, no payments will be made in relation to the Junior Securities of the Issuer before all amounts due, but unpaid, on the Securities have been paid by the Issuer.

10.2 Enforcement on the Liquidation Event Date

On or following the Liquidation Event Date, the Trustee at its sole discretion and subject to Condition 10.3 may (subject to its being indemnified and/or secured and/or prefunded to its satisfaction), institute steps in order to obtain a judgment against the Issuer for any amounts due in respect of the Securities, including the institution of Insolvency Proceedings against the Issuer or the filing of a proof of claim and participation in any Insolvency Proceedings or proceedings for the liquidation, dissolution or winding-up of the Issuer (in which Insolvency Proceedings, liquidation, dissolution or winding-up the Securities shall immediately be due and payable at their principal amount together with any accrued but unpaid interest up to (but excluding) the date on which the Securities become so due and payable and any outstanding Arrears of Interest).

10.3 Enforcement by the Trustee

(a) Subject to sub-paragraph (b) below, the Trustee may at its discretion and without further notice, take such steps, actions or proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed, the Securities and the Coupons, but in no event shall the Issuer, by virtue of the initiation of any such steps, actions or proceedings, be obliged to pay any sum or sums sooner than the same would otherwise have been payable by it.

(b) The Trustee shall not be bound to take any action referred to in Conditions 10.2 or 10.3(a) above or any other action or steps under or pursuant to the Trust Deed, the Securities or the Coupons unless (a) it has been so directed by an extraordinary resolution of the Securityholders or so requested in writing by the holders of at least one-quarter in principal amount of the Securities then outstanding and (b) it has been indemnified and/or secured and/or prefunded to its satisfaction.

10.4 Enforcement by the Securityholders

No Securityholder or Couponholder shall be entitled to proceed directly against the Issuer or to institute any Insolvency Proceedings against the Issuer or to file a proof of claim and participate in any Insolvency Proceedings or institute proceedings for the liquidation, dissolution or winding-up of 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, in which case the Securityholder or Couponholder shall have only such rights against the Issuer as those which the Trustee would have been entitled to exercise pursuant to this Condition 10.

10.5 Limitation on remedies

No remedy against the Issuer, other than as referred to in this Condition 10, shall be available to the Trustee, the Securityholders and the Couponholders, whether for the recovery of amounts due in respect of the Securities or under the Trust Deed or in respect of any breach by the Issuer of any of its other obligations under or in respect of the Securities, the Coupons and the Trust Deed.

11 Replacement of Securities and Coupons

Should any Security or Coupon be lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Principal Paying Agent upon payment by the claimant of such costs and expenses as may be incurred in connection with the replacement and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Securities or Coupons must be surrendered before replacements will be issued.

12 Notices

All notices regarding the Securities will be deemed to be validly given (a) if published in a leading English language daily newspaper of general circulation in London and Ireland (it is expected that such publication will be made in the *Financial Times* in London and the *Irish Times* in Ireland) and (b) if and for so long as the Securities are admitted to trading on, and listed on the Euronext Dublin, on the Euronext Dublin's website, https://www.euronext.com/en/markets/dublin. 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 any other relevant authority) on which the Securities are for the time being listed or by which they have been admitted to trading. Any such notice will be deemed to have been given on the date of the first publication. 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 notices given to the Securityholders in accordance with this paragraph.

13 Meetings of Securityholders, Modification, Waiver, Authorisation, Determination and Substitution of the Issuer

13.1 Meetings of Securityholders

The Trust Deed contains provisions consistent with the laws, legislation, rules and regulations of the Republic of Italy (including without limitation Legislative Decree No. 58 of 24 February 1998, as amended) for convening meetings of the Securityholders to consider any matter affecting their interests, including any modifications of the Conditions or of any provisions of the Trust Deed.

According to the laws, legislation, rules and regulations of the Republic of Italy, such meetings will be validly held as a single call meeting or, if the Issuer's by-laws provide for multiple calls, as a multiple call meeting, if (i) in the case of a single call meeting, there are one or more persons present, being or representing Securityholders holding at least one-fifth of the aggregate nominal amount of the Securities, for the time being outstanding, or such a higher quorum as may be provided for in the Issuer's by-laws,

or (ii) in the case of a multiple call meeting, (a) there are one or more persons present being or representing Securityholders holding not less than one-half of the aggregate nominal amount of the Securities, for the time being outstanding; (b) in case of an adjourned meeting, there are one or more persons present being or representing Securityholders holding more than one-third of the aggregate nominal amount of the Securities for the time being outstanding; and (c) in the case of any further adjourned meeting, there are one or more persons present being or representing Securityholders holding at least one- fifth of the aggregate nominal amount of the Securities for the time being outstanding, provided that the Issuer's by-laws may in each case (to the extent permitted under the applicable laws and regulations of the Republic of Italy) provide for a higher quorum.

The majority to pass a resolution at any meeting (including, where applicable, an adjourned meeting) will be at least two-thirds of the aggregate nominal amount of the outstanding Securities represented at the meeting; provided however that (A) certain proposals, as set out in Article 2415 of the Italian Civil Code (including, for the avoidance of doubt, (a) any modification of the method of calculating the amount payable or modification of the date fixed for redemption or any date for payment of interest or, where applicable, of the method of calculating the date of payment in respect of any principal or interest in respect of the Securities or change of the subordination provisions of the Trust Deed and (b) any alteration of the currency in which payments under the Securities are to be made or the denomination of the Securities) may only be sanctioned by a resolution passed at a meeting of the Securityholders by the higher of (i) one or more persons holding or representing not less than one half of the aggregate nominal amount of the outstanding Securities, and (ii) one or more persons holding or representing not less than two thirds of the Securities represented at the meeting and (B) the Issuer's by-laws may in each case (to the extent permitted under applicable Italian law) provide for higher majorities.

Resolutions passed at any meeting of the Securityholders shall be binding on all Securityholders, whether or not they are present at the meeting, and on all Couponholders. In accordance with the Italian Civil Code, a *rappresentante comune*, being a joint representative of Securityholders, may be appointed in accordance with Article 2417 of the Italian Civil Code in order to represent the Securityholders' interest hereunder and to give execution to the resolutions of the meeting of the Securityholders.

13.2 Substitution of the Issuer

(a) The Trustee may, without the consent of the Securityholders or the Couponholders, agree with the Issuer to the substitution in place of the Issuer (or of any previous substitute under this Condition 13.2) as the principal debtor under the Securities, Coupons and the Trust Deed of another company, being any entity that will succeed to, or to which the Issuer (or those of any previous substitute under this Condition 13.2) will transfer, all or substantially all of its assets and business (or any previous substitute under this Condition 13.2) by operation of law, contract or otherwise, subject to (i) the Trustee being satisfied that such substitution does not result in the substituted issuer having an entitlement, as at the date on which such substitution becomes effective, to redeem the Securities pursuant to Conditions 6.3, 6.4, 6.5 or 6.6, and (ii) certain other conditions set out in the Trust Deed being satisfied.

(b) The Issuer has covenanted in the Trust Deed that, for so long as the Securities remain outstanding, it will not consolidate or merge with another company or firm or sell or lease all or substantially all of its assets to another company unless (i) if the Issuer merges out of existence or sells or leases all or substantially all of its assets, the other company assumes all the then-existing obligations of the Issuer (including, without limitation, all obligations under the Securities and the Trust Deed), either by law or contractual arrangements and (ii) certain other conditions set out in the Trust Deed are complied with.

(c) As long as the Securities are admitted to trading on the regulated market of Euronext Dublin and/or listed on the official list of Euronext Dublin, in the case of such a substitution, the Issuer will give notice

of any substitution pursuant to Condition 13.2(a) above to Euronext Dublin and, as soon as reasonably practicable but in any event not later than 30 calendar days after the execution of such documents required by, and the compliance with such other requirements of, the Trust Deed in connection with the substitution, notice of such substitution will be given to the Securityholders by the Issuer in a form previously approved by the Trustee in accordance with Condition 12, in which event the substitution shall be conclusive and binding on the Securityholders and the Couponholders.

13.3 Waiver, authorisation, determination and exercise by the Trustee of discretions etc.

The Trustee (i) may agree, without the consent of the Securityholders or Couponholders, to any modification (except as set out in the Trust Deed) of, or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of the Securities or the Trust Deed where, in any such case, it is not, in the opinion of the Trustee, materially prejudicial to the interests of the Securityholders or (ii) may agree, without any such consent as aforesaid, to any modification which is, in the opinion of the Trustee, of a formal, minor or technical nature or to correct an error which is manifest. Any such modification, waiver, authorisation or determination shall be binding on the Securityholders and the Couponholders and, unless the Trustee otherwise agrees, any such modification shall be notified to the Securityholders in accordance with Condition 12 as soon as practicable thereafter.

13.4 Trustee to have Regard to Interests of Securityholders as a Class

In connection with the exercise by it of any of its trusts, powers, authorities and discretions (including, without limitation, any modification, waiver, authorisation, determination or substitution), the Trustee shall have regard to the general interests of the Securityholders as a class (but shall not have regard to any interests arising from circumstances particular to individual Securityholders or Couponholders whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual Securityholders 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 subdivision thereof and the Trustee shall not be entitled to require, nor shall any Securityholder 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 Securityholders 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.

14 Indemnification of the Trustee and its Contracting with the Issuer

14.1 Indemnification of the Trustee

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 and/or prefunded to its satisfaction.

14.2 Trustee Contracting with the Issuer

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 Subsidiary and to act as trustee for the holders of any other securities issued or guaranteed by, or relating to, the Issuer and/or any Subsidiary, (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 Securityholders 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.

15 Further Issues

The Issuer is at liberty from time to time without the consent of the Securityholders or Couponholders to create and issue further securities 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 securities or bonds of any series (including the Securities) 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. Any further securities or bonds which are to form a single series with the outstanding securities or bonds of any series (including the Securities) constituted by the Trust Deed or any supplemental deed shall, and any other further securities or bonds may (with the consent of the Trustee), be constituted by a deed supplemental to the Trust Deed. The Trust Deed contains provisions for convening a single meeting of the Securityholders and the holders of securities or bonds of other series in certain circumstances where the Trustee so decides.

16 Governing Law and Submission to Jurisdiction

16.1 Governing Law

The Trust Deed, the Securities and the Coupons and any non-contractual obligations arising out of or in connection with the Trust Deed, the Securities and the Coupons are governed by, and shall be construed in accordance with, English law, except for Conditions 3.1 and 3.2, which shall each be governed by Italian law. Condition 13.1 and the provisions of the Trust Deed concerning the meeting of Securityholders and the appointment of the *rappresentante comune* in respect of the Securities are subject to compliance with Italian law.

16.2 Jurisdiction of English Courts

The Issuer has, in the Trust Deed, irrevocably agreed for the benefit of the Trustee, the Securityholders and the Couponholders that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Securities or the Coupons (including any disputes relating to any non- contractual obligations which may arise out of or in connection with the Trust Deed, the Securities or the Coupons) and accordingly has submitted to the exclusive jurisdiction of the English courts.

The Issuer has, in the Trust Deed, waived any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum.

16.3 Appointment of Process Agent

The Issuer has, in the Trust Deed, irrevocably and unconditionally appointed Law Debenture Corporate Services Limited at its registered office at 8th Floor 100 Bishopsgate, London, EC2N 4AG, United Kingdom as its agent for service of process and undertakes that, in the event of Law Debenture Corporate Services Limited ceasing so to act or ceasing to be registered in England, it will appoint another person approved by the Trustee as its agent for service of process in England in respect of any proceedings. Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

17 Rights of Third Parties

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

TERMS AND CONDITIONS OF THE NC 8.5 SECURITIES

The following is the text of the Terms and Conditions of the NC 8.5 Securities which (subject to modification) will be endorsed on each NC 8.5 Security in definitive form (if issued).

Text set out within the Terms and Conditions of the NC 8.5 Securities in italics is provided for information only and does not form part of the Terms and Conditions of the NC 8.5 Securities.

The €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (the "**Securities**", which expression shall in these Conditions, unless the context otherwise requires, include any further securities issued pursuant to Condition 15 and forming a single series with the Securities) of Enel S.p.A. (the "**Issuer**") are constituted by a Trust Deed dated 16 January 2023, as amended or supplemented from time to time (the "**Trust Deed**") made between the Issuer and BNY Mellon Corporate Trustee Services Limited (the "**Trustee**", which expression shall include its successor(s)) as trustee for the holders of the Securities (the "**Securityholders**") and the holders of the interest coupons appertaining to the Securities (the "**Couponholders**" and the "**Coupons**" respectively, which expressions shall, unless the context otherwise requires, include the talons for further interest coupons (the "**Talons**") and the holders of the Talons).

The statements in these Conditions include summaries of, and are subject to, the detailed provisions of and definitions in the Trust Deed. Copies of the Trust Deed and the agency agreement dated 16 January 2023 (as amended or supplemented from time to time, the "**Agency Agreement**") made between the Issuer, The Bank of New York Mellon, London Branch, as principal paying agent (the "**Principal Paying Agent**") and agent bank (the "**Agent Bank**") (which shall be responsible for making certain determinations, as described in these Terms and Conditions) and the Trustee are available for inspection by appointment during normal business hours by the Securityholders and the Couponholders at the registered office for the time being of the Trustee, being at the date of issue of the Securities at One Canada Square, London E14 5AL, and at the specified office of each of the Paying Agents or at the Trustee's or Paying Agent's (as the case may be) option may be provided by email to such holder requesting copies of such documents, subject to the Paying Agent or the Trustee (as applicable) being supplied by the Issuer with copies of such documents. The Securityholders and the Couponholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the provisions of the Agency Agreement applicable to them.

1 Form, Denomination and Title

1.1 Form and Denomination

The Securities are in bearer form, serially numbered, in the denominations of €100,000 and integral multiples of €1,000 in excess thereof, up to and including €199,000, with Coupons and one Talon attached on issue.

1.2 Title

Title to the Securities and to the Coupons will pass by delivery.

1.3 Holder Absolute Owner

The Issuer, any Paying Agent and the Trustee may (to the fullest extent permitted by applicable laws) deem and treat the bearer of any Security or Coupon as the absolute owner for all purposes (whether or not the Security or Coupon shall be overdue and notwithstanding any notice of ownership or writing on the Security or Coupon or any notice of previous loss or theft of the Security or Coupon or of any trust or interest therein) and shall not be required to obtain any proof thereof or as to the identity of such bearer and no person shall be liable for so treating such holder.

2 Definitions and Interpretation

As used in these Conditions:

An "**Accounting Event**" shall occur if as a result of a change in the accounting practices or principles applicable to the Issuer, which currently are the international accounting standards (International Accounting Standards — IAS and International Financial Reporting Standards — IFRS) issued by the International Accounting Standards Board (IASB), the interpretations of the International Financial Reporting Interpretations Committee (IFRIC) and the Standing Interpretations Committee (SIC), adopted by the European Union pursuant to Regulation (EC) 1606/2002 ("IFRS"), or any other accounting standards that may replace IFRS which becomes effective after the Issue Date (the "**Change**"), the obligations of the Issuer in respect of the Securities, following the official adoption of such Change, which may fall before the date on which the Change will come into effect, can no longer be recorded as "equity" (*strumento di capitale*), in accordance with accounting practices or principles applicable to the Issuer at the time of the next Financial Statements, and a recognised accountancy firm of international standing, acting upon instructions of the Issuer, has delivered an opinion, letter or report addressed to the Issuer to that effect, and the Issuer cannot avoid the foregoing by taking reasonable measures available to it.

"**Accrual Period**" has the meaning given to it in Condition 4.1(c).

"**Additional Amounts**" has the meaning given to it in Condition 8.1.

"**Adjustment Spread**" means either (a) a spread (which may be positive, negative or zero) or (b) a formula or methodology for calculating a spread, in each case to be applied to the Successor Rate or the Alternative Rate (as the case may be) and is the spread, formula or methodology which:

(A) in the case of a Successor Rate, is formally recommended in relation to the replacement of the EUR 5-year Swap Rate with the Successor Rate by any Relevant Nominating Body; or (if no such recommendation has been made, or in the case of an Alternative Rate);

(B) the Independent Adviser determines, is customarily applied to the relevant Successor Rate or the Alternative Rate (as the case may be) in international debt capital markets transactions to produce an industry-accepted replacement rate for the EUR 5-year Swap Rate; or (if the Independent Adviser determines that no such spread is customarily applied);

(C) the Independent Adviser determines, is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the EUR 5-year Swap Rate, where such rate has been replaced by the Successor Rate or the Alternative Rate (as the case may be).

"**Alternative Rate**" means an alternative benchmark or screen rate which the Independent Adviser determines in accordance with Condition 4.4(b) is customary in market usage in the international debt capital markets for the purposes of determining rates of interest (or the relevant component part thereof) in Euro and with an interest period of a comparable duration to the relevant Reset Period.

"**Arrears of Interest**" has the meaning given to it in Condition 4.2(a).

"**Bankruptcy Law**" means Italian Royal Decree number 267 of 16 March 1942 as amended and supplemented from time to time, as well as, where still applicable.

"**Benchmark Amendments**" has the meaning given to it in Condition 4.4(d).

"**Benchmark Event**" means:

(A) the EUR 5-year Swap Rate ceasing to be published for a period of at least 5 Business Days or ceasing to exist or to be administered; or

(B) a public statement by the administrator of the EUR 5-year Swap Rate that it has ceased or that it will cease publishing the EUR 5-year Swap Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue publication of the EUR 5-year Swap Rate); or

(C) a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate, that the EUR 5-year Swap Rate has been or will, by a specified date on or prior to the next Reset Interest Determination Date, be permanently or indefinitely discontinued; or

(D) a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate as a consequence of which the EUR 5-year Swap Rate will be prohibited from being used or that its use will be subject to restrictions or adverse consequences either generally, or in respect of the Securities, in each case on or prior to the next Reset Interest Determination Date; or

(E) it has become unlawful for the Principal Paying Agent, the Agent Bank, the Issuer or other party to calculate any payments due to be made to any Securityholder using the EUR 5-year Swap Rate; or

(F) the making of a public statement by the supervisor of the administrator of the EUR 5-year Swap Rate announcing that such EUR 5-year Swap Rate is no longer representative or may no longer be used, in each case in circumstances where the same shall be applicable to the Securities,

provided that in the case of sub-paragraphs (B), (C) and (D), the Benchmark Event shall occur on the later of (i) the date which is six months prior to the date of the cessation of publication of the EUR 5-year Swap Rate, the discontinuation of the EUR 5-year Swap Rate, or the prohibition of use of the EUR 5-year Swap Rate, as the case may be and (ii) the date of the relevant public statement.

"**Business Day**" means a day which is both 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 London and Milan and a TARGET2 Settlement Day.

"**Calculation Amount**" has the meaning given to it in Condition 4.1(c).

"**Calculation Date**" means the third Business Day preceding the Make-whole Redemption Date.

"**Call Date**" has the meaning given to it in Condition 6.2.

"**Code**" has the meaning given to it in Condition 8.1.

"**Code of Business Crisis and Insolvency**" or "**Insolvency Code**" means the Legislative Decree No. 14 of 12 January 2019, as amended and supplemented from time to time containing the regulations of the "Business Crisis and Insolvency Code" (*Codice della Crisi d'Impresa e dell'Insolvenza*).

"**Decree No. 239**" means Italian Legislative Decree No. 239 of 1 April 1996, as amended.

"**Decree No. 917**" means Italian Presidential Decree No. 917 of 22 December 1986, as amended.

"**Deferral Notice**" has the meaning given to it in Condition 4.2(a).

"**Deferred Interest Payment**" has the meaning given to it in Condition 4.2(a).

"**Determination Period**" has the meaning given to it in Condition 4.1(c).

"**Early Redemption Date**" means the date of redemption of the Securities pursuant to Conditions 6.3 to 6.8.

"**Early Redemption Price**" will be the amount determined by the Agent Bank on the Redemption Calculation Date as follows:

(A) in the case of a Withholding Tax Event or a Substantial Repurchase Event at any time, 100 per cent. of the principal amount of the Securities then outstanding; or

(B) in the case of an Accounting Event, a Rating Methodology Event or a Tax Deductibility Event, either:

(i) 101 per cent. of the principal amount of the Securities then outstanding if the Early Redemption Date falls prior to 16 April 2031 (being the date falling three months prior to the First Reset Date); or

(ii) 100 per cent. of the principal amount of the Securities then outstanding if the Early Redemption Date falls on or after 16 April 2031 (being the date falling three months prior to the First Reset Date),

and in each case together with any accrued interest to, but excluding, the relevant Early Redemption Date and any outstanding Arrears of Interest.

"**equity credit**" shall include such other nomenclature as any Rating Agency may use from time to time to describe the degree to which an instrument exhibits the characteristics of an ordinary share.

"**EUR 5 year Swap Rate**" has the meaning given to it in Condition 4.1(b).

"**EUR 5 year Swap Rate Quotation**" means, in relation to any Reset Period, the arithmetic mean of the bid and offered rates for the annual fixed leg (calculated on a 30/360 day count basis) of a fixed-for-floating euro interest rate swap which (i) has a term of 5 years commencing on the relevant Reset Interest Determination Date, (ii) is in an amount that is representative of a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market, and (iii) has a floating leg based on the 6-month EURIBOR rate (calculated on an Actual/360 day count basis);

"**EUR Reset Reference Bank Rate**" means the percentage rate determined by the Agent Bank on the basis of the EUR 5 year Swap Rate Quotations provided by the EUR Reset Reference Banks to the Issuer and notified to the Agent Bank at approximately 11:00 a.m. (CET) on the relevant Reset Interest Determination Date.

"**EUR Reset Reference Banks**" means five major banks in the Euro-zone interbank market selected by the Issuer.

"**EUR Reset Screen Page**" means the Thomson Reuters screen "ICESWAP2 / EURSFIXA" (or such other page as may replace it on Thomson Reuters or, as the case may be, on such other information service that may replace Reuters providing or sponsoring the information appearing there for the purpose of displaying rates comparable to the EUR 5 Year Swap Rate).

"**EURIBOR**" means the Euro-zone interbank offered rate.

"**Euronext Dublin**" means the Irish Stock Exchange plc trading as Euronext Dublin.

"**Exchanged Securities**" has the meaning given to it in Condition 7.1.

"**FATCA Withholding**" has the meaning given to it in Condition 8.1.

"**Financial Statements**" means either of:

(A) audited annual consolidated financial statements of the Issuer; or

(B) unaudited condensed consolidated half-year financial statements of the Issuer which are subject to a formal "review" from an independent auditor,

in each case prepared in accordance with IFRS or any successor accounting standards applicable to the Issuer.

"**First Reset Date**" means 16 July 2031.

"**Fitch**" means, jointly, Fitch Ratings Ireland Limited and its affiliates and branches established in the EU.

"**Group**" or "**ENEL Group**" means the Issuer and its Subsidiaries from time to time.

"**Independent Adviser**" means an independent financial institution of international repute or an independent financial adviser with appropriate expertise in the international capital markets, in each case appointed by the Issuer under Condition 4.4(a).

"**Insolvency Proceedings**" means any insolvency proceedings (*procedura concorsuale*) or proceedings equivalent or analogous thereto under the laws of any applicable jurisdiction, including, but not limited to, judicial liquidation (*liquidazione giudiziale*), composition with creditors in the judicial liquidation (*concordato nella liquidazione giudiziale*), dissolution, bankruptcy (*fallimento*) (as far as applicable pursuant to the Bankruptcy Law), extraordinary administration (*amministrazione straordinaria*), extraordinary administration of the insolvent companies (*amministrazione straordinaria delle grandi imprese in stato di insolvenza*), compulsory winding up (*liquidazione coatta amministrativa*), insolvency proceedings (*procedure concorsuali*) (including the insolvency proceedings and the further tools providing for the composition of the crisis and insolvency under the Bankruptcy Law and the Law Decree no. 118 of 24 August 2021, as far as applicable), the tools for the composition of business crisis/insolvency provided under the Insolvency Code, including, *inter alia*, the debt restructuring agreements (also simplified debt restructuring agreements and those with "extended effects" as well as the standstill agreements (*convenzioni di moratoria*), the certified restructuring plan as well as the related agreement, the restructuring plan subject to homologation, the composition with creditors proceeding (*concordato preventivo*), the filing of any petition under articles 40 and followings of the Insolvency Code (including the simplified petitions under article 44 of the Insolvency Code), the appointment of an independent expert pursuant to the Insolvency Code, the assignment of assets to creditors (*cessione di beni ai creditori*) pursuant to Article 1977 of Italian Civil Code, the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*), the simplified composition with creditors proceeding for the liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) as well as any other proceedings and/or tools qualified as an "insolvency proceeding" (*procedura concorsuale*), a "restructuring proceeding" (*procedura di risanamento*) or a "liquidation proceeding" (*procedura di liquidazione*) under the relevant legislation, as amended from time to time (in particular Insolvency Code, Italian Banking Act, Legislative Decree no. 170 of 21 May 2004, Regulation EU 2015/848 and Directive 2019/1023/EU related to insolvency procedure and Directive 2014/59/EU and the relevant implementing laws, including, without limitation the procedures for the resolution of the over-indebtedness crisis (*procedure per la composizione della crisi da sovraindebitamento*), any of the situations provided for under articles 2446, 2447, 2482-*bis* or 2482-*ter* of the Italian Civil Code or any similar situation), as well as any similar proceedings in any jurisdiction.

"**Interest Payment Date**" means 16 July in each year commencing on, and including, 16 July 2023.

"**Interest Period**" means the period from (and including) the Issue Date to (but excluding) the first Interest Payment Date and each successive period from (and including) an Interest Payment Date to (but excluding) the next succeeding Interest Payment Date ending on the date fixed for redemption.

"**Issue Date**" means 16 January 2023.

"**Italian Insolvency Law**" means Royal Decree No. 267 of 1942, as amended from time to time, including pursuant to the Insolvency Code.

"**Junior Securities**" means:

(A) the ordinary shares (*azioni ordinarie*) of the Issuer;

(B) any other class of the Issuer's share capital (including savings shares (*azioni di risparmio*) and preferred shares (*azioni privilegiate*)); and

(C)

(i) any securities of the Issuer (including *strumenti finanziari* issued under Article 2346 of the Italian Civil Code); and

(ii) any securities issued by a company other than the Issuer which have the benefit of a guarantee or similar instrument from the Issuer,

which securities (in the case of (C)(i)) or guarantee or similar instrument (in the case of (C)(ii)) rank or are expressed to rank *pari passu* with the claims described under (A) and (B) above and/or junior to the Securities.

"**Liquidation Event Date**" has the meaning given to it in Condition 6.1.

"**Make-whole Redemption Amount**" means the amount which is equal to (i) the greater of (a) the principal amount of the Securities and (b) the sum of the then present values of the remaining scheduled payments of principal and interest on the Securities (determined on the basis of redemption of the Securities at their principal amount on 16 April 2031 (the date falling 3 months before the First Reset Date), and excluding any interest accrued up to (but excluding) the Make-whole Redemption Date and any outstanding Deferred Interest Payment) discounted to the Make-whole Redemption Date on an annual basis at a discount rate equal to the Make-whole Redemption Rate plus 0.70 per cent., plus (ii) any interest accrued up to (but excluding) the Make-whole Redemption Date and any outstanding Arrears of Interest, all as determined by the Reference Dealers and as notified on the Calculation Date by the Reference Dealers to the Issuer.

"**Make-whole Redemption Date**" has the meaning given to it in Condition 6.7.

"**Make-whole Redemption Rate**" means (a) the mid-market yield to maturity of the Reference Security which appears on the Relevant Make-whole Screen Page at 11:00 a.m. (Central European Time) on the Calculation Date or (b) to the extent that the mid-market yield to maturity does not appear on the Relevant Make-whole Screen Page at such time, the arithmetic average of the number of quotations given by the Reference Dealers of the mid-market yield to maturity of the Reference Security at or around 11:00 a.m. (Central European Time) on the Calculation Date.

A "**Mandatory Arrears of Interest Settlement Event**" shall have occurred if:

(A) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Junior Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Junior Securities; or

(B) a dividend (either interim or final) or any other distribution or payment was validly resolved on, declared, paid or made in respect of any Parity Securities, except where such dividend, distribution or payment was contractually required to be declared, paid or made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities); or

(C) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Junior Securities, except where (x) such repurchase, purchase, redemption or acquisition was undertaken in connection with the satisfaction by the Issuer or any Subsidiary of its respective obligations under (i) any share buy-back programme existing at the Issue Date or (ii) any stock option plan or free share allocation plan reserved for directors, officers and/or employees of the Issuer or any associated hedging

transaction or (y) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Junior Securities; or

(D) the Issuer or any Subsidiary has repurchased, purchased, redeemed or otherwise acquired any Parity Securities, except where (x) such repurchase, purchase, redemption or acquisition is contractually required to be made under the terms of such Parity Securities (including, without limitation, where any such payment occurs mandatorily at the maturity of such Parity Securities) or (y) such repurchase, purchase, redemption or acquisition is effected as a public tender offer or public exchange offer at a purchase price per security which is below its par value.

"**Mandatory Settlement Date**" means the earliest of:

(A) the fifth Business Day following the date on which a Mandatory Arrears of Interest Settlement Event occurs;

(B) following any Deferred Interest Payment, on the next scheduled Interest Payment Date on which the Issuer does not elect to defer all of the interest accrued in respect of the relevant Interest Period; and

(C) the date on which the Securities are redeemed or repaid in accordance with Condition 6, including at the Liquidation Event Date (unless otherwise required by mandatory provisions of applicable law).

"**Moody's**" means, jointly, Moody's France S.A.S. and its affiliates and branches established in the EU.

"**Parity Securities**" means:

(A) any securities or other instruments issued by the Issuer which rank, or are expressed to rank, *pari passu* with the Issuer's obligations under the Securities and includes the Issuer's €1,250,000,000 Perpetual Capital Securities and having a principal amount outstanding equal to €297,424,000 (ISIN: XS0954675129); the Issuer's U.S.$1,250,000,000 Capital Securities due 2073 (ISIN: X Securities IT0004961808 N Securities IT0004961816 — X Receipt US29265WAA62 N Receipt US29265WAB46); the Issuer's €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (ISIN: XS1713463559); the Issuer's €750,019,000 Perpetual 5.5 Year Non-Call Capital Securities (ISIN: XS1713463716); the Issuer's €900,001,000 Perpetual 6 Year Non-Call Capital Securities (ISIN: XS2000719992); the Issuer's €600,000,000 Perpetual 6.5 Years Non-Call Capital Securities (ISIN: XS2228373671); the Issuer's €1,250,000,000 Perpetual 6.5 Years Non-Call Capital Securities (ISIN: XS2312744217); and the Issuer's €1,000,000,000 Perpetual 9.5 Years Non-Call Capital Securities (ISIN: XS2312746345); and

(B) any securities or other instruments issued by a company other than the Issuer which have the benefit of a guarantee or similar instrument from the Issuer, which guarantee or similar instrument ranks or is expressed to rank *pari passu* with the Issuer's obligations under the Securities.

"**Prevailing Interest Rate**" means the rate of interest payable on the Securities applicable from time to time pursuant to Condition 4.

"**Rating Agency**" means any of Moody's, S&P, Fitch and any other rating agency substituted for any of them by the Issuer with the prior written approval of the Trustee and, in each case, any of their respective successors to the rating business thereof.

"**Rating Agency Confirmation**" means a written confirmation from a Rating Agency which has assigned ratings to the Issuer on a basis sponsored by the Issuer which is either received by the Issuer directly from the relevant Rating Agency or indirectly via publication by such Rating Agency.

A "**Rating Methodology Event**" shall be deemed to have occurred if the Issuer has received a Rating Agency Confirmation stating that:

(A) due to an amendment, clarification or change in the "equity credit" (or such similar nomenclature then used by such Rating Agency) criteria of such Rating Agency, which amendment, clarification or change has occurred after the Relevant Rating Date, (i) the Securities are eligible for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date or (ii) the period of time during which such Rating Agency assigns to the Securities a particular level of equity credit will be shortened as compared to the period of time for which such Rating Agency had assigned to the Securities that level of equity credit on the Relevant Rating Date; or

(B) following a Refinancing Event, the Securities would have become eligible (had such Refinancing Event not occurred), due to an amendment, clarification or change in the "equity credit" (or such similar nomenclature then used by such Rating Agency) criteria, for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date;).

"**Redemption Calculation Date**" means the fourth Business Day prior to the relevant Early Redemption Date.

"**Reference Dealers**" means 5 major investment banks in the swap, money or securities market as may be selected by the Issuer.

"**Reference Security**" means DBR 0 02/15/31 (ISIN: DE0001102531). If a Reference Security is no longer outstanding, a Similar Security will be chosen by the Reference Dealers at 11:00 a.m. (Central European Time) on the Calculation Date, quoted in writing by the Reference Dealers to the Issuer and published in accordance with Condition 12, and such Similar Security shall replace the previous Reference Security for the purposes of determination of the Make-whole Redemption Amount.

"**Refinancing Event**" means the refinancing, in whole or in part, of the Securities following the Relevant Rating Date and, as a result of such refinancing, the Securities having become eligible for a level of equity credit that is lower than the level or equivalent level of equity credit assigned to the Securities by such Rating Agency on the Relevant Rating Date.

"**Relevant Date**" means the date on which any payment first becomes due but, if the full amount payable has not been received by the Principal Paying Agent or the Trustee on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect has been duly given to the Securityholders by the Issuer in accordance with Condition 12.

"**Relevant Make-whole Screen Page**" means the relevant Bloomberg screen page (or any successor or replacement page, section or other part of the information service), or such other page, section or other part as may replace it on the information service or such other information service, in each case, as may be nominated by the person providing or sponsoring the information appearing there for the purpose of displaying the mid-market yield to maturity for the Reference Security

"**Relevant Nominating Body**" means, in respect of a benchmark or screen rate (as applicable):

(A) the European Central Bank, or any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable); or

(B) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the European Central Bank, (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable), (c) a group of the

aforementioned central banks or other supervisory authorities or (d) the Financial Stability Board or any part thereof.

"**Relevant Rating Date**" means the Issue Date or, if later, the date on which the Securities are assigned equity credit by the relevant Rating Agency for the first time;

"**Reset Date**" means the First Reset Date and each date falling on the fifth anniversary thereafter.

"**Reset Interest Determination Date**" means, in respect of any Reset Period, the day falling two Business Days prior to the beginning of the relevant Reset Period.

"**Reset Period**" means each period from and including the First Reset Date to but excluding the next following Reset Date and thereafter from and including each Reset Date to but excluding the next following Reset Date.

"**S&P**" means, jointly, S&P Global Ratings Europe Limited and its affiliates and branches established in the EU.

"**Similar Security**" means a reference security or reference securities issued by the same issuer as the Reference Security having actual or interpolated maturity comparable with the remaining term of the Securities that would be utilised, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the first Call Date of the Securities.

"**Subsidiary**" means any entity which is a subsidiary (*società controllata*) of the Issuer within the meaning of Article 2359 of the Italian Civil Code and Article 93 of Legislative Decree No. 58 of 24 February 1998, as amended.

A "**Substantial Repurchase Event**" shall be deemed to have occurred if, prior to the giving of the relevant notice of redemption, at least 75 per cent. of the aggregate principal amount of the Securities issued on the Issue Date has been purchased by or on behalf of the Issuer or a Subsidiary and has been cancelled.

"**Successor Rate**" means the rate that the Independent Adviser determines is a successor to or replacement of the EUR 5 year Swap Rate and which is formally recommended by any Relevant Nominating Body.

"**TARGET2 Settlement Day**" means any day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System is open.

A "**Tax Deductibility Event**" shall be deemed to have occurred if, as a result of a Tax Law Change, payments of interest by the Issuer in respect of the Securities are no longer, or within 90 calendar days of the date of any opinion provided pursuant to Condition 6.4(b)(ii) will no longer be, deductible in whole or in part for Italian corporate income tax purposes, and the Issuer cannot avoid the foregoing by taking reasonable measures available to it. For the avoidance of doubt, a Tax Deductibility Event shall not occur if payments of interest by the Issuer in respect of the Securities are not deductible in whole or in part for Italian corporate income tax purposes solely as a result of general tax deductibility limits set forth by Article 96 of Decree No. 917 as at (and on the basis of the general tax deductibility limits calculated in the manner applicable as at) the Issue Date.

"**Tax Jurisdiction**" means the Republic of Italy and/or such other taxing jurisdiction to which the Issuer becomes subject or any political subdivision or any authority thereof or therein having power to tax.

"**Tax Law Change**" means: (i) any amendment to, clarification of, or change in, the laws or treaties (or any regulations thereunder) of a Tax Jurisdiction affecting taxation; (ii) any governmental action or (iii) any amendment to, clarification of, or change in the official position or the interpretation of such governmental action (including an amendment, clarification or change resulting from a publicly available reply to a ruling or a circular letter issued by a governmental authority) that differs from the previously generally accepted official position or interpretation resulting from a publicly available reply to a ruling or a circular letter, in each case,

by any legislative body, court, governmental authority or regulatory body, which amendment, clarification, change or governmental action is effective, on or after the Issue Date.

"**Taxes**" means any present or future taxes or duties, assessments or governmental charges of whatever nature.

"**Varied Securities**" has the meaning given to it in Condition 7.1.

A "**Withholding Tax Event**" shall be deemed to have occurred if, following the Issue Date:

(A) as a result of a Tax Law Change, the Issuer has or will become obliged to pay Additional Amounts in respect of the Securities and such obligation cannot be avoided by the Issuer taking reasonable measures available to it; or

(B) a person into which the Issuer is merged or to whom it has conveyed, transferred or leased all or substantially all of its assets and who has been substituted in place of the Issuer as principal debtor under the Securities is required to pay Additional Amounts in respect of the Securities and such obligation cannot be avoided by such person taking reasonable measures available to it, unless the sole purpose of such a merger, conveyance, transfer or lease would be to permit the Issuer to redeem the Securities.

3 Status and Subordination

3.1 Status

The Securities and the Coupons constitute direct, unsecured and subordinated obligations of the Issuer and rank and will at all times rank *pari passu* without any preference among themselves and with Parity Securities. The Securities constitute *obbligazioni* pursuant to Articles 2410 *et seq*. of the Italian Civil Code. The obligations of the Issuer in respect of the Securities and the Coupons are subordinated as described in Condition 3.2.

3.2 Subordination

The obligations of the Issuer to make payment in respect of principal and interest on the Securities and the Coupons, including its obligations in respect of any Arrears of Interest, will, in the event of the winding-up, insolvency, dissolution or liquidation of the Issuer, rank:

(a) senior only to the Issuer's payment obligations in respect of any Junior Securities;

(b) *pari passu* among themselves and with the Issuer's payment obligations in respect of any Parity Securities; and

(c) junior to all other payment obligations of the Issuer, present and future, whether subordinated (including any claims pursuant to Article 2411, first paragraph, of the Italian Civil Code) or unsubordinated,

in each case except as otherwise required by mandatory provisions of applicable law.

Nothing in this Condition 3.2 shall affect or prejudice the payment of costs, charges, expenses, liabilities or remuneration of the Trustee or Agents or the rights and remedies of the Trustee or the Agents in respect thereof.

3.3 No Set-off

To the extent and in the manner permitted by applicable law, no Securityholder or Couponholder may exercise, claim or plead any right of set-off, counterclaim, compensation or retention in respect of any amount owed to it by the Issuer in respect of, or arising from, the Securities or the Coupons and each Securityholder and Couponholder will, by virtue of his holding of any Security or Coupon, be deemed to have waived all such rights of set-off, counterclaim, compensation or retention. The Issuer may not

set off any claims it may have against the Securityholders against any of its obligations under the Securities or the Coupons.

4 Interest and Interest Deferral

4.1 Interest

(a) Interest Rates and Interest Payment Dates

Unless previously redeemed or repurchased and cancelled in accordance with these Conditions and subject to the further provisions of this Condition 4, the Securities will bear interest on their principal amount as follows:

(i) from (and including) the Issue Date to (but excluding) the First Reset Date, at the rate of 6.625 per cent. per annum, payable annually in arrear on each Interest Payment Date; and

(ii) from (and including) the First Reset Date to (but excluding) the date fixed for redemption, at, in respect of each Reset Period, the relevant EUR 5 year Swap Rate plus:

(A) in respect of the Reset Period commencing on the First Reset Date to but excluding 16 July 2036, 3.774 per cent. per annum;

(B) in respect of the Reset Periods commencing on 16 July 2036, 16 July 2041 and 16 July 2046, 4.024 per cent. per annum; and

(C) in respect of any other Reset Period after 16 July 2051, 4.774 per cent. per annum;

all as determined by the Agent Bank for annual payment in arrear on each Interest Payment Date, commencing on the First Interest Payment Date.

(b) Determination of EUR 5 year Swap Rate

(i) For the purposes of these Conditions, the relevant "**EUR 5 year Swap Rate**", in respect of a Reset Period, shall be the annual mid-swap rate as displayed on the EUR Reset Screen Page as at 11:00 a.m. (CET) on the relevant Reset Interest Determination Date.

(ii) If the relevant EUR 5 year Swap Rate does not appear on the EUR Reset Screen Page on the relevant Reset Interest Determination Date, the Issuer shall request each of the EUR Reset Reference Banks to provide it with its EUR 5 year Swap Rate Quotation (such EUR 5 year Swap Rate Quotation to be notified by the Issuer to the Agent Bank) and the Agent Bank will determine the EUR 5 year Swap Rate as the EUR Reset Reference Bank Rate on the relevant Reset Interest Determination Date.

(iii) If at least three quotations are provided by the EUR Reset Reference Banks, the EUR 5 year Swap Rate will be determined by the Agent Bank on the basis of the arithmetic mean of the quotations provided, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest).

(iv) If only two quotations are provided, the EUR 5 year Swap Rate will be the arithmetic mean of the quotations provided.

(v) If only one quotation is provided, the EUR Reset Reference Banks Rate will be the quotation provided.

(vi) If no quotations are provided, the EUR Reset Reference Bank Rate for the relevant period will be equal to the last available EUR 5 year mid swap rate for euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page.

(c) Calculation of Interest

The interest payable on each Security on any Interest Payment Date shall be calculated per €1,000 in principal amount of the Securities (the "**Calculation Amount**"). The amount of interest payable per Calculation Amount for any period shall be equal to the product of the Prevailing Interest Rate for the Interest Period ending immediately prior to such Interest Payment Date, the Calculation Amount and the day-count fraction for the relevant period, rounding the resulting figure to the nearest cent (half a cent being rounded upwards).

The day-count fraction will be calculated on the following basis:

(a) if the Accrual Period is equal to or shorter than the Determination Period during which it falls, the day-count fraction will be the number of days in the Accrual Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and

(b) if the Accrual Period is longer than one Determination Period, the day-count fraction will be the sum of:

(i) the number of days in such Accrual Period falling in the Determination Period in which it begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and

(ii) the number of days in such Accrual Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year

where:

"**Accrual Period**" means the relevant period for which interest is to be calculated (from and including the first such day to but excluding the last); and

"**Determination Period**" means the period from and including 16 July in any year to but excluding the next 16 July.

4.2 Interest Deferral

Subject to the provisions of the following paragraphs, on each Interest Payment Date, the Issuer shall pay interest on the Securities accrued to (but excluding) that date in respect of the Interest Period ending immediately prior to such Interest Payment Date.

(a) Optional Interest Deferral

The Issuer may, at its sole discretion, elect to defer in whole, but not in part, any payment of interest accrued on the Securities in respect of any Interest Period (a "**Deferred Interest Payment**") by giving notice (a "**Deferral Notice**") of such election to the Securityholders in accordance with Condition 12 and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant Interest Payment Date. If the Issuer makes such an election, the Issuer shall have no obligation to make such payment and any such non-payment of interest shall not constitute a default of the Issuer or any other breach of obligations under the Securities or for any other purpose.

Any Deferred Interest Payment will be deferred and shall constitute "**Arrears of Interest**". Any Arrears of Interest will remain outstanding until paid in full by the Issuer, but Arrears of Interest shall not itself bear interest.

(b) Optional Settlement of Arrears of Interest

The Issuer may pay outstanding Arrears of Interest (in whole but not in part) at any time upon giving not less than 10 and not more than 15 Business Days' notice to the Securityholders in accordance with Condition 12 (which notice shall be irrevocable and will oblige the Issuer to pay the relevant Arrears of Interest on the payment date specified in such notice) and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant due date for payment.

(c) Mandatory Settlement of Arrears of Interest

All (but not some only) of any outstanding Arrears of Interest from time to time in respect of all Securities for the time being outstanding shall become due and payable in full and shall be paid by the Issuer on the first occurring Mandatory Settlement Date.

Notice of the occurrence of any Mandatory Settlement Date shall be given to the Securityholders in accordance with Condition 12 and to the Trustee and the Principal Paying Agent at least five, but not more than 30, Business Days prior to the relevant due date for payment.

(d) Notification of Mandatory Settlement Date

Upon the occurrence of a Mandatory Settlement Date, the Issuer shall promptly deliver to the Trustee a certificate signed by two duly authorised representatives of the Issuer confirming the occurrence thereof upon which the Trustee may rely absolutely without liability to any person for so doing.

4.3 Accrual of Interest

The Securities will cease to bear interest from (and including) the calendar day on which they are due for redemption. If the Issuer fails to redeem the Securities upon due presentation and surrender thereof when due, interest will continue to accrue as provided in the Trust Deed.

4.4 Benchmark discontinuation

(a) Independent Adviser

If a Benchmark Event occurs in relation to the EUR 5 year Swap Rate on any Reset Interest Determination Date, then the Issuer shall use its reasonable endeavours to appoint and consult with an Independent Adviser, as soon as reasonably practicable, to determine a Successor Rate, failing which an Alternative Rate (in accordance with Condition 4.4(b)) and, in either case, an Adjustment Spread and any Benchmark Amendments (in accordance with Condition 4.4(d)) by no later than five business days prior to the Determination Date relating to the next Determination Period for which the Reset Interest (or any component part thereof) is to be determined by reference to the EUR 5 year Swap Rate.

An Independent Adviser appointed pursuant to this Condition 4.4 shall act in good faith and in a commercially reasonable manner as an expert and in consultation with the Issuer. In the absence of fraud and gross negligence, the Independent Adviser shall have no liability whatsoever to the Issuer, the Paying Agents or the Securityholders for any determination made by it pursuant to this Condition 4.4.

If: (i) the Issuer is unable to appoint an Independent Adviser; or (ii) the Independent Adviser appointed by it fails to determine a Successor Rate or, failing which, an Alternative Rate in accordance with this Condition 4.4(a) prior to the relevant Reset Interest Determination Date, the EUR 5 year Swap Rate applicable to the next succeeding Reset Period shall be the last available EUR 5 year mid swap rate for

euro swap transactions, expressed as an annual rate, on the EUR Reset Screen Page. For the avoidance of doubt, this Condition 4.4(a) shall apply to the relevant next succeeding Reset Period only and any subsequent Reset Periods are subject to the subsequent operation of, and to adjustment as provided in, this Condition 4.4(a).

(b) Successor Rate or Alternative Rate

If the Independent Adviser determines that:

(i) there is a Successor Rate, then such Successor Rate and the applicable Adjustment Spread shall subsequently be used in place of the EUR 5 year Swap Rate to determine the Prevailing Interest Rate (or the relevant component part thereof) for all future payments of interest on the Securities (subject to the operation of this Condition 4.4); or

(ii) there is no Successor Rate but that there is an Alternative Rate, then such Alternative Rate and the applicable Adjustment Spread shall subsequently be used in place of the EUR 5 year Swap Rate to determine the Prevailing Interest Rate (or the relevant component part thereof) for all future payments of interest on the Securities (subject to the operation of this Condition 4.4).

(c) Adjustment Spread

The Adjustment Spread (or the formula or methodology for determining the Adjustment Spread) shall be applied to the Successor Rate or the Alternative Rate (as the case may be). If the Independent Adviser (if required to determine a Successor Rate, failing which an Alternative Rate and, in either case, an Adjustment Spread, according to Condition 4.4(a)) is unable to determine the quantum of, or a formula or methodology for determining, such Adjustment Spread, then the Successor Rate or Alternative Reference Rate (as applicable) will apply without an Adjustment Spread.

(d) Benchmark Amendments

If any Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread is determined in accordance with this Condition 4.4 and the Independent Adviser determines (i) that amendments to these Conditions are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread (such amendments, the "**Benchmark Amendments**") and (ii) the terms of the Benchmark Amendments, then the Issuer shall, subject to giving notice thereof in accordance with Condition 4.4(e), without any requirement for the consent or approval of Securityholders, vary these Conditions to give effect to such Benchmark Amendments with effect from the date specified in such notice.

In connection with any such variation in accordance with this Condition 4.4(d), the Issuer shall comply with the rules of any stock exchange on which the Securities are for the time being listed or admitted to trading.

Benchmark Amendments may comprise, by way of example, the following amendments: (A) amendments to the definition of "EUR 5 year Swap Rate"; (B) amendments to the day-count fraction and the definitions of "business day", "Interest Payment Date", "Rate of Interest", and/or "Interest Period" (including the determination of whether the Alternative Rate will be determined in advance of or prior to the relevant Interest Period or in arrear on or prior to the end of the relevant Interest Period); and/or (C) any change to the business day convention.

Notwithstanding any other provision of this Condition 4.4, no Successor Rate or Alternative Rate will be adopted, nor will the applicable Adjustment Spread be applied, nor will any Benchmark Amendments

be made, if and to the extent that, in the determination of the Issuer, the same could reasonably be expected to cause a reduction in or loss of equity credit to occur.

At the request of the Issuer, but subject to receipt by the Trustee of a certificate signed by two duly authorised representatives of the Issuer pursuant to Condition 4.4(e), the Trustee shall (at the expense of the Issuer), without any requirement for the consent or approval of the Securityholders, be obliged to concur with the Issuer in effecting any Benchmark Amendments (including, inter alia, by the execution of a deed supplemental to or amending the Trust Deed), provided that the Trustee shall not be obliged to agree to any Benchmark Amendments which, in the sole opinion of the Trustee, would have the effect of (i) exposing the Trustee to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction; or (ii) increasing the obligations, responsibilities or duties, or decreasing the protections, of the Trustee under the Trust Deed and/or the Conditions in any way.

(e) Notices etc

Any Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread and the specific terms of any Benchmark Amendments, determined under this Condition 4.4 will be notified promptly by the Issuer to the Trustee, the Principal Paying Agent and the Agent Bank and, in accordance with Condition 12 (*Notices*), the Securityholders. Such notice shall be irrevocable and shall specify the effective date of the Benchmark Amendments, if any.

No later than notifying the Trustee of the same, the Issuer shall deliver to the Trustee a certificate signed by two duly authorised representatives of the Issuer:

(d) confirming (i) that a Benchmark Event has occurred, (ii) the Successor Rate or, as the case may be, the Alternative Rate, (iii) the applicable Adjustment Spread and (iv) the specific terms of the Benchmark Amendments (if any), in each case as determined in accordance with the provisions of this Condition 4.4; and

(e) certifying that the Benchmark Amendments (if any) are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and (in either case) the applicable Adjustment Spread.

The Trustee shall be entitled to rely on such certificate (without liability to any person) as sufficient evidence thereof. The Successor Rate or Alternative Rate and the Adjustment Spread and the Benchmark Amendments (if any) specified in such certificate will (in the absence of manifest error or bad faith in the determination of the Successor Rate or Alternative Rate and the Adjustment Spread and the Benchmark Amendments (if any) and without prejudice to the Trustee's, the Agent Bank's or the Principal Paying Agent's ability to rely on such certificate as aforesaid) be binding on the Issuer, the Trustee, the Calculation Agent, the Paying Agents and the Securityholders.

(f) Survival of EUR 5 year Swap Rate

Without prejudice to the obligations of the Issuer under Condition 4.4(a), (b), (c) and (d), the EUR 5 year Swap Rate and the fallback provisions provided for in Condition 4.1(b) will continue to apply unless and until a Benchmark Event has occurred.

5 Payment and Exchanges of Talons

Provisions for payments in respect of Global Securities are set out under "Summary of Provisions Relating to the Securities while represented by the Global Securities" below.

5.1 Payments in respect of Securities

Payments of principal and interest in respect of each Security will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the Security, except that payments of interest due on an Interest Payment Date will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the relevant Coupon, in each case at the specified office outside the United States of any of the Paying Agents.

5.2 Method of Payment

Payments will be made by credit or transfer to a euro account (or any other account to which euro may be credited or transferred) specified by the payee.

5.3 Missing Unmatured Coupons

Upon the date on which any Security becomes due and repayable, all unmatured Coupons appertaining to the Security (whether or not attached) shall become void and no payment shall be made in respect of such Coupons.

5.4 Payments subject to Applicable Laws

Payments will be subject in all cases to any other applicable fiscal or other laws and regulations in the place of payment or other laws and regulations to which the Issuer or its agents agree to be subject and, save as provided in Condition 8 below, the Issuer will not be liable for any Taxes imposed or levied by such laws, regulations or agreements.

5.5 Payment only on a Presentation Date

A holder shall be entitled to present a Security or Coupon for payment only on a Presentation Date and shall not be entitled to any further interest or other payment if a Presentation Date is after the due date for payment of any amount in respect of any Security or Coupon.

"**Presentation Date**" means a day which (subject to Condition 9):

(a) is or falls after the relevant due date for payment of any amount in respect of any Security or Coupon;

(b) is 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 place of the specified office of the Paying Agent at which the Security or Coupon is presented for payment; and

(c) in the case of payment by credit or transfer to a euro account as referred to above, is a TARGET2 Settlement Day.

5.6 Exchange of Talons

On and after the Interest Payment Date on which the final Coupon comprised in any Coupon sheet matures, the Talon comprised in the Coupon sheet may be surrendered at the specified office of any Paying Agent in exchange for a further Coupon sheet (including any appropriate further Talon), subject to the provisions of Condition 9. Each Talon shall, for the purposes of these Conditions, be deemed to mature on the Interest Payment Date on which the final Coupon comprised in the relative Coupon sheet matures.

5.7 Initial Paying Agents

The names of the initial Paying Agents and their initial specified offices are set out at the end of these Conditions. The Issuer reserves the right, subject to the prior written approval of the Trustee, at any time

to vary or terminate the appointment of any Paying Agent and to appoint additional or other Paying Agents provided that:

(a) there will at all times be a Principal Paying Agent;

(b) there will at all times be a Paying Agent in a jurisdiction within Europe, other than the jurisdiction in which the Issuer is incorporated; and

(c) there will at all times be an Agent Bank.

Notice of any termination or appointment and of any changes in specified offices will be given to the Securityholders promptly by the Issuer in accordance with Condition 12.

6 Redemption and Purchase

6.1 No fixed redemption

Unless previously redeemed or purchased and cancelled as provided below, the Securities will become due and payable and will be redeemed on the date on which a winding up, dissolution or liquidation of the Issuer (otherwise than for the purpose of a solvent amalgamation, merger or reconstruction under which the assets and liabilities of the Issuer are assumed by the entity resulting from such amalgamation, merger or reconstruction and such entity assumes the obligations of the Issuer in respect of the Securities in accordance with Condition 13.2) is instituted (the "**Liquidation Event Date**"), including in connection with any Insolvency Proceedings, in accordance with (i) any applicable legal provision, or any decision of any judicial or administrative authority, or (ii) any resolution passed at a shareholders' meeting of the Issuer or (iii) any provision which is set out in the by-laws of the Issuer from time to time (including the maturity of the Issuer which, as of the Issue Date, is set in its by-laws at 31 December 2100). Upon having become due and payable according to the provisions above, the Securities will be redeemed at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest.

6.2 Optional Redemption

The Issuer may redeem all of the Securities (but not some only) on any date during the period commencing on (and including) 16 April 2031 and ending on (and including) the First Reset Date or upon any Interest Payment Date thereafter (each such date, a "**Call Date**"), in each case at their principal amount together with any accrued interest up to (but excluding) the relevant Call Date and any outstanding Arrears of Interest, on giving not less than 10 and not more than 60 calendar days' notice to the Securityholders in accordance with Condition 12.

6.3 Early Redemption following a Withholding Tax Event

(a) If a Withholding Tax Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice to the Trustee and the Securityholders in accordance with Condition 12, provided that no such notice shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such Additional Amounts were a payment in respect of the Securities then due.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.3, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.3 have been satisfied; and

(ii) an opinion of independent legal or tax advisers, appointed by the Issuer at its own expense, of recognised standing in the jurisdiction of incorporation of the Issuer to the effect that the Issuer has or will become obliged to pay Additional Amounts as a result of (in the case of paragraph (A) of the definition of Withholding Tax Event) a Tax Law Change or (in the case of paragraph (B) of the definition of Withholding Tax Event) the relevant merger, conveyance, transfer or lease,

and the Trustee shall be entitled to accept and rely on the above certificate and opinion as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.4 Early Redemption following a Tax Deductibility Event

(a) If a Tax Deductibility Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.4, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.4 have been satisfied; and

(ii) an opinion of an independent legal or tax adviser, appointed by the Issuer at its own expense, of recognised standing in the jurisdiction of incorporation of the Issuer to the effect that payments of interest by the Issuer in respect of the Securities are no longer, or within 90 calendar days of the date of that opinion will no longer be, deductible in whole or in part for Italian corporate income tax purposes as a result of a Tax Law Change,

and the Trustee shall be entitled to accept and rely on the above certificate and opinion as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.5 Early Redemption following a Rating Methodology Event

(a) If a Rating Methodology Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.5, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.5 have been satisfied; and

(ii) a copy of the Rating Agency Confirmation relating to the applicable Rating Methodology Event unless the delivery of such Rating Agency Confirmation would constitute a breach of the terms on which such confirmation is delivered to the Issuer,

and the Trustee shall be entitled to accept and rely on the above certificate and, if applicable, copy of the Rating Agency Confirmation as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein, in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.6 Early Redemption upon the occurrence of an Accounting Event

(a) If an Accounting Event occurs, the Issuer may redeem all (but not some only) of the Securities at any time at the applicable Early Redemption Price upon giving not less than 10 and not more than 60 calendar days' notice of redemption to the Trustee and the Securityholders in accordance with Condition 12.

The Issuer may notify the redemption of the Securities as a result of the occurrence of an Accounting Event from (and including) the date on which the Change is officially adopted, which may fall before the date on which the Change will come into effect.

(b) Prior to giving a notice to the Securityholders pursuant to this Condition 6.6, the Issuer will deliver to the Trustee in a form and with content reasonably satisfactory to the Trustee:

(i) a certificate signed by two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem the Securities in accordance with this Condition 6.6 have been satisfied; and

(ii) a copy of the opinion, letter or report of a recognised accountancy firm of international standing, appointed by the Issuer at its own expense, as set forth in the definition of "Accounting Event",

and the Trustee shall be entitled to accept and rely on the above certificate and opinion, letter or report as sufficient evidence of the satisfaction of the conditions precedent set out above and the facts set out therein, in which event the same shall be conclusive and binding on the Securityholders and the Couponholders.

6.7 Make-whole redemption at the option of the Issuer

The Issuer may redeem all (but not some only) of the Securities on any day prior to 16 April 2031 (the date falling 3 months before the First Reset Date) at the applicable Make-whole Redemption Amount on giving not less than 10 and not more than 60 calendar days' notice (which shall specify the date fixed for redemption (the "**Make-whole Redemption Date**")) to the Trustee and the Securityholders in accordance with Condition 12.

6.8 Purchases and Substantial Repurchase Event

The Issuer or any Subsidiary may at any time purchase Securities (provided that all unmatured Coupons appertaining to the Securities are purchased with the Securities) in any manner and at any price. Such Securities may be held, reissued, resold or, at the option of the Issuer, surrendered to any Paying Agent for cancellation.

If a Substantial Repurchase Event occurs, the Issuer may redeem all (but not some only) of the outstanding Securities at any time at the applicable Early Redemption Price, subject to the Issuer having given the Trustee and the Securityholders not less than 10 and not more than 60 calendar days' notice in accordance with Condition 12.

6.9 Cancellations

All Securities which are redeemed or exchanged pursuant to Condition 7 (*Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation*) will forthwith be cancelled, together with all unmatured

Coupons attached to the Securities or surrendered with the Securities at the time of redemption. All Securities so cancelled and any Securities purchased and cancelled pursuant to Condition 6.8 above shall be forwarded to the Principal Paying Agent and accordingly may not be held, reissued or resold.

6.10 Notices Final

A notice of redemption given pursuant to any of Conditions 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 or 6.8 shall be irrevocable and upon the expiry of any such notice, the Issuer shall be bound to redeem the Securities in accordance with the terms of the relevant Condition.

The following does not form a part of the terms of the Securities:

The Issuer intends (without thereby assuming a legal obligation) that it will redeem or repurchase the Securities only to the extent that the part of the aggregate principal amount of the Securities to be redeemed or repurchased which was assigned "equity credit" (or such similar nomenclature used by S&P from time to time) at the time of the issuance of the Securities does not exceed such part of the net proceeds received by the Issuer or any Subsidiary of the Issuer prior to the date of such redemption or repurchase from the sale or issuance of securities by the Issuer or such Subsidiary to third party purchasers (other than group entities of the Issuer) which is assigned by S&P "equity credit" (or such similar nomenclature used by S&P from time to time) at the time of sale or issuance of such securities (but taking into account any changes in hybrid capital methodology or another relevant methodology or the interpretation thereof since the issuance of the Securities), unless:

(i) the rating (or such similar nomenclature then used by S&P) assigned by S&P to the Issuer is at least equal to the rating assigned to the Issuer on the date of the most recent hybrid security issuance (excluding any refinancing) which was assigned by S&P a "equity credit" similar to the Securities and the Issuer is of the view that such rating would not fall below this level as a result of such redemption or repurchase, or

(ii) in the case of a repurchase or redemption, taken together with relevant repurchases or redemptions of hybrid securities of the Issuer, such repurchase or redemption is less than 10 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 12 consecutive months and, in any case, less than 25 per cent. of the aggregate principal amount of the Issuer's hybrid securities in any period of 10 consecutive years; or

(iii) the Securities are redeemed pursuant to a Tax Deductibility Event or a Withholding Tax Event, or an Accounting Event or a Substantial Repurchase Event or a Rating Methodology Event which results from an amendment, clarification or change in the "equity credit" criteria by the Rating Agencies; or

(iv) the Securities are not assigned an "equity credit" by S&P (or such similar nomenclature then used by S&P) at the time of such redemption or repurchase, or

(v) in the case of a repurchase, such repurchase relates to an aggregate principal amount of Securities which is less than or equal to the excess (if any) above the maximum aggregate principal amount of the Issuer's hybrid capital to which S&P then assigns equity content under its prevailing methodology; or

(vi) such redemption or repurchase occurs on or after the Reset Date falling on 16 July 2051.

7 Exchange or Variation upon a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or Accounting Event and Preconditions to such Exchange or Variation

7.1 If the Issuer determines that a Withholding Tax Event, Tax Deductibility Event, Rating Methodology Event or an Accounting Event has occurred and is continuing, and has provided the Trustee with the relevant certificate and opinion, or in the case of Condition 6.5 only, the Rating Agency Confirmation, pursuant to Condition 6.3, 6.4, 6.5 or 6.6 (as applicable), then the Issuer may, subject to Condition 7.2 below (without any requirement for the consent or approval of the Securityholders or Couponholders), subject to its having satisfied the Trustee immediately prior to the giving of any notice referred to herein that the provisions of this Condition 7 have been complied with and having given not less than 10 nor more than 60 Business Days' notice to the Trustee, the Principal Paying Agent and, in accordance with Condition 12 (Notices), to the Securityholders (which notice shall be irrevocable), as an alternative to an early redemption of the Securities at any time:

(i) exchange the Securities (the "**Exchanged Securities**"), or

(ii) vary the terms of the Securities (the "**Varied Securities**"),

so that:

(A) in the case of a Tax Deductibility Event, the Issuer is entitled to claim a deduction or a higher deduction (as the case may be) in respect of interest paid when computing its tax liabilities for Italian corporation income tax purposes as compared with the entitlement (in the case of the Issuer) after the occurrence of the relevant Tax Deductibility Event,

(B) in the case of a Withholding Tax Event, in making any payments in respect of the Exchanged Securities or Varied Securities the Issuer is only required to pay lesser or no Additional Amounts in respect of the Exchanged Securities or Varied Securities,

(C) in the case of an Accounting Event, immediately following such exchange or variation, no Accounting Event apply in respect of the Exchanged Securities or Varied Securities, as the case may be, or

(D) in the case of a Rating Methodology Event, immediately following such exchange or variation, no Rating Methodology Event apply in respect of the Exchanged Securities or Varied Securities, as the case may be,

and the Trustee shall, subject to the following provisions of this Condition 7, and subject to the receipt by it of the certificate by two duly authorised representatives of the Issuer referred to in Condition 7.2 below, agree to such exchange or variation.

Upon expiry of such notice, the Issuer shall either vary the terms of or, as the case may be, exchange the Securities in accordance with this Condition 7 and cancel such Exchanged Securities.

The Trustee shall (at the expense of the Issuer) enter into a supplemental trust deed and/or supplemental agency agreement with the Issuer (including indemnities satisfactory to the Trustee) solely in order to effect the exchange of the Securities, or the variation of the terms of the Securities, provided that the Trustee shall not be obliged to enter into such supplemental trust deed and/or supplemental agency agreement if the terms of the Exchanged Securities or the Varied Securities would impose, in the Trustee's opinion, more onerous obligations upon it or expose it to liabilities or reduce its protections. If the Trustee does not enter into such supplemental trust deed and/or supplemental agency agreement (and the Trustee shall have no liability or responsibility to any person if it does not do so), the Issuer may redeem the Securities as provided in Condition 6 (Redemption and Purchase).

7.2 Any such exchange or variation shall be subject to the following conditions:

(i) for as long as the Securities are listed on any stock exchange, the Issuer complying with the rules of the relevant stock exchange (or any other relevant authority) on which the Securities are for the time being admitted to trading, and (for so long as the rules of such exchange require) the publication of any appropriate supplement, listing particulars or offering circular in connection therewith, and the Exchanged Securities or Varied Securities continue to be admitted to trading on the same stock exchange as the Securities were admitted to trading immediately prior to the relevant exchange or variation;

(ii) the Issuer paying any outstanding Arrears of Interest in full prior to such exchange or variation or providing for the accrual of an amount equal to the Arrears of Interest under the terms of the Exchanged Securities or the Varied Securities (as applicable);

(iii) the Exchanged Securities or Varied Securities shall: (A) rank at least *pari passu* with the ranking of the Securities prior to the exchange or variation, and (B) benefit from the same interest rates and the same Interest Payment Dates, the same First Reset Date and early redemption rights (provided that the relevant exchange or variation may not itself trigger any early redemption right), a maturity date which shall not be longer than the maturity date of the Issuer as provided from time to time under the relevant by-laws, the same rights to accrued interest or Arrears of Interest and any other amounts payable under the Securities which, in each case, has accrued to the Securityholders and has not been paid, the same rights to principal and interest, and, if publicly rated by a Rating Agency which has provided a solicited rating at the invitation or with the consent of the Issuer, immediately prior to such exchange or variation, at least the same credit rating immediately after such exchange or variation by each such Rating Agency, as compared with the relevant solicited rating(s) immediately prior to such exchange or variation (as determined by the Issuer using reasonable measures available to it including discussions with the Rating Agencies to the extent practicable) (C) not contain terms providing for the mandatory deferral or cancellation of interest and (D) not contain terms providing for loss absorption through principal write-down or conversion to shares;

(iv) the terms of the exchange or variation, in the sole opinion of the Issuer (acting reasonably) not being prejudicial to the interests of the Securityholders, including compliance with (iii) above, as certified to the Trustee by two duly authorised representatives of the Issuer, having consulted in good faith with an independent financial institution of international repute or an independent financial adviser experienced in the international capital markets, and any such certificate shall be final and binding on all parties;

(v) the preconditions to exchange or variation set out in the Trust Deed having been satisfied, including the issue of legal opinions addressed to the Trustee (in form and substance satisfactory to the Trustee) (copies of which shall be made available to the Securityholders by appointment at the specified offices of the Trustee during usual office hours or at the Trustee's option may be provided by email to such holder requesting copies of such documents, subject to the Trustee (as applicable) being supplied by the Issuer with copies of such documents) from one or more international law firms of good reputation selected by the Issuer and confirming (x) that the Issuer has capacity to assume all rights, duties and obligations under the Exchanged Securities or Varied Securities (as the case may be) and has obtained all necessary corporate or governmental authorisation to assume all such rights and obligations and (y) the legality, validity and enforceability of the Exchanged Securities or Varied Securities;

(vi) the delivery to the Trustee of a certificate signed by two duly authorised representatives of the Issuer certifying each of the points set out in paragraphs (i) to (v) above.

The Trustee may rely absolutely upon and shall be entitled to accept such certificates and any such opinions, as are referred to in this Condition 7, without any liability to any person for so doing and without any further inquiry as sufficient evidence of the satisfaction of the criteria set out in such paragraphs, in which event it shall be conclusive and binding on the Securityholders and the Couponholders.

8 Taxation

8.1 Payment without Withholding

All payments of principal and interest in respect of the Securities and Coupons by the Issuer will be made without withholding or deduction for or on account of any Taxes imposed or levied by or on behalf of any Tax Jurisdiction, unless such withholding or deduction of the Taxes is required by law. In such event, the Issuer will pay such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts received by the Securityholders and Couponholders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Securities or, as the case may be, Coupons in the absence of such withholding or deduction; except that no Additional Amounts shall be payable:

(a) in respect of any Security or Coupon presented for payment

(i) in any Tax Jurisdiction; or

(ii) by or on behalf of a holder who is liable for such Taxes in respect of such Security or Coupon by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Security or Coupon; or

(iii) by or on behalf of a holder who would be able to avoid such withholding or deduction by making a declaration or any other statement including, but not limited to, a declaration of residence or non-residence, but fails to do so; or

(iv) more than 30 days after the Relevant Date 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 Presentation Date (as defined in Condition 5); or

(b) in relation to any payment or deduction on account of *imposta sostitutiva* pursuant to Decree No. 239 as amended and/or supplemented or, for the avoidance of doubt, Italian Legislative Decree No. 461 of 21 November 1997 as amended and supplemented and in all circumstances in which the procedures set forth in Decree No. 239 in order to benefit from a tax exemption have not been met or complied with; or

(c) in the event of payment by the Issuer to a non-Italian resident holder, to the extent that the holder is resident in a country which does not allow for a satisfactory exchange of information with the Italian authorities.

Notwithstanding anything to the contrary contained herein, the Issuer (and any other person making payments on behalf of the Issuer) shall be entitled to withhold and deduct any amounts required to be deducted or withheld pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), or otherwise imposed pursuant to (i) Sections 1471 through 1474 of the Code, or (ii) any regulations thereunder or official interpretations thereof, or (iii) an intergovernmental agreement between the United States and another jurisdiction facilitating the implementation thereof, or (iv) any law implementing such an intergovernmental agreement (any such

withholding or deduction, a "**FATCA Withholding**"), and no person shall be required to pay any additional amounts in respect of FATCA Withholding.

8.2 Additional Amounts

Any reference in these Conditions to any amounts in respect of the Securities shall be deemed also to refer to any Additional Amounts which may be payable under this Condition or under any undertakings given in addition to, or in substitution for, this Condition pursuant to the Trust Deed.

9 Prescription

The Securities and Coupons (which for this purpose shall not include Talons) will become void unless presented for payment within periods of 10 years (in the case of principal) and 5 years (in the case of interest) from the Relevant Date in respect of the Securities or, as the case may be, the Coupons, subject to the provisions of Condition 5. There shall not be included in any Coupon sheet issued upon exchange of a Talon any Coupon which would be void upon issue under this Condition or Condition 5.

10 Enforcement on the Liquidation Event Date and No Events of Default

10.1 No Events of Default

There are no events of default in relation to the Securities.

On the Liquidation Event Date, the Securities will become due and payable at an amount equal to their principal amount, together with any outstanding interest accrued up to (but excluding) the Liquidation Event Date and any outstanding Arrears of Interest.

On or following the Liquidation Event Date, no payments will be made in relation to the Junior Securities of the Issuer before all amounts due, but unpaid, on the Securities have been paid by the Issuer.

10.2 Enforcement on the Liquidation Event Date

On or following the Liquidation Event Date, the Trustee at its sole discretion and subject to Condition 10.3 may (subject to its being indemnified and/or secured and/or prefunded to its satisfaction), institute steps in order to obtain a judgment against the Issuer for any amounts due in respect of the Securities, including the institution of Insolvency Proceedings against the Issuer or the filing of a proof of claim and participation in any Insolvency Proceedings or proceedings for the liquidation, dissolution or winding-up of the Issuer (in which Insolvency Proceedings, liquidation, dissolution or winding-up the Securities shall immediately be due and payable at their principal amount together with any accrued but unpaid interest up to (but excluding) the date on which the Securities become so due and payable and any outstanding Arrears of Interest).

10.3 Enforcement by the Trustee

(a) Subject to sub-paragraph (b) below, the Trustee may at its discretion and without further notice, take such steps, actions or proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed, the Securities and the Coupons, but in no event shall the Issuer, by virtue of the initiation of any such steps, actions or proceedings, be obliged to pay any sum or sums sooner than the same would otherwise have been payable by it.

(b) The Trustee shall not be bound to take any action referred to in Conditions 10.2 or 10.3(a) above or any other action or steps under or pursuant to the Trust Deed, the Securities or the Coupons unless (a) it has been so directed by an extraordinary resolution of the Securityholders or so requested in writing by the holders of at least one-quarter in principal amount of the Securities then outstanding and (b) it has been indemnified and/or secured and/or prefunded to its satisfaction.

10.4 Enforcement by the Securityholders

No Securityholder or Couponholder shall be entitled to proceed directly against the Issuer or to institute any Insolvency Proceedings against the Issuer or to file a proof of claim and participate in any Insolvency Proceedings or institute proceedings for the liquidation, dissolution or winding-up of 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, in which case the Securityholder or Couponholder shall have only such rights against the Issuer as those which the Trustee would have been entitled to exercise pursuant to this Condition 10.

10.5 Limitation on remedies

No remedy against the Issuer, other than as referred to in this Condition 10, shall be available to the Trustee, the Securityholders and the Couponholders, whether for the recovery of amounts due in respect of the Securities or under the Trust Deed or in respect of any breach by the Issuer of any of its other obligations under or in respect of the Securities, the Coupons and the Trust Deed.

11 Replacement of Securities and Coupons

Should any Security or Coupon be lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Principal Paying Agent upon payment by the claimant of such costs and expenses as may be incurred in connection with the replacement and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Securities or Coupons must be surrendered before replacements will be issued.

12 Notices

All notices regarding the Securities will be deemed to be validly given (a) if published in a leading English language daily newspaper of general circulation in London and Ireland (it is expected that such publication will be made in the *Financial Times* in London and the *Irish Times* in Ireland) and (b) if and for so long as the Securities are admitted to trading on, and listed on the Euronext Dublin, on the Euronext Dublin's website, https://www.euronext.com/en/markets/dublin. 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 any other relevant authority) on which the Securities are for the time being listed or by which they have been admitted to trading. Any such notice will be deemed to have been given on the date of the first publication. 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 notices given to the Securityholders in accordance with this paragraph.

13 Meetings of Securityholders, Modification, Waiver, Authorisation, Determination and Substitution of the Issuer

13.1 Meetings of Securityholders

The Trust Deed contains provisions consistent with the laws, legislation, rules and regulations of the Republic of Italy (including without limitation Legislative Decree No. 58 of 24 February 1998, as amended) for convening meetings of the Securityholders to consider any matter affecting their interests, including any modifications of the Conditions or of any provisions of the Trust Deed.

According to the laws, legislation, rules and regulations of the Republic of Italy, such meetings will be validly held as a single call meeting or, if the Issuer's by-laws provide for multiple calls, as a multiple call meeting, if (i) in the case of a single call meeting, there are one or more persons present, being or representing Securityholders holding at least one-fifth of the aggregate nominal amount of the Securities, for the time being outstanding, or such a higher quorum as may be provided for in the Issuer's by-laws,

or (ii) in the case of a multiple call meeting, (a) there are one or more persons present being or representing Securityholders holding not less than one-half of the aggregate nominal amount of the Securities, for the time being outstanding; (b) in case of an adjourned meeting, there are one or more persons present being or representing Securityholders holding more than one-third of the aggregate nominal amount of the Securities for the time being outstanding; and (c) in the case of any further adjourned meeting, there are one or more persons present being or representing Securityholders holding at least one- fifth of the aggregate nominal amount of the Securities for the time being outstanding, provided that the Issuer's by-laws may in each case (to the extent permitted under the applicable laws and regulations of the Republic of Italy) provide for a higher quorum.

The majority to pass a resolution at any meeting (including, where applicable, an adjourned meeting) will be at least two-thirds of the aggregate nominal amount of the outstanding Securities represented at the meeting; provided however that (A) certain proposals, as set out in Article 2415 of the Italian Civil Code (including, for the avoidance of doubt, (a) any modification of the method of calculating the amount payable or modification of the date fixed for redemption or any date for payment of interest or, where applicable, of the method of calculating the date of payment in respect of any principal or interest in respect of the Securities or change of the subordination provisions of the Trust Deed and (b) any alteration of the currency in which payments under the Securities are to be made or the denomination of the Securities) may only be sanctioned by a resolution passed at a meeting of the Securityholders by the higher of (i) one or more persons holding or representing not less than one half of the aggregate nominal amount of the outstanding Securities, and (ii) one or more persons holding or representing not less than two thirds of the Securities represented at the meeting and (B) the Issuer's by-laws may in each case (to the extent permitted under applicable Italian law) provide for higher majorities.

Resolutions passed at any meeting of the Securityholders shall be binding on all Securityholders, whether or not they are present at the meeting, and on all Couponholders. In accordance with the Italian Civil Code, a *rappresentante comune*, being a joint representative of Securityholders, may be appointed in accordance with Article 2417 of the Italian Civil Code in order to represent the Securityholders' interest hereunder and to give execution to the resolutions of the meeting of the Securityholders.

13.2 Substitution of the Issuer

(a) The Trustee may, without the consent of the Securityholders or the Couponholders, agree with the Issuer to the substitution in place of the Issuer (or of any previous substitute under this Condition 13.2) as the principal debtor under the Securities, Coupons and the Trust Deed of another company, being any entity that will succeed to, or to which the Issuer (or those of any previous substitute under this Condition 13.2) will transfer, all or substantially all of its assets and business (or any previous substitute under this Condition 13.2) by operation of law, contract or otherwise, subject to (i) the Trustee being satisfied that such substitution does not result in the substituted issuer having an entitlement, as at the date on which such substitution becomes effective, to redeem the Securities pursuant to Conditions 6.3, 6.4, 6.5 or 6.6, and (ii) certain other conditions set out in the Trust Deed being satisfied.

(b) The Issuer has covenanted in the Trust Deed that, for so long as the Securities remain outstanding, it will not consolidate or merge with another company or firm or sell or lease all or substantially all of its assets to another company unless (i) if the Issuer merges out of existence or sells or leases all or substantially all of its assets, the other company assumes all the then-existing obligations of the Issuer (including, without limitation, all obligations under the Securities and the Trust Deed), either by law or contractual arrangements and (ii) certain other conditions set out in the Trust Deed are complied with.

(c) As long as the Securities are admitted to trading on the regulated market of Euronext Dublin and/or listed on the official list of Euronext Dublin, in the case of such a substitution, the Issuer will give notice

of any substitution pursuant to Condition 13.2(a) above to Euronext Dublin and, as soon as reasonably practicable but in any event not later than 30 calendar days after the execution of such documents required by, and the compliance with such other requirements of, the Trust Deed in connection with the substitution, notice of such substitution will be given to the Securityholders by the Issuer in a form previously approved by the Trustee in accordance with Condition 12, in which event the substitution shall be conclusive and binding on the Securityholders and the Couponholders.

13.3 Waiver, authorisation, determination and exercise by the Trustee of discretions etc.

The Trustee (i) may agree, without the consent of the Securityholders or Couponholders, to any modification (except as set out in the Trust Deed) of, or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of the Securities or the Trust Deed where, in any such case, it is not, in the opinion of the Trustee, materially prejudicial to the interests of the Securityholders or (ii) may agree, without any such consent as aforesaid, to any modification which is, in the opinion of the Trustee, of a formal, minor or technical nature or to correct an error which is manifest. Any such modification, waiver, authorisation or determination shall be binding on the Securityholders and the Couponholders and, unless the Trustee otherwise agrees, any such modification shall be notified to the Securityholders in accordance with Condition 12 as soon as practicable thereafter.

13.4 Trustee to have Regard to Interests of Securityholders as a Class

In connection with the exercise by it of any of its trusts, powers, authorities and discretions (including, without limitation, any modification, waiver, authorisation, determination or substitution), the Trustee shall have regard to the general interests of the Securityholders as a class (but shall not have regard to any interests arising from circumstances particular to individual Securityholders or Couponholders whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual Securityholders 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 subdivision thereof and the Trustee shall not be entitled to require, nor shall any Securityholder 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 Securityholders 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.

14 Indemnification of the Trustee and its Contracting with the Issuer

14.1 Indemnification of the Trustee

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 and/or prefunded to its satisfaction.

14.2 Trustee Contracting with the Issuer

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 Subsidiary and to act as trustee for the holders of any other securities issued or guaranteed by, or relating to, the Issuer and/or any Subsidiary, (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 Securityholders 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.

15 Further Issues

The Issuer is at liberty from time to time without the consent of the Securityholders or Couponholders to create and issue further securities 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 securities or bonds of any series (including the Securities) 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. Any further securities or bonds which are to form a single series with the outstanding securities or bonds of any series (including the Securities) constituted by the Trust Deed or any supplemental deed shall, and any other further securities or bonds may (with the consent of the Trustee), be constituted by a deed supplemental to the Trust Deed. The Trust Deed contains provisions for convening a single meeting of the Securityholders and the holders of securities or bonds of other series in certain circumstances where the Trustee so decides.

16 Governing Law and Submission to Jurisdiction

16.1 Governing Law

The Trust Deed, the Securities and the Coupons and any non-contractual obligations arising out of or in connection with the Trust Deed, the Securities and the Coupons are governed by, and shall be construed in accordance with, English law, except for Conditions 3.1 and 3.2, which shall each be governed by Italian law. Condition 13.1 and the provisions of the Trust Deed concerning the meeting of Securityholders and the appointment of the *rappresentante comune* in respect of the Securities are subject to compliance with Italian law.

16.2 Jurisdiction of English Courts

The Issuer has, in the Trust Deed, irrevocably agreed for the benefit of the Trustee, the Securityholders and the Couponholders that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Securities or the Coupons (including any disputes relating to any non- contractual obligations which may arise out of or in connection with the Trust Deed, the Securities or the Coupons) and accordingly has submitted to the exclusive jurisdiction of the English courts.

The Issuer has, in the Trust Deed, waived any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum.

16.3 Appointment of Process Agent

The Issuer has, in the Trust Deed, irrevocably and unconditionally appointed Law Debenture Corporate Services Limited at its registered office at 8th Floor 100 Bishopsgate, London, EC2N 4AG, United Kingdom as its agent for service of process and undertakes that, in the event of Law Debenture Corporate Services Limited ceasing so to act or ceasing to be registered in England, it will appoint another person approved by the Trustee as its agent for service of process in England in respect of any proceedings. Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

17 Rights of Third Parties

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

DESCRIPTION OF THE ISSUER

Please refer to the information on ENEL and the ENEL Group in the documents incorporated herein by reference as set out in the "*Incorporation by Reference*" section.

OVERVIEW OF THE APPLICABLE ITALIAN INSOLVENCY LAWS REGIME IN FORCE

The Italian insolvency laws and regulations have recently been replaced by a new comprehensive legal framework in order to regulate, *inter alia*, insolvency matters (so called "**Code of Business Crisis and Insolvency**", hereinafter the "**Insolvency Code**"). More specifically, the Italian government approved on 12 January 2019 the Legislative Decree No. 14 of 12 January 2019 implementing the guidelines contained in Law No. 155 dated 19 October 2017 contending the scheme of a new comprehensive legal framework in order to regulate, *inter alia*, insolvency matters (the "**Legislative Decree**"), which enacts the Insolvency Code. The Legislative Decree was published in the Gazzetta Ufficiale on 14 February 2019 no. 38—Suppl. Ordinario no. 6. The main innovations introduced by the Insolvency Code include: (i) the elimination of the term "bankrupt" (*fallito*) due to its negative connotation and the replacement of bankruptcy proceedings (*fallimento*) with a judicial liquidation (*liquidazione giudiziale*); (ii) a new definition of "state of crisis"; (iii) the adoption of the same procedural framework in order to ascertain such state of crisis and to access the different judicial insolvency proceedings provided for by the same Insolvency Code; (iv) the adoption of definition of debtor's "center of main interest" as provided in the new set of rules concerning group restructurings; (v) restrictions to the use of the pre-bankruptcy composition with creditors (*concordato preventivo*) in order to favour going concern proceedings; (vi) the introduction of provisions dedicated to the group of companies; (vii) jurisdiction of specialized courts over proceedings involving large debtors; (viii) the introductions of specific provisions in relation to the adoption of the measures and arrangements aimed at the early detection of business crisis; and (ix) amendments to certain provisions of the Italian Civil Code aimed at ensuring the general effectiveness of the reform. The Insolvency Code has been amended and supplemented, *inter alia*, by Legislative Decree No. 147 of 26 October 2020 (as amended and supplemented, most recently by Legislative Decree No. 83 of 17 June 2022), providing the first corrective intervention to the Insolvency Code.

Except for minor changes in some provisions of the Italian Civil Code, which entered into force on 16 March 2019, in response to Covid-19 pandemic, the main provisions set out in the Insolvency Code were expected to come into force 18 months after its publication in the Gazzetta Ufficiale (*i.e.*, on 15 August 2020); the entry into force of Insolvency Code has been originally postponed to 1 September 2021, according to article 5 of the Law Decree No. 23 of 8 April 2020 as converted by Law No. 40 of 5 June 2020 (the "**Liquidity Decree**"), then, pursuant to the Law Decree No. 118 dated 24 August 2021, published in the Gazzetta Ufficiale No. 2021 of 24 August 2021, as converted into law pursuant to L. n. 147 of 21 October 2021, published in the Gazzetta Ufficiale No. 253 of 23 October 2021 (the "**Decree 118/2021**") to 16 May, 2022, and is now is effective from 15 July 2022.

Furthermore, please note that the Decree 118/2021, *inter alia*, has introduced a new negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*); and the simplified composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) for the liquidation of the assets.

Please also note that, the Council of Minister has approved the Legislative Decree scheme on further amendments to the Insolvency Code aimed at implementing the UE Directive 2019/1023 of the European Parliament and of the Council of 20 June 2019, on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (*Directive on restructuring and insolvency*), taking into account the opinions expressed by the *Consiglio di Stato* and the relevant parliamentary committees.

On 15 July 2022, the Insolvency Code, as amended and supplemented from time to time, came – entirely – into force, without prejudice to the transitory rules provided under article 390 for the applications and insolvency

proceedings already pending/opened pursuant to the Royal Decree no. 267 of 16 March 1942, as amended from time to time (the "**Bankruptcy Law**") as of that date.

In this respect, it shall be noted that, all the insolvency proceedings started before / pending as of 15 July 2022 (*i.e.* the date of the entry into force of Insolvency Code) will continue to be governed by the provisions of the Italian laws (including Bankruptcy Law).

Considering the above, for the sake of clarity the following analysis will cover, both: (i) the Italian laws (including Bankruptcy Law) in place until 15 July 2022; and (ii) the Italian insolvency laws (including the Insolvency Code) applicable and into force as the date hereof.

Italian laws (including Bankruptcy Law) – applicable to proceeding started before / pending as of 15 July 2022 only (*i.e.* the date of the entry into force of Insolvency Code)

Below is a summary of certain relevant features of the following type of proceedings started before / pending as of the entry into force of Insolvency Code:

(a) bankruptcy (*fallimento*) under the provisions of Bankruptcy Law;

(b) composition with creditors (*concordato preventivo*) under the provisions of the Bankruptcy Law;

(c) negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) under Decree 118/2021;

(d) simplified composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) under Decree 118/2021;

(e) reorganization plans pursuant to article 67, Paragraph 3(d) of Bankruptcy Law;

(f) debt restructuring agreements pursuant to article 182-*bis* of the Bankruptcy Law.

As per the summary of the extraordinary administration for large insolvent companies (*amministrazione straordinaria delle grandi imprese insolventi*) under Legislative Decree No. 270 of 8 July 1999, as amended ("**Decree 270**") and extraordinary administration for the industrial restructuring of large insolvent companies (*amministrazione straordinaria per la ristrutturazione industriale delle grandi imprese insolventi*) under Law Decree No. 347 of 23 December, 2003, converted into law, with amendments, by Law No. 39 of 18 February 2004, as amended ("**Decree 347**") – which, for businesses performing essential public services, is also governed by Law Decree 134 of 28 August 2008 ("**Decree 134**") as well as the specific insolvency proceeding called forced administrative liquidation procedure (*procedura di liquidazione coatta amministrativa*) to which may be subject certain public interest entities (including, *inter alia*, insurance companies, credit institutions and other financial institutions) are not technically subject to ordinary, please see the specific paragraphs under the section "*Italian laws (including Insolvency Code) applicable after 15 July 2022 (i.e. the date of the entry into force of Insolvency Code)*" below.

For the sake of clarity, the following analysis will focus on the Italian insolvency laws, as amended and supplemented from time to time, into force before the date of effectiveness of the Insolvency Code (*i.e.* 15 July 2022).

The proceedings indicated in paragraphs (a) and (b) would be initiated by petition to the competent court.

The negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) is initiated by the company by filing an application for the appointment of an independent expert to the Secretary General of the relevant Chamber of Commerce by way of a dedicated electronic platform.

Please note that the procedures indicated in paragraphs (e) and (f), although disciplined by the Bankruptcy Law, are not generally qualified as insolvency procedures.

***Bankruptcy proceedings (*fallimento*)* under Bankruptcy Law**

Pursuant to Bankruptcy Law, a company may be declared bankrupt recurring two requirements:

(i) an objective requirement, which is met if any of the following thresholds are met: (a) annual balance sheet assets (*attivo patrimoniale*) greater than Euro 300,000 in the last three financial years (from the date on which the petition for bankruptcy was filed) or from the establishment of the company if it has been incorporated less than three years before the petition for bankruptcy; (b) annual gross proceeds (*ricavi lordi*) greater than Euro 200,000 over the last three financial years (from the date on which the petition for bankruptcy was filed) or from the establishment of the company if it has been incorporated less than three years before the petition for bankruptcy; or (c) indebtedness (including debt that is not overdue and payable) greater than Euro 500,000; and

(ii) a subjective requirement, which is met when a company carries out a commercial activity and is "insolvent". Under Italian law the concept of insolvency is defined as the inability of the debtor to regularly settle its obligations as they become due. A debtor can be declared bankrupt (*fallito*) (either by its own initiative or upon the initiative of any of its creditors or of the public prosecutor) if it is insolvent (i.e. it is unable to regularly pay its debts as they fall due). As a consequence of the declaration of bankruptcy, the debtor loses control over all its assets and over the management of its business which is taken over by a court-appointed receiver (*curatore fallimentare*). Once the bankruptcy proceeding is commenced, no enforcement and interim proceedings can be brought or continued against the debtor over the assets included in the bankruptcy estate.

Upon the commencement of bankruptcy proceedings, amongst other things:

(i) subject to certain exceptions, all actions of creditors are stayed and creditors must file claims within a defined period;

(ii) under certain circumstances secured creditors may enforce the security interests granted in relation to their claims as soon as their claims are admitted as preferred claims. Secured claims are paid out of the proceeds of liquidation of the secured assets, together with the applicable interest and subject to any relevant expenses. In case the sale price is not high enough to determine a full satisfaction of their credits, any outstanding balance will be considered unsecured and rank *pari passu* with all of the bankrupt's other unsecured debt. Secured creditors may sell the secured asset only with the court authorization. After hearing the bankruptcy receiver (*curatore fallimentare*) and the creditors' committee, the court decides whether to authorize the sale, and sets forth the relevant timing in his or her decision;

(iii) the administration of the debtor and the management of its assets are transferred to the bankruptcy receiver (*curatore fallimentare*);

(iv) continuation of business may be authorized by the court if an interruption would cause greater damage to the company, but only if the continuation of the company's business does not cause damage to creditors;

(v) any act (including payments, pledges and issuances of guarantees) made by the debtor, other than those made through the receiver, after (and in certain cases even before for a limited period of time) the declaration of bankruptcy with respect to the creditors becomes (or could become if made before) ineffective against creditors; and

(vi) the execution of certain contracts and/or transactions pending as of the date of bankruptcy's declaration are suspended until the receiver decides whether to take them over.

Bankruptcy Law distinguishes between gratuitous acts or transactions carried out in the two years before the declaration of bankruptcy, which are automatically considered ineffective vis-à-vis the creditors, and acts or transactions which may be clawed back in case they have been performed within either one year or six months before the declaration of bankruptcy. The first category, disciplined by articles 64 and 65 of the Bankruptcy Law includes, for example, transactions entered into under no consideration and advanced payments of debts falling due on the day of the declaration of insolvency or thereafter. The second category, disciplined by article 67 of the Bankruptcy Law, includes, for instance transactions entered into for consideration in case the value of the debts or of the obligations undertaken by the debtor exceeds by 25% the value of the consideration received by and/or promised to the debtor, payments of due and payable debts which were not paid in cash or by other customary means of payment in the year preceding the declaration of bankruptcy, granting of liens for pre-existing debts not yet due and payable, granting of liens for debts due and payable (whose suspect period is reduced to six months, instead of one year) (in these cases, it is the creditor the one bearing the burden to prove that it had no actual or constructive knowledge of the debtor's insolvency at the time the transaction was entered into) the "ordinary course transactions" (*i.e.* conveyances for adequate consideration, payment of due debts, and granting of security interests securing debts (even those of third parties) simultaneously incurred) if made during the six months preceding the declaration of bankruptcy (in these cases, the receiver will need to give evidence that the creditor had actual or constructive knowledge of the debtor's insolvency at the time the transaction was entered into).

In addition to the above, under article 66 of the Bankruptcy Law, which refers to article 2901 of the Italian Civil Code (that – in turn - provides for a general and ordinary claw back action (*revocatoria ordinaria*) – that may be brought against the debtor (and its counterparty) also in case no bankruptcy proceedings are pending), acts by which the debtor disposes of its assets (other than payments of due and payable amounts) may be clawed back if the receiver in bankruptcy can prove that the debtor was aware of the prejudice that such act would cause to its creditors (including future creditors, to the extent that the act was made in order to create such prejudice) and, to the extent that the act was non-gratuitous act, the counterparty was aware of such prejudice.

Certain specific transactions are exempted from the claw-back and set-aside actions, including, but not limited to: (i) payment of goods and services made in the ordinary course of business on customary market terms and conditions; (ii) payment of salaries to employees; and (ii) transactions, payments, guarantees and securities in the context of a restructuring plan certified by an expert pursuant to article 67, para. 3, letter (d) of the Bankruptcy Law, a Court-supervised composition with creditors or a debt restructuring agreement pursuant to article 182-*bis* of the Bankruptcy Law homologated by the Court.

Continuation of business may be authorized by the court if an interruption would cause a prejudice, but only if the continuation of the company's business does not damage the creditors. The execution of certain contracts and/or transactions whose obligations have not been performed in full by both parties at the date in which bankruptcy is declared is suspended until the receiver decides whether or not take them over, unless differently provided for under the Bankruptcy Law.

As far as receivables vis-à-vis the bankruptcy proceedings are concerned, each creditor must lodge his claims with the competent court; the judge delegated by the court (*giudice delegato*), upon proposal of the receiver, will decide which claims are admitted to the statement of liabilities, for which amount they are admitted and whether the claims are to be qualified as secured of not. Each creditor may challenge (*opposizione*) the decision of the judge in front of the court. The same procedure applies also to individuals and entities claiming the right to obtain the restitution of assets. The sale of the debtor's assets is carried out by the receiver through public auctions in compliance with a liquidation program proposed by the receiver and approved by the creditors' committee. The Bankruptcy Law provides for the formation of a creditors' committee composed of three or five

members, which consults with the receiver. These proceedings are ultimately aimed at the distribution of the proceeds of sale of the debtor's assets among creditors admitted to the statement of liabilities, in accordance with statutory priority.

Under Italian law neither the debtor nor the court can deviate from the rules of statutory priority proposing alternative priorities of claims or subordinating specific claims on the basis of equitable principles. Consequently, contractually granted priorities such as those commonly provided for in intercreditor contractual arrangements may not be enforceable against Italian bankruptcy proceedings on the grounds that they may be considered inconsistent with mandatory provisions.

In particular, pursuant to article 111 of the Bankruptcy Law proceeds of liquidation shall be allocated according to the following order: (i) for payments of super-senior claims (*crediti prededucibili*) including, *inter alia*, claims originated in the insolvency proceeding, such as costs related to the procedure); (ii) for payment of claims which are privileged, such as claims of secured creditors; and (iii) for the payment of unsecured creditors' claims. Under Italian law, the highest priority claims (after the costs of the proceedings are paid) are the claims of preferential creditors, including, *inter alia*, a claim whose priority is legally acquired (*i.e.*, repayment of rescue or *interim* financing), claims of the Italian tax authorities and social security administrators, and the claims for employee wages. Under certain circumstances, claims of preferential creditors might include claims of certain entities and/or financial institutions providing credit support for economic development of companies in the form of, among others, financial guarantees to facilitate companies' access to credit, due to Italian law provisions providing that, subject to certain conditions and save for certain exceptions, should a guarantee issued by certain guarantee providers be enforced by the companies' direct creditors and the relevant guarantee provider exercise its right of subrogation arising therefrom, the claims of such guarantee provider towards the company may be given a preference in payment (including in respect of proceeds from enforcement of security interest); applicable Italian law provisions relating to the possible preferential treatment of the abovementioned claims are largely untested in the Italian courts and, therefore, it is uncertain whether and to what extent any priority would be assigned by a court to such claims. The remaining priorities of claims are, in order of priority, those related to secured creditors (*creditori privilegiati*; a preference in payment in most circumstances, but not exclusively, provided for by law), mortgages (*creditori ipotecari*), pledges (*creditori prignoratizi*) and, lastly, unsecured creditors (*crediti chirografari*).

The Securityholders would not have a right as a class to appoint a representative to a creditors' committee.

Bankruptcy arrangement proposal with creditors (*concordato fallimentare*) under Bankruptcy Law

Bankruptcy proceedings can terminate prior to liquidation through a bankruptcy arrangement proposal with creditors (*concordato fallimentare*). The relevant petition may be filed by one or more creditors or third parties immediately after the declaration of bankruptcy, whereas the debtor (or its subsidiaries) are allowed to file such proposal only after one year following the declaration but within two years from the decree granting effectiveness to the bankruptcy's estate. The petition may provide for the subdivision of creditors into different classes (thereby proposing different treatments among the classes), debts' rescheduling and the satisfaction of creditors' claims in any manner. The petition may provide for the possibility that secured claims are paid only in part. The *concordato fallimentare* proposal must be approved by the creditors' committee and the creditors holding the majority of claims (and, if classes are formed, by a majority of the claims in a majority of the classes). Secured creditors are not entitled to vote on the proposal of *concordato fallimentare*, unless *(i)* they waive their security; or *(ii)* the *concordato fallimentare* provides that they will not receive full satisfaction of the fair market value of their secured assets (please note that such value must be assessed by an independent expert), in which case they can vote only in respect of the portion of their debt affected by the proposal. Final court confirmation is also required.

Composition with creditors proceedings (*concordato preventivo*) under Bankruptcy Law

Prior to the declaration of bankruptcy, a debtor that is in a status of non-irreversible insolvency or in a situation of crisis (e.g., facing financial difficulties which do not yet amount to insolvency) may file for a composition with creditors proceeding (*concordato preventivo*) by submitting to the competent court a plan for the composition with its creditors which may provide, *inter alia*, for:

(i) the restructuring of debts and the satisfaction of creditors in any manner even through assignments of debts, assumption (*accollo*) or extraordinary transactions, including the issue of shares, quotas, bonds (also convertible into shares) or other financial instruments and securities (provided that, in the event of a composition with creditors providing for the liquidation (*concordato preventivo liquidatorio*), that it will ensure payment of at least 20% of the unsecured receivables. Such provision does not apply to composition with creditors with continuity of the going concern (*concordato con continuità aziendale*) pursuant to article 186-*bis* of the Bankruptcy Law) including through extraordinary transactions, such as the granting to creditors and to their subsidiaries or affiliated companies of shares, bonds (including bonds convertible into shares), or other financial instruments and debt securities;

(ii) the assumption of all debts and assets by a of a third-party (which may also be a creditor); tax settlement for the partial or deferred payment of certain taxes;

(iii) the division of the creditors into different classes; and/or

(iv) different treatments for creditors belonging to different classes.

The Decree 118/2021, by amending article 186-*bis* of the Bankruptcy Law, has provided that, in the context of a composition with creditors on a going concern basis, the plan may provide for a standstill of up to two years from the date of homologation of the composition with creditors proposal (instead of the previous term of one year) for the payment of secured creditors, except in case of liquidation of the assets or rights on which the security has been created. This provision applies to plans submitted after the entry into force of the Decree 118/2021 (*i.e.* on 25 August 2021).

The petition must be accompanied and supported by a restructuring plan proposed to the creditors and by an independent expert report assessing, *inter alia*, the feasibility of the arrangement proposal and the truthfulness of the business data on which the plan is grounded. After the filing, the petition is published by the court in the companies' register. Between the publishing in the companies' register of the proposal for composition with creditors and its homologation by the court, the debtor enjoys an automatic stay of actions. In addition, mortgages registered within 90 days preceding the date on which the petition for is published in the companies' register are ineffective vis-à-vis pre-existing creditors. In case continuation of business is provided for, the report of the independent expert shall also certify that it will ensure a higher satisfaction of creditors' claims than other insolvency proceedings.

The court determines whether the proposal for the composition is admissible, in which case the court, *inter alia*, delegates a judge to follow the procedure, appoints one or more judicial officers (*commissari giudiziali*) and calls the creditors' meeting. During the implementation of the proposal, the company generally continues to be managed by its corporate bodies (usually its board of directors), but is supervised by the appointed judicial officers and judge (who will authorize all transactions that exceed the ordinary course of business).

Pursuant to article 169-*bis* of the Bankruptcy Law, the debtor may request the competent court to be authorized to terminate outstanding agreements (*contratti ancora ineseguiti o non compiutamente eseguiti*), except for certain agreements which are excluded from the scope of the above provision (e.g., employment agreements (*rapporti di lavoro subordinato*), residential real estate preliminary sale agreements (*contratti preliminari di vendita aventi ad oggetto immobili ad uso abitativo*) and real estate lease agreements (*contratti di locazione di immobili*)). The request may be filed with the competent court at the time of the filing of the application for the *concordato preventivo* or to the judge (*giudice delegato*), if the application is made after admission to the

procedure. Upon the debtor's request, the pending agreements can also be suspended for a period of time not exceeding 60 days, renewable just once. In such circumstances, the other party has the right to receive an indemnification equivalent to the damages suffered for the non-fulfillment of the agreement. Such indemnification would be treated as a receivable preceding the pre-bankruptcy composition with creditors (*concordato preventivo*).

The *concordato preventivo* is voted on at a creditors' meeting and must be approved with the favourable vote of the creditors representing the majority of the receivables admitted to vote and, in the event that the *concordato* plan provides for more classes of creditors, and the majority of the classes.

In accordance with article 177 of the Bankruptcy Law, the composition with creditors is considered approved by the creditors if it is approved, at the creditors meeting or within 20 days thereafter, by the majority of the creditors entitled to vote (and, in case of different classes of creditors, also by the majority of the creditors within each class). The court may also approve the composition with creditors in case of challenges brought by dissenting creditors if: (i) the majority of classes has approved it; and (ii) the court deems that the interests of the dissenting creditors would be adequately safeguarded through it compared to other solutions; please consider that the convenience of the composition with creditors may only be challenged by dissenting creditors pertaining to one or more dissenting classes or, in case of a sole class, by dissenting creditors representing at least 20 per cent. of the credits admitted to the vote. In such case, the composition with creditors may nevertheless be approved if the court deems that the composition with creditors would satisfy the interests of the dissenting creditors for an amount not less than that which would have been achieved under other practicable solutions. The court approves the *concordato preventivo* even in the absence of a vote by the tax authority or by the social contribution entities (*enti gestori di forme di previdenza o assistenza obbligatorie*) when their accession is decisive for the purposes of achieving the majorities referred to in article 177 of the Bankruptcy Law and when, also on the basis of the result of the report of the independent expert referred to in article 161, third paragraph of the Bankruptcy Law, the proposal to satisfy the aforesaid authorities and entities is convenient compared to the liquidation alternative. In such case, pursuant to the Decree 118/2021, the accession of the tax authority or the social contribution entities (as the case may be) must occur within 90 days from the filing of the proposal of the debt-restructuring agreement.

The debtor is allowed to carry out urgent extraordinary transactions only upon the prior court's authorization, while ordinary transactions may be carried out without authorization. Third-party claims, related to the interim acts legally carried out by the debtor, are preferred pursuant to article 111 of the Bankruptcy Law.

Law Decree 83/2015, as amended by Law 132/2015, introduced, under para. 4 and 5 of article 163 of the Bankruptcy Law, the possibility for creditors (except for individuals or entities controlled, controlling or under common control of the debtor) holding at least 10% of the aggregate claims against a debtor to present an alternative proposal and plan to the debtor's proposal, subject to certain conditions being met, including, in particular, that the proposal of the debtor does not ensure recovery of at least *(i)* 40% of the unsecured claims in case of proposal for composition with creditors with liquidation purpose; or *(ii)* 30% of the unsecured claims in case of proposal for composition with creditors based on the continuation of the going concern.

In addition, in order to strengthen the position of the unsecured creditors, Law 132/2015 sets forth that, in order to be admissible, composition with creditors with liquidation purpose must ensure that the unsecured creditors are paid in a percentage of at least 20% of their claims. This provision does not apply to composition with creditors based on the continuation of the going concern. To the extent the alternative plan is approved by the creditors and homologated, the court may grant special powers to the judicial commissioner to implement the plan if the debtor does not cooperate, including by taking all corporate actions required.

In addition, article 163-*bis* of the Bankruptcy Law, introduced by Law Decree 83/2015, as amended by Law 132/2015, provides that, if the plan includes an offer for the sale of the debtor's assets or of the debtor's going

concern (or of parts of it) to a specific third party, the court must open a competitive bidding process concerning the assets. After the creditors' approval, the court (after having settled possible objections raised by the dissenting creditors, if any) must confirm the proposal for composition with creditors issuing a confirmation order. If the approval fails, the court may, upon request of the public prosecutor or a creditor and after having ascertained the condition for declaration of bankruptcy, declare the company bankrupt.

In response to the COVID-19 pandemic, according to article 9 of the Liquidity Decree extended by six months the deadlines for the fulfilment of *concordati preventivi* and the ratified debt restructuring agreements (*accordi di ristrutturazione omologati*) expiring after 23 February 2020. In the procedures for the sanctioning (*omologazione*) of a *concordato preventivo* and of a debt restructuring agreement with creditors (*accordo di ristrutturazione dei debiti*), that are still pending before the court on 23 February 2020, the debtor may submit, until the hearing, a petition for the grant of an extension up to 90 days for the deposit of a new plan and a new proposal for a *concordato* in accordance with article 161 of the Bankruptcy Law or a new debt restructuring agreement pursuant to article 182-*bis* of the Bankruptcy Law. The period starts from the date of the decree by which the court assigns the term, and it shall not be extended. The request is inadmissible if submitted in the context of a *concordato preventivo* in the course of which a meeting of creditors was already held but for which the majorities according to article 177 of the Bankruptcy Law were not reached.

The provisions of article 161, para. 6 of the Bankruptcy Law, as amended by Law 134, allows a debtor to file a petition for admission to the composition with creditors (together with the financial statements of the last three financial years and the list of creditors with the reference to the amount of their respective receivables) asking the court to set a deadline of (a) between 60 and 120 days from the date of filing of the preliminary petition or (b) 60 days in the event where a bankruptcy proceeding is pending (in both cases subject to only one possible further extension of up to 60 days, where there are reasonable grounds (*giustificati motivi*) for such extension) in order to file a composition plan for court approval or, as an alternative, to reach a court approved private restructuring as addressed by article 182-*bis* of the Bankruptcy Law. During such period, the debtor enjoys a stay of actions.

As a temporary exception to the abovementioned rule, it shall be noted that, pursuant to the Decree 118/2021, starting from after the entry into force of the Decree (i.e. on 25 August 2021) and until the end of the state emergency in Italy (currently set until 31 December, 2021), the deadline for filing the plan, the proposal and all the relevant documentation is between 60 and 120 days from the date of the filing of the preliminary petition (subject to only one possible further extension of up to 60 days, where there are reasonable grounds (*giustificati motivi*) for such extension) also in the event where a bankruptcy proceeding is pending. In advance of such deadline, the debtor may also file a petition for the approval of a debt restructuring agreement (pursuant to article 182-*bis* of the Bankruptcy Law).

In the event of the filing of pre-application, if the court accepts it: (i) it appoints a judicial commissioner to overview the company, who, if the debtor has carried out one of the activities under article 173 of Bankruptcy Law (e.g., concealment of part of assets, omission to report one or more claims, declaration of non-existent liabilities or commission of other fraudulent acts), shall report it to the court, which, upon further verification, may reject the petition at court for composition with creditors; and (ii) sets forth reporting and information duties of the debtor during the above mentioned period; please note that the debtor is mandatorily required to file, on a monthly basis, the company's financial position, which is published, the following day, in the companies register. Non-compliance with these requirements results in the application for the composition with creditors being declared inadmissible and, upon request of the creditors or the public prosecutor and provided that the relevant requirements are verified, in the adjudication of the debtor(s) into bankruptcy. The debtor cannot file such pre-application in case it filed a pre-petition in the previous two years without the admission to the composition with creditors (or the homologation of a debt restructuring agreement) having followed.

If the activities carried out by the debtor company appear to be clearly inappropriate to the preparation of the application and the restructuring plan, the court may, ex officio, after hearing the debtor and – if appointed – the judicial commissioner, reduce the time for the filing of additional documents. Following the filing of the pre-application and until the decree of admission to the composition with creditors, the distressed company may *(i)* carry out acts pertaining to its ordinary activity and *(ii)* seek the court's authorization to carry out acts relating to its extraordinary activity, to the extent they are urgent.

Claims arising from acts lawfully carried out by the distressed company are treated as super senior (*prededucibili*) pursuant to article 111 of the Bankruptcy Law and the related acts, payments and security interests granted are exempted from the claw-back action provided under article 67 of Bankruptcy Law.

The procedure of the composition with creditors will end with a decree which is to be issued by the competent court. If the court or the creditors reject the offer, to the extent the relevant conditions are met, the entrepreneur may be declared bankrupt by the court upon petition by any creditor and/or by the public prosecutor.

For the analysis of the rules regulating the new financial resources please see the specific section under paragraph "*New financial resources"* below.

Simplified composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) under Decree 118/2021

The negotiated crisis composition procedure is a negotiated and out-of-court procedure, which entered into force starting from 15 November 2021, and is aimed at facilitating the recovery of companies which - as specified in the explanatory report to the Decree 118/2021 "*despite being in conditions of asset or economic and financial imbalance such as to make it likely that financial distress or insolvency will occur, have the potential to remain going concern, including through the sale of the business or a branch of it*".

The Decree-Law no. 152 of 6 November 2021, converted, with amendments, by Law No. 233 of 29 December, 2021, *inter alia*, has introduced additional provisions on the operation of the national telematic platform for the negotiated crisis composition procedure.

As mentioned, the negotiated crisis composition procedure is a negotiated and out-of-court procedure but the court can be involved in the two following circumstances: (i) when the entrepreneur files a petition pursuant to article 7 of the Law Decree 118/2021 requesting the court competent pursuant to article 9 of the Bankruptcy Law, to confirm or modify the protective measures provided for pursuant to article 6 of the Decree 118/2021 on the same day as the publication of the request in the relevant Companies' Register and the acceptance of the expert, and, if necessary, to enact the interim measures necessary to complete the negotiations, and (ii) when the entrepreneur files a petition pursuant to article 10 of the Decree 118/2021 asking the court to authorize certain acts, or to modify the conditions of certain contracts if, as a consequence of the Covid-19 pandemic, such contracts pose an excessive burden on the entrepreneur.

The procedure is initiated by the company by filing an application for the appointment of an independent expert to the Secretary General of the relevant Chamber of Commerce by way of a dedicated electronic platform and the expert is appointed within 5 days of the filing of the request.

Transactions authorised by the Court in the course of the negotiated crisis composition procedure (such as, for example, the transfer of the business or the granting of super-senior loans) retain their effectiveness even if an insolvency proceeding is subsequently opened against the company. Law Decree No. 118/2021 also provides – subject to certain conditions - for a partial exemption from claw-back actions for transactions, payments and guarantees executed by the company in the period following the acceptance of the assignment by the expert.

The expert is responsible for facilitating negotiations between the company, its creditors and any other interested parties, in order to identify a solution to overcome the crisis or insolvency, including through the transfer of the

business or a branch thereof. The procedure does not lead to the opening of a formal insolvency proceeding nor to any dispossession of the company, which remains able to continue the ordinary and extraordinary management of the company, subject to certain conditions. Once a suitable solution to overcome the company's difficulties has been found, the parties may, alternatively, resort to contractual agreements, or make use of one of the proceedings regulated by the Bankruptcy Law.

In this respect, please also note that, as better indicated below, according to the abovementioned Legislative Decree scheme on further amendments to the Insolvency Code, *inter alia*, after the entry into force of the Insolvency Code, the negotiated crisis composition procedure is regulated under the Title II of the First Part of the Insolvency Code and replaced the so called "alert and assisted crisis resolution measures" originally provided under the Insolvency Code.

Simplified composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) under Decree 118/2021

As mentioned above, the Decree 118/2021 has also introduced the simplified court-supervised composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) for the liquidation of the assets. In particular, if the expert, in the final report produced at the end of the negotiated crisis composition procedure, declares that the negotiations have not been successful but have been conducted according to fairness and good faith and that the company has not been able to reach an agreement with his creditors, the expert may submit, within 60 days of the delivery of the aforesaid final report, to the competent court of the place where the company has its registered office, a proposal for a simplified composition with creditors proceeding by assignment of assets together with the liquidation plan and other documents indicated under article 161, para. 2, letters (a), (b), (c) and (d) of the Bankruptcy Law, which may contain the divisions of the directors into classes.

Following the submission of such application, the court (i) appoints a so-called "auxiliary" (*ausiliario*) to, inter alia, express an opinion on the company's proposal; (ii) orders that the proposal, together with the opinion of the auxiliary and the final report of the expert, be delivered by the debtor to the creditors appearing on the list filed by the debtor itself; and (iii) sets the date of the hearing for the court approval (*omologazione*). Creditors and any third party which has any interests are entitled to object to the court approval within ten days before the date fixed for the hearing. If the court, having verified the legitimacy of the objection and the procedure, as well as compliance with priority creditor claims and the feasibility of the liquidation plan, finds that the proposal does not prejudice the creditors with respect to the alternative of a bankruptcy liquidation and that, in any event, it ensures a benefit to each creditor, it approves the composition with creditors proposal by decree, by which it shall also appoint a liquidator.

The liquidation plan may also include an offer by a pre-identified third party to transfer the business or one or more branches of the business or specific assets to such third party, even before the approval: in this case, the judicial liquidator, having verified the absence of better solutions on the market, may implement the offer.

Reorganization plan pursuant to article 67, Paragraph 3(d) of the Bankruptcy Law (*piano di risanamento attestato*)

The procedure at hand is based on a reorganization plan drafted by the debtor for the purpose of restructuring its indebtedness and ensuring the recovery of its financial equilibrium; the feasibility of reorganization plans (*i.e.* their suitability to ensure the above mentioned objectives) must be assessed by an independent expert directly appointed by the debtor, together with the truthfulness of debtor's business (and accounting) data. The expert can only be selected and appointed among those possessing certain specific professional requisites and qualifications (e.g., being registered in the auditors' registrar) and meeting the requirements under article 2399 of the Italian Civil Code. The expert may be subject to liability in case of misrepresentation or false certification.

Reorganization plans are not subject to any form of judicial control or approval and, therefore, no application for approval must be filed. Reorganization plans do not require to be approved by a specific majority of outstanding claims either. The entering into a reorganization plan does not determine the entrusting of debtor's business to another entity.

Terms and conditions of reorganization plans are freely negotiable; however, they may not be adopted to liquidate or dismiss the business of the company and shall provide for the restructuring of the debtor's indebtedness and the rebalancing of its financial condition on a going concern basis. Please note that, on the other hand, the reorganization plans do not offer the debtor any protection against enforcement proceedings and/or precautionary actions of third party creditors.

The Bankruptcy Law provides that, should these plans fail, and the debtor be declared bankrupt, payments and/or acts carried out for, and/or security interest granted for, the implementation of the reorganization plan, subject to certain conditions (i) are not subject to claw-back actions; and (ii) are exempted from the application of certain criminal sanctions. Neither homologation by the court nor publication in the companies' register are needed (although, upon request of the debtor, reorganization plans can be published in the relevant companies' register and such publication may trigger, upon precise circumstances, certain tax implications) and, therefore, the risk of bad publicity or disvalue judgments are lower than in case of an in-court pre-bankruptcy agreement or a debt restructuring agreement. Since the reorganization plan is not subject to any court approval or judicial review, it cannot be excluded that the abovementioned exemption effects will be challenged in the event of subsequent bankruptcy, if the competent court were to assess that the reorganization plan was not feasible at the time it was certified by the independent expert.

Debt restructuring agreements pursuant to article 182-bis of the Bankruptcy Law (*accordi di ristrutturazione dei debiti*)

Article 182-*bis* of the Bankruptcy Law deals with agreements between the debtor and creditors representing at least 60 per cent. of outstanding claims, but subject to court homologation (*omologazione*). Since external creditors remain extraneous to the restructuring plan, a report is required to be provided by an independent expert as to feasibility, particularly with relevance to the ability of the debtor to continue to satisfy non-participating creditors.

Changes introduced to the Bankruptcy Law have allowed the debtor a term of 120 days to make payment of outstanding claims of non-participating creditors; the term is to be counted from *(i)* the homologation of the debt restructuring agreement by the court, in case the relevant claims are already due and payable to the non-participating creditors as at the date of the homologation by the court; or *(ii)* from the date on which the relevant debts fall due, in case the claims are not yet due and payable to the non-participating creditors as of the date of the homologation.

The agreement is published in the companies' register and becomes effective as of the day of its publication. Article 182-*bis* of the Bankruptcy Law also specifies that from the date of publication of the court approved plan in the companies' registry creditors are prohibited from initiating or pursuing interim and/or executory actions against the debtor or his assets as well as from obtaining any security interest (unless agreed) in relation to pre-existing receivables for a period of 60 days.

Pursuant to article 182-*bis*, Paragraph 8 of the Bankruptcy Law (as amended by article 20 of the Decree 118/2021), in the event of substantial amendments to the plan before the approval, the certified report shall be renewed as well as the debtor shall request the renew of the consent expressed by creditors consenting to the restructuring agreement. The certified report shall be renewed also in the event of substantial amendments to the debt restructuring agreement. If, after the approval, substantial amendments to the plan are necessary, the debtor shall make such amendments in order to ensure the implementation of the restructuring agreements, requesting to the expert having the requirements set forth in article 67, para. 3, letter (d) of the Bankruptcy Law

to renew its report. In such case, the renewed certified report together with the amended restructuring plan are published in the companies' register, giving appropriate notice to the creditors by registered letter or by certified email (PEC), if the amendments occurred after the approval. The parties may file an objection (*opposizione*) to the above-mentioned decree within 30 days after having been notified of the same.

Moreover, as in the case of the composition with creditors, the debtor is allowed to petition the court for a stay on rights of enforcement even prior to the final restructuring agreement being filed, provided that, among other required documentation, an affidavit of the debtor is filed by the debtor attesting that negotiations are ongoing with creditors representing at least 60 per cent. of outstanding claims and a declaration by an independent expert attests to the feasibility of such plan.

The application for the automatic stay of actions must be published in the companies' register and becomes effective as of the date of publication. From the date of publication of the petition of moratorium, it is prohibited to commence or continue the enforcement and the conservative actions, as well as the acquisition of pre-emption rights (*diritti di prelazione*), unless agreed upon the parties. The court, having verified the completeness of the documentation, sets the date for the hearing within 30 days from the filing and orders the company to file the relevant documentation in relation to the moratorium to the creditors. During the hearing, creditors and other interested parties may file an opposition to the agreement and the court decides upon any opposition and assesses whether the conditions provided for by the law exist and, if they do, orders that no conservative or enforcement action may be started or continued, nor can pre-emption rights (*diritti di prelazione*) security interests (unless agreed) s and sets the deadline (not exceeding 60 days) within which the debtor must file the debtor restructuring agreement.

The court's order may be challenged within 15 days of its publication. Without prejudice to the effect of the stay, the debtor may file a petition of composition with creditors within the deadline set by the court.

Creditors may challenge the agreement within 30 days from the publication in the companies' register.

After having settled the oppositions (if any) the court will validate the agreement issuing a decree, which can be appealed within 15 days of its publication.

The Bankruptcy Law does not expressly provide for any indications concerning the contents of the debt restructuring agreement. The plan can therefore provide, among other things, either for the prosecution of the business by the debtor or by a third party, or the sale of the business to a third party, and may contain refinancing agreements, moratoria, write-offs and/or postponements of claims. The debt restructuring agreement may also contain a proposed tax settlement for the partial or deferred payment of certain taxes.

It may be worth noting that, pursuant to the new article 182-*septies* of Italian Law Decree 83/2015, as amended by Law 132/2015, in case debts accrued towards banks and other financial institutions represent at least 50% of the overall indebtedness, the debtor may enter into debt restructuring agreements with financial creditors representing at least 75% of the aggregate financial claims of the relevant category and ask the court to declare such agreement binding on the non-adhering financial creditors belonging to the same category (so called "cram down"). Such effects are subject to certain conditions, including that all creditors (adhering and non-adhering) have been informed about the negotiations and have been allowed to take part to them in good faith. If the required conditions are met, upon the assessment of the fact that the remaining 25% of non-participating financial creditors have homogeneous judicial position and economic interest compared with the participating financial creditors, the Court may homologate the restructuring agreement and the non-adhering financial creditors belonging to the same class of creditors are crammed down. However, crammed down creditors can challenge the deal and refuse to be forced into it, for instance arguing that they have been incorrectly included in a specific class of creditors, since their juridical situation and their economic interests are not in line with those of the other creditors of the same class. Similarly, a standstill agreement entered into between a debtor and financial creditors representing 75% of that debtor's aggregate financial indebtedness would also be binding

for non-participating financial creditors, provided that an independent expert certifies the homogeneity of the classes and subject to certain conditions being met. Such debt restructuring agreements and standstill agreements do not affect the rights of non-financial creditors (e.g. trade creditors) who cannot be crammed down and must be paid within 120 days (unless they adhere to a separate debt restructuring agreement with the debtor).

The Decree 118/2021 has amended the provisions and supplemented article 182-*septies* of the Bankruptcy Law. In particular, debt restructuring agreements with extended effects - which were previously only permitted in relation to debts owed to banks and financial intermediaries where such debts represented at least 50% of the total indebtedness - can now be applied to any category of creditors. In particular, it is provided that the effects of the debt restructuring agreement may be extended also to non-consenting creditors belonging to the same category, identified on the basis of the similarity of their legal position and economic interests, provided that, inter alia: (i) all the creditors belonging to the same category have been informed of the start of the negotiations and have been able to participate in them in good faith and have received complete and up-to-date information on the debtor's assets, economic and financial situation as well as on the restructuring agreement and its effects; (ii) the agreement provides for the continuation of the business activity either directly or indirectly; (iii) the claims of the consenting creditors belonging to a same category represent at least 75% of all the claims belonging to the same category being understood that a creditor may hold claims in more than one category; (iv) the non-adhering creditors belonging to the same category to which the effects of the agreement are extended can be satisfied under the agreement for an amount not lower than the amount they would receive in other available alternatives; and (v) the debtor has notified the agreement, the application for court approval and the documents attached thereto to the creditors to be crammed down. Moreover, if the debtor owes debts to banks and financial intermediaries amounting to not less than half of its total indebtedness, the debt restructuring agreement with extended effects may be implemented even if it provides for the complete liquidation of the company's assets.

Similarly, a standstill agreement (*convenzione di moratoria*) entered into between a debtor and financial creditors representing 75% of that debtor's aggregate financial indebtedness would also be binding for non-participating financial creditors, provided that (i) they have been informed of the ongoing negotiations and have been allowed to participate to such negotiations in good faith and (ii) an independent expert meeting the requirements provided under article 67, para. 3 letter (d) of the Bankruptcy Law certifies that the non-consenting financial creditors have legal status and economic interests similar to those of the banks and financial intermediaries which have agreed to the moratorium arrangement. The purpose is to prevent banks with modest credits from blocking restructuring operations involving more exposed bank creditors, resulting in the failure of the overall restructuring and the opening of a procedure. Financial creditors who did not participate in the agreement may challenge it, through the filing of an objection (*opposizione*) within 30 days of receipt of the application.

The Decree 118/2021 has extended the applicability of standstill agreements previously only available in relation to debts owed to banks and financial intermediaries if such debts represented at least 50% of the total indebtedness. In particular, the new article 182-*octies* of the Bankruptcy Law provides a that the standstill agreement entered into between a company and its creditors, aimed at temporarily regulating the effects of the distress and concerning the deferral of the due dates of the relevant claims, the waiver of the acts or the suspension of the enforcement and precautionary actions and any other measure that does not involve the waiver of the claim, is also effective against non-consenting creditors belonging to the same category, provided that, inter alia: (i) all creditors belonging to the same category have been informed of the start of the negotiations and have been able to participate in them in good faith and have received complete and up-to-date information on the debtor's assets, economic and financial situation as well as on the standstill agreement and its effects; (ii) the claims of the consenting creditors belonging to the same category represent at least 75% of all the claims belonging to the same category; (iii) an expert meeting the requirements set forth in article 67, para. 3, lett. (d)

of the Bankruptcy Law has been appointed and certifies: (a) the accuracy of the company's data; (b) the suitability of the agreement to provisionally regulate the effects of the crisis; and (c) that the non-consenting creditors of the same category, to whom the effects of the standstill agreement are extended, will prospectively suffer a prejudice that is proportionate and consistent with the prospects for resolving the crisis or insolvency that are actually pursued. The provisions regulating this tool will be applicable only to the proceeding for the standstill agreements started after 25 August 2021.

In no case may the debt restructuring agreement provided for under article 182-*septies* of the Bankruptcy Law or the moratorium arrangement provided for under article 182-*octies* of the Bankruptcy Law impose on the non-adhering creditors, inter alia, the performance of new obligations, the granting of new overdraft facilities, the maintenance of the possibility to utilize the existing facilities or the utilization of new facilities. The continuation of the grant of the use (*concessione del godimento*) of assets covered by leasing agreements already concluded cannot be considered a new obligation.

Such debt restructuring agreements and standstill agreements do not affect the rights of non-financial creditors (e.g. trade creditors) who cannot be crammed down and must be paid within 120 days (unless they adhere to a separate debt restructuring agreement with the debtor).

The Decree 118/2021 has also introduced the so called "facilitated debt restructuring agreement", (*accordi di ristrutturazione agevolati*) pursuant to article 182-*novies* of the Bankruptcy Law, which represents a particular kind of debt restructuring agreement which may be entered into with creditors representing as little as 30% of the total indebtedness (instead of the 60% generally required under article 182-*bis*, para. 1, of the Bankruptcy Law) provided that the debtor: (i) has waived the standstill on the payment of non-consenting creditors (usually provided for by law, for a period of 120 days from the court approval of the agreement or from the maturity date of the relevant obligations, in "ordinary" restructuring agreements); and (ii) has not previously filed a preliminary petition for composition with creditors (the so-called composition with creditors "*in bianco*") pursuant to article 161, para. 6, of the Bankruptcy Law or an application for the granting of a standstill period pursuant to article 182-*bis*, para. 6, of the Bankruptcy Law.

New financial resources

Article 182-*quater* and article 182-*quinquies* of the Bankruptcy Law apply both to debt restructuring agreements pursuant to article 182-*bis* of the Bankruptcy Law and composition with creditors.

Article 182-*quater* provides that claims arising under loans with respect to either the implementation of a Court-ratified composition with creditors or a Court-ratified debt restructuring agreement pursuant to article 182-*bis* of the Bankruptcy Law are to be deemed super-senior (*prededucibili*) under article 111 of the Bankruptcy Law. Under 182-*quater*, super seniority also applies to claims arising under loans in anticipation of a filed application for composition with creditors or the application for the homologation of a restructuring agreement pursuant to article 182-*bis*, but only to the extent that: (i) the loans fall within either the plan underlying the composition with creditors or the debt restructuring agreement; and (ii) the Courts admits the company to the composition with creditors proceeding or ratifies the debt restructuring agreement expressly recognizing the super-seniority of such loans. Same provisions apply to financing granted by shareholders up to 80% of their amount, unless the lender has become a shareholder of the debtor as implementation of a Court-ratified composition with creditors or a Court-ratified debt restructuring agreement pursuant to article 182-*bis* of the Bankruptcy Law.

Pursuant to article 182-*quinquies* of the Bankruptcy Law, the debtor, when making a request for admission to the composition with creditors proceeding or for the approval of a debt restructuring agreement (or of a proposal of debt restructuring agreement) may ask the Court for the authorization to execute new super-senior facility agreements provided that an expert (in possession of certain criteria), once it has verified the company's financial needs up until the approval from the Court, certifies that such facilities are aimed at the best resolution for the creditors. Such authorization may also concern facilities identified only by type and amount, the terms

of which have not yet even been agreed upon, as well as the granting of a pledge, mortgage or the assignment of claims in order to secure the facilities themselves, provided that: (i) a debtor that has filed a request for admission to the composition with creditors proceeding with going concern is entitled to ask the Court to be authorized to pay credits for the supply of goods or services which have arisen prior to the composition with creditors proceeding, provided that it submits a specific certification made by an expert in possession of the criteria provided by the Bankruptcy Law. Such a certification will not be necessary in case of payments made up to an amount equal to the one granted to the debtor as new financial resources, that are not to be repaid or that are subordinated to the other creditors' claims; (ii) a debtor that has filed for an approval of a debt restructuring agreement or a proposal of a debt restructuring agreement pursuant to the Bankruptcy Law is entitled to ask the Court to be authorized, provided that the conditions listed under para (i) above are satisfied, to pay credits for supply of goods or services that have arisen prior to filing. In such a case, these payments will not be subject to claw-back action pursuant to the Bankruptcy Law.

In addition, according to the provisions of the Decree 83/2015, as amended by Law 132/2015, the aforementioned authorizations may be given also before the filing of the additional documentation required pursuant to article 161, para. 6 of the Bankruptcy Law.

It should be noted that, pursuant to article 182-*quinques* of the Bankruptcy Law (as amended by way of the Decree 118/2021), in the event of a composition with creditors on a going concern basis initiated following a petition filed after the entry into force of the decree (*i.e.* on 25 August 2021):

(i) the debtor may repay, in accordance with the relevant contractual terms, the instalments due under a loan agreement which is secured by a security interests over the assets used in the business, provided that: (a) at the date of the submission of the application for admission to the composition with creditors, the debtor has fulfilled its obligations or the court authorises the payment of the debt for principal and interest due at that date; and (b) the expert meeting the requirements set forth in article 67, para. 3, letter (d) of the Bankruptcy Law certifies (i) that such payments are essential for the continuation of the business activity and functional to ensuring the best satisfaction of the creditors (as already required by article 182-*quinquies*, para. 5, of the Bankruptcy Law) and, (ii) that the secured claims can be fully satisfied with the proceeds of the liquidation of the asset carried out at market value and that the repayment of the instalments due does not prejudice the rights of the other creditor;

(ii) the court may authorize payment of the remuneration due, for the months preceding the filing of the application for the composition with creditors, to the workers employed in the business whose continuation is envisaged under the plan.

Furthermore, article 182-*quinquies* of the Bankruptcy Law also provides that companies which have filed a petition for the composition with creditors under article 161 para. 6 of the Bankruptcy Law or request for approval of a debt restructuring agreement (or a draft agreement) can be authorized by the Court to incur further indebtedness on an emergency basis provided it is required to meet urgent financing needs relating to the company's business. The Court can authorize such "new interim borrowings" in the absence of the professional report that is usually required to certify that the plan is viable in terms of maximizing creditor value. The authorization is subject to the petition for taking on such new interim borrowings: (i) specifying the use of proceeds, (ii) stating that other sources of finance are not available and (iii) stating that without such new finance the company would face imminent and irreparable financial damage. To mitigate the lack of professional report in relation to the restructuring proposals, the Court shall accept summary statements regarding the plan and the financing proposal based on evidence presented by the appointed insolvency official and the main creditors. These provisions also apply in circumstances when the debtor's request relates to the maintenance of an existing credit line.

Italian laws (including Insolvency Code) applicable after 15 July 2022 (*i.e.* the date of the entry into force of Insolvency Code)

Below is a brief description of the main provisions of the following type of proceedings provided under Insolvency Code which, after the entry into force of the latter (on 15 July 2022), has superseded the Bankruptcy Law:

(a) judicial liquidation (*liquidazione giudiziale*) under the Insolvency Code;

(b) composition with creditors (*concordato preventivo*) under the Insolvency Code;

(c) negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) under the Insolvency Code;

(d) simplified composition with creditors proceeding (*concordato semplificato per la liquidazione del patrimonio*) under the Insolvency Code;

(e) certified restructuring plans (*piani attestati di risanamento*) under the Insolvency Code;

(f) debt-restructuring agreements (*accordi di ristrutturazione dei debiti*) under the Insolvency Code;

(g) restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) under the Insolvency Code.

The abovementioned restructuring/insolvency tools are available under Insolvency Code for insolvent companies or a debtor in a state of crisis, as the case may be, and, in certain cases, also to debtors experiencing an economic or financial imbalance such as to make it likely that a state of crisis and/or distress or their insolvency will occur.

For the sake of completeness, please note that the Insolvency Code also provides for a simplified court-supervised composition with creditors (*concordato minore*) in case the debtor does not meet the dimensional requirements to access other restructuring tools, which follows the main procedural steps and effects provided for the composition with creditors proceeding (*concordato preventivo*), but entails the involvement and the assistance to the debtor of the board for crisis settlement (*organismo di risoluzione della crisi*).

Furthermore, please find below a brief summary of the following proceedings, which remain available to large companies also in the context of the new rules provided under the reform process.

(a) extraordinary administration for large insolvent companies (*amministrazione straordinaria delle grandi imprese insolventi*), under the Decree 270; and

(b) extraordinary administration for the industrial restructuring of large insolvent companies (*amministrazione straordinaria per la ristrutturazione industriale delle grandi imprese insolventi*), under the Decree 347. For businesses performing essential public services, this type of proceedings would also be subject to the Decree 134.

Please also find below a brief description of the forced administrative liquidation procedure (*procedura di liquidazione coatta amministrativa*).

Definition of "insolvency" and "crisis" under the Insolvency Code

The Insolvency introduced a specific concept of crisis, which is defined under article 2, letter (a) of the Insolvency Code as the state of the debtor such that it is likely that insolvency will follow, which is manifested by the inadequacy of prospective cash flows to meet obligations in the following 12 months.

Insolvency is defined under article 2, letter (b) of the Insolvency Code as the inability of the debtor to regularly meet its obligations as they become due, evidenced by defaults and/or other external elements.

Both insolvency and crisis are factual situations upon the occurrence of which different instruments provided for by the Insolvency Code may be activated.

Judicial liquidation (*liquidazione giudiziale*) under the Insolvency Code

The judicial liquidation (*liquidazione giudiziale*) pursuant to the Insolvency Code is a court-supervised procedure aimed at the liquidation of the insolvent company's assets and for the distribution of the related proceeds.

Pursuant to the Insolvency Code, the judicial liquidation is declared by the competent court and is applicable recurring two requirements:

(i) an objective requirement, which is met if any of the following thresholds are met: (a) annual balance sheet assets (*attivo patrimoniale*) greater than Euro 300,000 in the last three financial years (from the date on which the petition for judicial liquidation was filed) or from the establishment of the company if it has been incorporated less than three years before the petition for judicial liquidation; (b) annual gross proceeds (*ricavi lordi*) greater than Euro 200,000 over the last three financial years (from the date on which the petition for judicial liquidation was filed) or from the establishment of the company if it has been incorporated less than three years before the petition for judicial liquidation; or (c) indebtedness (including debt that is not overdue and payable) greater than Euro 500,000; and

(ii) a subjective requirement, which is met when the debtor is a commercial enterprises (*imprenditori commerciali*) carrying out commercial activity and is "insolvent".

The judicial liquidation is opened and declared by the competent Courts upon a specific petition that can be filed by (i) the debtor itself; (ii) the administrative bodies and authorities that have control and supervisory functions over the company; (iii) one or more creditor; and (iv) in certain cases, the public prosecutor.

Upon opening the judicial liquidation proceeding, the Courts (*inter alia*) appoint a receiver and the debtor loses control over all its assets and over the management of its business which is taken over by the court-appointed receiver.

As a general rule, starting from the opening date of the judicial liquidation, stay of action applies and no enforcement and interim proceedings can be brought or continued against the debtor over the assets included in the estate. Specific exceptions by operation of law apply for certain claims secured by mortgages, pledges or guarantees among which, *inter alia*:

(i) mortgages securing loans pursuant to articles 38 and ff. of Italian Consolidated Banking Law (so-called "*mutuo fondiario"*): such mortgages may be enforced by the lender also after the opening of judicial liquidation vis-à-vis the debtor;

(ii) pledges pursuant to Decree 170 (so-called «financial pledge» *(pegno finanziario*)*:* upon occurrence of an enforcement event, the relevant secured creditor may immediately sell the pledged financial assets and retain an amount equal to the secured obligation, even if an insolvency proceeding has been opened;

(iii) pledges over movable assets: creditors secured by pledges over movable assets of the debtor may be authorized to sell the pledged assets during the procedure, after admission to the statement of liabilities (*ammissione allo stato passivo*) with secured ranking;

(iv) third-parties guarantees: even after the opening of judicial liquidation, creditors may decide to enforce any guarantees (and/or security-interests) granted by third-parties in the interest of the bankrupt debtor.

Upon the opening of the judicial liquidation, *inter alia*:

(i) subject to certain exceptions, all actions of creditors are stayed and creditors must file claims within a defined period;

(ii) the administration of the debtor and the management of its assets are transferred to the receiver. The debtor may no longer validly act in court as claimant or defendant in relation to the assets and the receiver is vested with such powers upon the authorization of the delegated judge. However, all pending proceedings in which the debtor is involved are automatically stayed from the date the adjudication is issued and need to be re-initiated by or against the receiver;

(iii) continuation of business may be authorized by the court, but only if the continuation of the company's business does not cause damage to creditors. If the court authorizes the continuation of the business (*esercizio provvisorio dell'impresa*), the management is entrusted to the receiver (who may in turn avail himself of qualified third parties for this purpose);

(iv) any act (including payments, pledges and issuances of guarantees) made by the debtor, other than those made through the receiver, after (and in certain cases even before for a limited period of time) the opening of judicial liquidation becomes (or could become if made before) ineffective against creditors and/or can be clawed-back; and

(v) the execution of certain contracts and/or transactions pending as of the date of bankruptcy's declaration are suspended until the receiver decides whether to take them over. Although the general rule is that the receiver is allowed to either continue or terminate contracts where some or all of the obligations have not been performed by both parties, certain contracts are subject to specific rules expressly provided for the Insolvency Code. In order to overcome the uncertainty that may predictably arise, the contractual counterparty may file a written petition requiring the Court to give the receiver a deadline of no more than 60 days; within such deadline, the receiver must decide to enter into the agreement or withdraw from it. Upon expiration of the deadline without the receiver having replied to the counterparty's request, the pending agreement is deemed terminated. Although the general rule is that the judicial receiver is allowed to terminate contracts where some or all of the obligations have not been performed, certain contracts are subject to specific rules expressly provided for by the Insolvency Code.

As far as receivables vis-à-vis the judicial liquidation proceedings are concerned, each creditor must lodge his claims with the competent court. The filing of the proof of claim by the creditor is necessary to demonstrate the creditor's right to participate in the liquidation, the amount of its claim and its ranking. The judge delegated by the court (*giudice delegato*), upon proposal of the receiver, will decide which claims are admitted to the statement of liabilities (*stato passivo*), for which amount they are admitted and whether the claims are to be qualified as secured of not. Each creditor may challenge (*opposizione*) the decision of the judge in front of the court. The same procedure applies also to individuals and entities claiming the right to obtain the restitution of assets. The sale of the debtor's assets is carried out by the receiver – or the delegated – through public auctions in compliance with a liquidation program proposed by the receiver and approved by the creditors' committee. Creditors are then repaid out of the proceeds of the liquidation, which is managed by the receiver, according to the principle of equal treatment of creditors (so-called *par condicio creditorum*) and in line with the statutory order of priority among creditors.

In addition to the above, please note that upon opening of the judicial liquidation, certain acts, payments, guarantees or security interests can be declared ineffective and/or clawed-back under the Corporate Crisis and Insolvency Code.

Transactions which may be set aside through a bankruptcy claw-back action under article 166 of the Insolvency Code can be divided into two categories:

(i) transactions which may be set aside by the receiver, unless the other party proves that it was not aware of the insolvency of the debtor (article 166, para. 1 of the Insolvency Code) and, in particular:

(a) transactions at an undervalue, carried out after the filing followed by the opening of the judicial

liquidation proceeding or in the previous year (such term is extended to 2 years for intercompany transactions);

(b) repayment of a debt by means other than money or other common methods of payment after the filing followed by the opening of the judicial liquidation proceeding or in the previous year (such term is extended to 2 years for intercompany transactions);

(c) pledges and voluntary mortgages created in the year preceding the filing of judicial liquidation petition to secure pre-existing debts not yet overdue;

(d) pledges and judicial or voluntary mortgages created after the filing followed by the opening of the judicial liquidation proceeding or in the prior six months (such term is extended to 1 year for intercompany transactions).

(ii) transactions carried out after the filing followed by the opening of the judicial liquidation proceeding or in the prior six months, which may be set aside if the receiver proves that the other party was aware of the insolvency of the debtor (article 166, para. 2 of the Insolvency Code) and, in particular:

(a) payments of debts due and payable;

(b) transactions for valuable consideration;

(c) transactions creating priority rights/security interests relating to debts simultaneously incurred.

In addition to the above, under article 166 of the Insolvency Code, the following transactions are exempt from claw back actions:

(i) payments for goods or services made in the ordinary course of business according to market practice;

(ii) a remittance on a bank account (*rimesse effettuate su un conto corrente bancario*); provided that it does not materially and permanently reduce the entity's debt towards the bank;

(iii) the sale, including an agreement for sale registered pursuant to article 2645-*bis* of the Italian Civil Code, made for a fair value and concerning a residential property that is intended as the main residence of the purchaser or the purchaser's family (within three degrees of kinship) or a non-residential property that is intended as the main seat of the enterprise of the purchaser; provided that, as at the date of the insolvency declaration, the activity is actually exercised therein or the investments for the commencement of such activity have been carried out therein;

(iv) transactions entered into, payments made or guarantees granted with respect to the debtor's goods, provided that they concern the implementation of a certified restructuring plan (*piano attestato di risanamento*) pursuant to articles 56 or 284 of the Insolvency Code;

(v) a transaction entered into, payment made or guarantee or security interests granted in the context of a composition with creditors proceeding (*concordato preventivo*), of a restructuring plan subject to homologation (*piano di ristrutturazione soggetto ad omologazione*) provided under article 64-*bis* of the Insolvency Code or of homologated debt restructuring agreements with creditors (*accordi di ristrutturazione dei debiti omologati*) and/or transactions entered into, payments made and security interests legitimately granted by the debtor after the filing of the application for a composition with creditors proceeding (*concordato preventivo*) or of a debt restructuring agreement (*accordo di ristrutturazione dei debiti*). The exemption also operates for the ordinary claw-back;

(vi) remuneration payments to the entity's employees and consultants concerning work carried out by them; and

(vii) payments of a debt that is immediately due, payable and made on the due date, with respect to services necessary for access to a restructuring and insolvency tools provided for pursuant to the Insolvency Code.

Pursuant to article 170 of the Insolvency Code, the limitation period for initiating claw-back action proceedings is three years from the opening of the judicial liquidation procedure or, if earlier, five years from the act or transaction to be clawed back. In case judicial liquidation is commenced after the filing of a petition to be admitted to any insolvency proceedings, according to article 170, paragraph 2 of the Insolvency Code, the hardening period is calculated backward from the date in which such petition is filed.

Under article 165 of the Insolvency Code, which refers to article 2901 of the Italian Civil Code (that – in turn - provides for a general and ordinary claw back action (*revocatoria ordinaria*) – that may be brought against the debtor (and its counterparty) also in case no judicial liquidation proceedings are pending), acts by which the debtor disposes of its assets (other than payments of due and payable amounts) may be clawed back if the receiver can prove that the debtor was aware of the prejudice that such act would cause to its creditors (including future creditors, to the extent that the act was made in order to create such prejudice) and, to the extent that the act was non-gratuitous act, the counterparty was aware of such prejudice.

In addition, pursuant to article 163 of the Insolvency Code, subject to certain limited exception, all transactions entered into for no consideration are ineffective vis-à-vis creditors if entered into by the debtor after the filing to the relevant court followed by the opening of the judicial winding-up procedure or within the two years preceding the opening of such insolvency proceeding. Any asset subject to a transaction which is ineffective pursuant to article 163 of the Insolvency Code becomes part of the liquidation estate by operation of law upon registration of the court's decision opening the insolvency proceeding (*trascrizione della sentenza che ha dichiarato l'apertura della procedura concorsuale*), without needing to wait for the ineffectiveness of the transaction to be sanctioned by a court. Any interested person may challenge the registration before the delegated judge as a violation of law.

Moreover, under article 164 of the Insolvency Code, *inter alia*, are ineffective vis-à-vis creditors:

(i) payments of receivables falling due on the day of the of the declaration of opening of the judicial liquidation or after such date, if carried out by the debtor after the filing of the application followed by the opening of the insolvency proceeding or in the prior two-year period; and

(ii) payments made by the debtor with respect to any intercompany loan, if carried out by the debtor after the filing of the application followed by the opening of the insolvency proceeding or in the previous year

The Insolvency Code provides special regimes on preferences and avoidances of intra-group transactions. More specifically, under article 290 of the Insolvency Code the limitation period of initiating intra-group claw-back actions (referring to acts and transactions entered into by companies belonging to the same group that they had the effect of shifting resources to another group company to the detriment of creditors, save for certain exceptions) is extended to five years from the judicial liquidation filing.

Article 2929-*bis* of the Italian Civil Code (introduced by virtue of the Law 132/2015) provides for a "simplified" claw-back action with reference to certain types of transactions carried out by the debtor without consideration and with the aim to subtract registered assets from the attachment by its creditors. The creditor can start enforcement proceedings over the relevant assets without previously obtaining a court decision clawing back/ nullifying the relevant fraudulent transaction. In case of gratuitous transfers, the enforcement action can also be carried out by the creditor against the third-party purchaser.

Under Italian law, the proceeds from the sale of the debtor's estate are distributed according to legal rules of priority. Neither the debtor nor the court can deviate from these priority rules by proposing their own priorities of claims or by subordinating one claim to another based on equitable subordination principles (as a consequence it must be noted that priority of payments such as those commonly provided in intercreditor contractual arrangements may not be enforceable against an Italian judicial liquidation estate to the extent they are inconsistent with the priorities provided by law). The law creates a hierarchy of claims that must be adhered

to when distributing the proceeds derived from the sale of the entire debtor's estate or part thereof, or from a single asset. Pursuant to article 221 of the Insolvency Code, *inter alia*, proceeds of liquidation of the assets shall be allocated according to the following order: (i) for payments of super-senior claims (*crediti prededucibili*) including, inter alia, claims originated in the insolvency proceeding, such as costs related to the procedure); (ii) for payment of claims which are privileged, such as claims of secured creditors; (iii) for the payment of unsecured creditors' claims (*creditori chirografari*).

Under Italian law, the highest priority claims (after the costs of the proceedings are paid) are the claims of preferential creditors, including, *inter alia*, a claim whose priority is legally acquired (i.e., repayment of rescue or interim financing) the claims of the Italian tax authorities and social security administrators, and claims for employee wages. The remaining priorities of claims are, in order of priority, those related to secured creditors (*creditori privilegiati*; a preference in payment in most circumstances, but not exclusively, provided for by law), mortgages (*creditori ipotecari*), pledges (*creditori prignoratizi*) and, lastly, unsecured creditors (*crediti chirografari*).

Bankruptcy composition agreement with creditors (**concordato nella liquidazione giudiziale*****)***

Pursuant to article 240 of the Insolvency Code, a judicial liquidation proceedings can terminate prior to liquidation through a bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*), provided that certain requirements are met. The relevant petition may be filed by one or more creditors or third parties after the opening of the judicial liquidation and also before the issuance of the decree declaring the effectiveness of the statement of liabilities (*decreto che rende esecutivo lo stato passivo*), provided that, on the basis of the accounting data and the other information available, the receiver can draft a provisional list of creditors for approval by the delegated judge, whereas the debtor (or its subsidiaries or companies under common control) is allowed to file such proposal only after one year following the judgement by virtue of which the judicial liquidation has been opened but within two years from the decree declaring the effectiveness of the statement of liabilities (*decreto che rende esecutivo lo stato passivo*), provided that the proposal provides for the granting of resources that increase the value of the assets of at least 10%.

The proposal shall be submitted to the competent judge, shall then be approved by the creditors and finally by the court. In case the court's decree approving the bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*) becomes final (*definitivo*), the court declares the judicial liquidation to be closed and terminated, initiating the enactment phase of the bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*). In the context of a bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*), the competent court supervises both the proposal and execution phases while the judicial receiver, once the liquidation is closed, loses his management functions and retains only supervisory duties over the fulfillment of the terms and the conditions of the arrangement obligations arising from or in connection with the bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*).

The proposal may provide for:

(i) the subdivision of creditors into different classes according to homogeneous legal position and economic interests;

(ii) differential treatment between creditors belonging to different classes, indicating the reasons of such differences;

(iii) debts' rescheduling and the satisfaction of creditors' claims in any manner, including, by way of example, by assignment of assets, assumption (*accollo*) as well as by means of other extraordinary transactions, including the assignment to creditors (as well as to companies in which they have an interest), of shares, quotas or bonds, including those convertible into shares or other financial instruments and debt securities.

The petition may also provide for the possibility that secured claims are paid only in part. However, it is necessary for the plan to provide for their satisfaction to a non-lesser extent than that the one which can be realized, by reason of preferential placement, from the relevant proceeds in the event of a judicial liquidation, having regard to the market value attributable to the assets or rights over which the cause of pre-emption exists.

The proposal of the bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*) must be approved by the creditors' committee and the creditors holding the majority of claims (and, if classes are formed, by a majority of the claims in a majority of the classes). Secured creditors are not entitled to vote on the proposal, unless (i) they waive their security; or (ii) the bankruptcy composition agreement with creditors provides that they will not receive full satisfaction of the fair market value of their secured assets (please note that such value must be assessed by an independent expert), in which case they can vote only in respect of the portion of their debt affected by the proposal. Final court confirmation is also required.

The bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*), once approved and homologated, is mandatory for: (i) all existing creditors prior to the opening of the judicial liquidation proceeding; and (ii) creditors who have not applied for the admission to the judicial liquidation estate, to whom the guarantees or the security interests given in the bankruptcy composition agreement with creditors (*concordato nella liquidazione giudiziale*) by third parties do not extend.

Upon the termination of the judicial liquidation – following the homologation decree (*decreto di omologa*), which pursuant to article 247 of the Insolvency Code may be challenged and appealed within 30 days from its notification – the debtor returns "*in bonis*".

Composition with creditors (*concordato preventivo*) under the Insolvency Code

Prior to the opening of judicial liquidation (*liquidazione giudiziale*), a debtor that is facing a situation of either crisis or insolvency may apply for a pre-insolvency composition with creditors proceeding ("*concordato preventivo*") pursuant to Insolvency Code, in order to compose its overall indebtedness and/or reorganize its business, thereby avoiding a declaration of insolvency and the initiation of insolvency proceedings.

Such *concordato* proposal can be made by a commercial enterprise (*imprenditore commerciale*) which exceeds any of the following thresholds: (i) annual balance sheet assets (*attivo patrimoniale*) greater than Euro 300,000 in the last three financial years (from the date on which the petition for judicial liquidation was filed) or from the establishment of the company if it has been incorporated less than three years before the *concordato* petition; (ii) annual gross proceeds (*ricavi lordi*) greater than Euro 200,000 over the last three financial years (from the date on which the *concordato* petition was filed) or from the establishment of the company if it has been incorporated less than three years before the *concordato* petition; and (iii) indebtedness (including debt that is not overdue and payable) greater than Euro 500,000.

Only the debtor itself can file the *concordato* petition before the court based in the location of the debtor's main office.

The *concordato* petition must be accompanied by a number of mandatory documents and annexes, among which, *inter alia*, a workout plan, the content of which shall meet specific requirements set forth under the Insolvency Code including, without limitation, description of the reasons why the company is facing a distressed situation, description of the company's group and activity, the liquidation value (*valore di liquidazione*) of the company's assets in a judicial liquidation *scenario*, content of the restructuring proposal to creditors and a report drafted by a third-party independent expert in possession of certain professional requirements certifying the truthfulness of the data on which the plan is grounded and its feasibility, copy of the company's financial statements in relation to the past three financial years, as well as updated economic and financial accounts of the company, an exhaustive description of the company's assets and the list of the company's creditors, indicating their names, the amount of their claims and the ranking of such claims.

Furthermore, pursuant to the Insolvency Code, the debtor shall file a report describing all acts and transactions exceeding the ordinary course of business carried out by the company over the preceding five years; a description of possible legal actions for damages as well as possible claw-back actions and legal actions potentially enforceable against the company and its corporate bodies in a judicial liquidation *scenario*; as well as in case the company belongs to a group, certain additional information about the group itself.

According to articles 39 para. 3 and 44 of the Insolvency Code, the debtor may file a "preliminary and simplified application" for admission to *concordato preventivo* (so called "*concordato in bianco*" or "*concordato con riserva*"), meaning that the company might request to the **c**ourts the granting of a deadline – for a minimum of 30 days to a maximum of 60 days – within which the company shall then file the "full application" including the *concordato* plan and all other necessary documents. When filing a "simplified application", the company must only attach to the relevant petition: (i) copy of the company's financial statements relating to its three last financial years; and (ii) a list of the company's creditors, indicating the name of the relevant creditor, the amount and ranking of its claim towards the company as well as its digital domicile (*domicilio digitale*). According to the Insolvency Code, within the aforementioned deadline the company is also entitled to file (instead of the full *concordato* application) a petition for homologation of debt-restructuring agreement under article 57 of the Insolvency Code or for homologation of a restructuring plan subject to homologation under article 64-*bis* of the Insolvency Code. Such deadline can be extended only once for additional maximum 60 days upon the company's request, provided that there are reasonable grounds (*giustificati motivi*) for such extension and that no petitions for the opening of judicial liquidation are pending against the company. In case the debtor does not file the proposal, the plan, the expert report and the other documents within the established deadline, the court will not admit the debtor's request and, if the *criteria* provided by the Insolvency Code are met, the court could open the judicial liquidation upon request from a creditor or the public prosecutor. Upon grating of the deadline by the courts and up until its expiry, the debtor shall comply with the monthly information undertakings set by the court itself, including, *inter alia*, information undertakings relating to the debtor's financial management and to the activities carried out in order to finalize the debtor's workout plan and proposal to creditors. Moreover, the debtor shall monthly file with the court an updated report about the company's financial situation, which is then published in the competent companies' register. Pending the above-mentioned deadline, the debtor can carry out both activities of ordinary management and urgent activities of extraordinary management provided that, in the latter case, it has been duly and priorly authorized by the Court. After the company's filing of the preliminary and simplified application, appoints a Pre Judicial Commissioner (*pre-commissario giudiziale*), who will supervise the proceeding and will have to review – *inter alia* and together with the Court - all the company's requests for authorization relating to the performance of activities of extraordinary management. All the third-party claims which may arise from acts legally performed by the debtor after the filing will be deemed super-senior (*prededucibili*).

The *concordato* petition is published by the debtor in the company's register by the registry of the court and communicated to the public prosecutor. From the date of such publication to the date on which the court homologates the *concordato preventivo*, pre-existing creditors cannot obtain security interests (except in case this has been priorly authorized by the courts) and mortgages registered within the 90 days preceding the date on which the petition for the *concordato preventivo* is published in the company's register are ineffective against such pre-existing creditors.

According to article 54, paragraph 2, of the Insolvency Code, provided that the petition for the admission to the *concordato* proceedings includes the relevant request for protective measures, from the date of publication of the petition in the companies' registry, it is prohibited to commence or continue the enforcement and the conservative actions (or, in any event, to take any initiatives prohibited under the relevant measures). Final decision on such request (which is provisionally effective starting from its publication in the companies' register) shall be taken by the competent court and the length of the stay of action period is for maximum four months (subject to extensions under certain circumstances, in any case not exceeding an overall period of twelve

months). During the stay of action period, *inter alia*, the judicial liquidation cannot be opened by the court. Protective measures might be revoked by the Courts upon occurrence of certain circumstances, including – without limitation – upon discovery of fraudulent acts by the debtor**.** The debtor may request, by a subsequent petition, to be granted by additional interim measures to prevent certain actions of one or more creditors from affecting, from the negotiation phase, the positive outcome of the initiatives taken for the regulation of the crisis or insolvency. The abovementioned measures can also be requested by the debtor pursuant to article 44 of the Insolvency Code, together with a "preliminary and simplified application" for the access to one of the restructuring tools provided for by the Insolvency Code.

Unless specific provisions apply by operation of law or relevant collective contracts (*contratti collettivi*), a company employing more than 15 employees must inform in writing the relevant trade union representatives about the decisions taken while drafting the *concordato* plan and which have an impact over the employment agreements of a number of employees, including in case such decisions relate to the work-organization and/or the modalities of work. Trade union representatives can ask for a meeting with the company by the 3 days following receipt of such notice and the following consultation among the parties shall start by the following 5 days and – unless otherwise agreed – shall have a duration of no more than 10 days.

In addition to all the above, upon filing of *concordato* application (including filing of a simplified petition), *inter alia* (i) as a general rule, monetary obligations of the company are deemed as due on the date of *concordato* filing; (ii) set-off is allowed only if (a) all the claims/debts subject matter of the set-off arose prior to the filing date; or (b) all the claims/debts subject matter of the set-off arose after the filing date; (iii) accrual of interest on unsecured claims is suspended. Interests on secured claims will continue to accrue in accordance with specific rules set out under the Insolvency Code.

Any act, payment or security executed or created after the filing of the *concordato preventivo* application and in accordance with its rules and procedures is exempt from claw-back action. The debtor is also exempt from certain bankruptcy crimes provided under articles 322, third paragraph ("*preferential bankruptcy*"), and 323 ("*simple bankruptcy*") of the Insolvency Code, in relation to acts and payments made in execution of the composition with creditors and/or in relation to finance provided under article 99 of the Insolvency Code upon judicial authorization. Claims arising from acts lawfully carried out by the distressed company have super senior priority (*prededucibili*) in the event of a subsequent judicial liquidation.

The *concordato* plan can be aimed either at:

(i) the direct or indirect continuation of the company's business activity (so called *"concordato in continuità aziendale*") - in such event, creditors are satisfied (in full or part) with the proceeds arising from the continuation of the business activity; or

(ii) at the liquidation of the company's assets (so called "*concordato con liquidazione del patrimonio*") – in such event, the *concordato* plan must necessarily provide for a cash injection, by a third-party, which can increase of at least 10% the available assets and ensure a minimum recovery of at least 20% for unsecured creditors.

The proposal filed in connection with the *concordato* petition may provide for: (i) the restructuring and payment of debts and the satisfaction of creditors' claims (provided that, in any case, it will ensure payment of at least 20% of the unsecured receivables, except for the case of composition with creditors with continuity of the going concern (*concordato in continuità aziendale*)), including through extraordinary transactions, such as the granting to creditors and to their subsidiaries or affiliated companies of shares, bonds (including bonds convertible into shares), or other financial instruments and debt securities); (ii) the transfer to an assumptor (*assuntore*) of the operations of the debtor company making the composition proposal; (iii) the division of creditors into classes (which is mandatory in certain cases provided under the article 85 of the Insolvency Code), provided that each class is composed of creditors having homogeneous legal positions and economic interests;

and (iv) different treatment of creditors belonging to different classes. The *concordato* proposal may also contain a proposed tax settlement for the partial or deferred payment of certain taxes.

Please note that *concordato preventivo* qualifies as "with going concern" (*in continuità aziendale*) when the plan provides for the continuation, on a direct or indirect basis, of the business by the debtor activity and creditors are satisfied – even through a non-prevalent extent – through the proceeds arising from the continuation of the business activity. Pursuant to article 84 of the Insolvency Code, the business continuity shall safeguard the creditors' interest as well as, to the maximum extent possible, the occupational levels of the company.

Furthermore, certain specific rules apply only to composition with creditors proceedings with going concern (*in continuità aziendale*). In particular, *inter alia*:

(i) under article 84, para. 6 of the Insolvency Code, in a composition with creditors proceedings with going concern (*in continuità aziendale*) (a) proceeds arising from the liquidation of company's assets shall be distributed to creditors in accordance with the so called "absolute priority rule", *i.e.*, in accordance with the creditors' ranking pursuant to Italian law; whilst (b) proceeds arising from the continuation of the business activity (thus, exceeding the liquidation value) can be distributed in accordance with the so called "relative priority rule", meaning that it is not mandatory to distribute them in accordance with creditors' ranking but it is sufficient to ensure that all classes of creditors sharing the same ranking are treated equally and in a way which is more favourable than that of the classes of creditors ranking junior to them. Without prejudice to the above, claims which are secured pursuant to article 2751-*bis* of the Italian Civil Code (i.e., salaries) must be satisfied in compliance with the "absolute priority rule";

(ii) the division into classes is mandatory. Classes must be created also in relation to secured creditors unless they are repaid in full by means of cash within 180 days (reduced to 30 days for employees) after the homologation without any waiver to their security interests. So called "*imprese minori*" (i.e. enterprises not subject to judicial liquidation) which are unsecured creditors of the company under supply agreements for goods or services shall be put into different classes;

(iii) save for the provisions provided for under article 109 of the Insolvency Code, under article 86 of the Insolvency Code the *concordato* plan of a composition with creditors on a going concern basis (*in continuità aziendale*), may provide for a standstill for the secured creditors, which may extend up to six months from the date of homologation of the *concordato* proposal for the payment of secured creditors (*creditori privilegiati*) pursuant to article 2751-*bis* of the Italian Civil Code (i.e. employees, professionals etc.);

(iv) the *concordato* plan of a composition with creditors on a going concern basis (*in continuità aziendale*) must detail, *inter alia*, the financial impact of the plan and the time needed to achieve the rebalance of the company's financial situation. Moreover, in case the plan provides for the direct continuation of the business activity, the plan must include a detailed indication of the envisaged costs and revenues, financial needs and relevant cashflows, also considering those costs which are necessary to ensure compliance with applicable employment and environmental laws;

(v) the expert's report must certify that such plan is aimed at overcoming or preventing the company's insolvency and at ensuring the economic sustainability of the company. Moreover, the expert's report shall confirm that creditors' treatment (recovery) in the *concordato* is not worse than creditors' treatment (recovery) in a judicial liquidation;

(vi) creditors cannot unilaterally refuse to fulfil their obligations under pending contracts, nor they can terminate them or anticipate relevant due dates/expiry dates or amend them in way which is detrimental for the debtor for the sole reason of the debtor's application for/access to composition with creditors on a going concern basis (*in continuità aziendale*) (or of the granting of protective measures). Any contrary provision is ineffective. Without prejudice to the above, creditors which are interested by protective measures cannot unilaterally refuse to fulfil their obligations under "essential pending contracts" (*contratti essenziali in corso di esecuzione*) nor they can terminate them or anticipate relevant due

dates/expiry dates or amend them in way which is detrimental for the debtor for the sole reason of non-payment, by the debtor, of claims arisen before filing of the application for to composition with creditors on a going concern basis (*in continuità aziendale*). According to the Insolvency Code, a contract is "essential" if it is necessary for the continuation of the ordinary business activity, including supply contracts the cessation of which could prevent the company to continue its business activity.

Under article 100 of the Insolvency Code, *inter alia*, a debtor who files for a *concordato* on a going concern basis (*in continuità aziendale*) may request the court to authorize payment: (i) of debts arisen before *concordato* filing in relation to supply of goods or services which are essential for the company, provided that an independent expert certifies that they are essential for business continuity and to ensure the best satisfaction of creditors; and (ii) in accordance with the relevant contractual terms, of the instalments due under a loan agreement which is secured by a security interests over the assets used in the business, provided that (a) on the *concordato* filing date, the debtor has fulfilled its obligations under the agreement, or the court authorises the payment of the debt for principal and interest due at that date; and (b) a third-party independent expert certifies that such payments are essential for the continuation of the business activity and functional to ensuring the best satisfaction of the creditors and that the secured claims can be fully satisfied with the proceeds of the liquidation of the asset, carried out at market value, and that the repayment of the instalments does not prejudice the rights of the other creditors.

As mentioned, according to article 84 of the Insolvency Code, in a composition with creditors proceeding without going concern ("*con liquidazione del patrimonio*"), *concordato* proposal must provide for a contribution (cash injection) of resources by a third-party, which can increase of at least 10% the assets (*attivo*) available to creditors as of the filing date and ensure a minimum recovery of at least 20% for unsecured creditors. The third-party resources subject matter of the mandatory contribution can be distributed to creditors also irrespectively of their ranking, provided that the above-mentioned 20% minimum recovery is achieved. According to the Insolvency Code, contributions made by the company's shareholders without any repayment-obligation by the company (as well as shareholders' contributions fully and expressly subordinated) qualify as "third-party contributions" for the purposes of article 84 of the Insolvency Code, if the plan provides for their direct application to the benefit of company's creditors. As a general rule, the division into classes of creditors is not mandatory for composition with creditors proceeding without going concern ("*con liquidazione del patrimonio*"). However, pursuant to article 85 para. 2 of the Insolvency Code, classes must be created in relation to the following creditors: (i) creditors for tax claims and/or social contributions claims which will not be repaid in full; (ii) creditors benefitting of security interests/guarantees issued by third parties; (iii) creditors which will be satisfied not by means of cash (also in case satisfaction is made partly in cash and partly by way of other means); (iv) creditors who filed a "competing *concordato* proposal" and their related parties.

Upon the filing, the Courts, *inter alia*, determines whether the proposal for the composition is admissible assessing: (i) in case of a composition with creditors proceeding without going concern ("*con liquidazione del patrimonio*"), the admissibility of the proposal and the feasibility of the plan (meaning that the plan shall not be manifestly unfit to achieve the envisaged goals; and (ii) in case of a composition with creditors on a going concern basis (*in continuità aziendale*), compliance of the proposal with applicable provisions of law (*ritualità*). The proposal for *concordato* with going concern is, in any case, not admissible if the plan is manifestly unfit to satisfy the creditors as proposed by the debtor and to preserve the company's going concern value (*valori aziendali*).

If the court determines that the *concordato* proposal is admissible, *inter alia*, it appoints a delegated judge (*giudice delegato*) to supervise the procedure, appoints (or confirms, as the case may be) one or more judicial commissioners (*commissari giudiziali*) and schedules a specific period of time during which creditors can express their vote.

During the implementation of the proposal, the company generally continues to be managed by its corporate bodies (usually its board of directors), but is supervised by the appointed judicial commissioners and judge (who will authorize all transactions that exceed the ordinary course of business). Furthermore, up until the homologation of the proceeding, the debtor cannot make any payments of debts arisen before the opening of the proceeding itself, unless they have been specifically approved by the delegated judge.

Pursuant to the Insolvency Code: (i) one or more creditors (except for individuals or entities controlled, controlling or under common control of the debtor), representing at least 10% of the aggregate claims resulting from the updated accounts of the debtor filed with the courts; and (ii) shareholders representing at least 10% of the company's share capital, may file a *concordato preventivo* proposal competing with the debtors' proposal (*proposta concorrente*) – within 30 days before the starting of the voting process – subject to certain conditions being met, including, in particular, that the proposal of the debtor does not envisages the payment of at least 30% of the unsecured claims (such threshold is reduced to 20% in case the debtor had priorly and successfully started a negotiated crisis composition proceeding (*composizione negoziata*)).

Furthermore, pursuant to article 91 of the Insolvency Code, if the *concordato* plan, includes an offer for the sale of the debtor's assets or the sale of a going concern of the debtor to an identified third party, the court or the delegated judge shall order that for appropriate publicity to be given to the offer itself in order to acquire competing offers (*offerte concorrenti*). If expressions of interest are received, the court or the delegated judge, by decree, shall order the opening of the competitive proceeding. Furthermore, the abovementioned decree establishes the procedures for the submission of irrevocable offers, providing that in all cases, among others, the following is ensured: (i) their comparability; (ii) the requirements for the participation of the bidders; (c) the forms and timing of access to relevant information; (iii) any limits on their use; (iv) the modalities according to which the judicial commissioner must provide them to those who request them; (v) the modalities according to which the competitive procedure is to be conducted, (vi) the minimum increase in the consideration to be provided by the subsequent offers; (h) the guarantees to be given by the bidders; (vii) the forms of publicity, and (viii) the date of the hearing for the evaluation of the bids, if the sale takes place before the judge. With the sale or with the assignment, if earlier, to a person other than the original bidder identified in the plan, the latter and the debtor are released from their obligations towards each other and accordingly the debtor shall amend the proposal and plan in accordance with the outcome of the competitive proceeding.

As a general rule, the *concordato preventivo* is voted on within the period of time scheduled by the court and must be approved with the favourable vote of (i) the creditors representing the majority of the receivables admitted to vote and, also in the event that the plan provides for more classes of creditors, or (ii) the majority of the receivables admitted to vote is reached the majority of the classes. Pursuant to article 109, paragraph 1, of the Insolvency Code, in case one creditor holds more than the majority of receivables admitted to voting, it is also necessary to reach majority by headcount (*maggioranza per teste*). The *concordato preventivo* is approved only if the required majorities of creditors expressly voted in favour of the proposal. Creditors who did not exercise their voting right will be deemed not to approve the *concordato* proposal.

Secured creditors are not entitled to vote on the *concordato* proposal unless and to the extent they waive their security, or the *concordato preventivo* provides that they will not receive full satisfaction of the fair market value of their secured assets (such value being assessed by an independent expert), in which case they can vote only in respect of the part of their debt affected by the proposal. Among others, (i) the companies controlling the debtor, controlled by the debtor and those under the control of the entity controlling the debtor, (ii) the assignees of the claims of the entities under point (i), if the assignment has been perfected during the year preceding the *concordato* and (iii) creditors in conflict of interest are excluded from voting.

Differently from the general rules set out above, a composition with creditors on a going concern basis (*in continuità aziendale*) is approved with the positive vote of all the creditors' classes. In each class, the concordato is approved with the positive vote of creditors representing the majority of claims admitted voting or, if such

threshold is not met, with the positive vote of creditors representing two-thirds of the claims of voting creditors, provided that creditors holding at least half of the total claims of the same class have voted. Secured creditors are not admitted voting if they are repaid in full (and in cash) within 180 days (reduced to 30 days for employees) after the homologation without any waiver to their security interests. If such requirements are not met, then secured creditors are entitled to vote. Without prejudice to the above, the Insolvency Code provides that composition with creditors on a going concern basis (*in continuità aziendale*) can be homologated by the Courts also in case it is not approved by all the classes upon certain specific conditions being met.

In addition to the above, subject to certain conditions, the *concordato* plan may provide for the creation of one or more classes of shareholders (it is possible to create more than one class of shareholders if the company's By-Laws – also, where the case may be, as modified in the frame of the *concordato* proceeding – provide for different rights of the shareholders). The creation of classes of shareholders is required by law (i) if the *concordato* plan provides for amendments which affect directly the shareholders' rights; and/or (ii) in case of listed/public companies (*società che fanno ricorso al mercato del capitale di rischio*).

If one or more classes of shareholders have been provided, shareholders are entitled to vote in the form and within the time limits provided for the vote by creditors. Within their respective class, the relevant shareholder is entitled to vote proportionally to the portion of equity held before the *concordato* filing. If a shareholder does not vote within the relevant deadline, it is deemed as having voted in favour.

If concordato competing proposal (*proposte concorrenti*) have been filed by one or more creditors, they will be subject to the vote by creditors as well. The winning proposal is that which results in the highest majority of positive votes and, in the event of a tie, the debtor's proposal prevails against a creditor's, while a creditor's proposal will prevail over the one of another creditor if it has been filed before. In the event that none of the proposals achieves the required number of votes as described above, the judge shall re-submit to vote the proposal which obtained the highest majority.

Please note that the delegated judge may provisionally admit (in whole or in part) to the voting session creditors of disputed claims for the sole purpose of the vote on the *concordato* proposal and of the calculation of the relevant majorities. Excluded creditors shall have the right to oppose such decision by submission of a specific filing in the context of the homologation by the court, in any case, only if their participation in the voting session may have affected the calculation of the relevant majorities.

Once the *concordato preventivo* has been approved by creditors, the Court sets the date for the hearing aimed at the Court's formal homologation (*omologazione*) of the *concordato preventivo* and then the debtor notifies the relevant parties. At least 10 (ten) days before the date of the homologation hearing, any dissenting creditor and/or any third-party interested in doing so can file a challenge/appeal ("*opposizione*") against the proposed homologation of the composition with creditors proceeding. In case no challenges (*opposizioni*) are filed, the court shall homologate the *concordato* after verifying *(i)* the regularity of the *concordato* proceeding; *(ii)* the outcome of the creditors' vote; *(iii)* the admissibility of the proposal; *(iv)* the proper creation of the classes of creditors; and *(v)* the equal treatment of creditors within each class. In addition, in case of a *concordato* with going concern, the court shall verify that all classes have voted in favour of the proposal, the plan has reasonable prospects of preventing or overcoming insolvency, and any new financing is necessary to implement the plan and does not unfairly prejudice the interests of creditors. In any other case, the court shall verify the feasibility of the plan (*i.e.* the plan not being manifestly unfit to achieve the stated objectives).

Furthermore, in case of a *concordato* with going concern, if one or more classes are dissenting, the court, upon request of the debtor (or, in case of a competing *concordato* proposal, with the consent of the debtor) may homologate the *concordato* anyway, if the following conditions are jointly met: (i) the liquidation value is distributed in accordance with the ranking of each claim (absolute priority rule); (ii) the resources arising from the going concern exceeding the liquidation value are distributed in such a way that the claims included in the

dissenting classes receive overall treatment at least equal to that of the classes of the same ranking and more favourable than that of the classes of lower ranking (relative priority rule); (iii) no creditor receives more than the amount of their claim; and (iv) the proposal is approved by the majority of the classes, provided that at least one of them consists of secured creditors or, failing that, the proposal is approved by at least one class of creditors which would be at least partially satisfied based on the respective ranking of the claims even on the value exceeding the liquidation value.

Moreover, pursuant to article 88 of the Insolvency Code, if the debtor made a proposal for "*transazione fiscale*" to Tax Authorities/Social Security Authorities under the Insolvency Code, the courts can homologate the *concordato* also without the consent of such creditors when their consent is required for achieving the applicable majorities, provided that the expert's report certifies that the proposal made by the debtor to such creditor is more convenient than a liquidation *scenario*.

In case of challenges against the homologation, the Court shall decide and rule upon each of the challenges. In case the Court rejects all challenges and has no additional remarks, then it will issue the homologation decree.

Article 112 of the Insolvency Code provides for a "cram-down" mechanism whereby:

(i) in case of a composition with creditors on a going concern basis (*in continuità aziendale*), if a creditor challenges the "convenience" of the *concordato* proposal, the court can homologate the *concordato* only if it deems that the relevant claim will be satisfied for an amount not lower than the amount that would be paid in the frame of a judicial liquidation;

(ii) in all other cases, the court can homologate a *concordato preventivo* petition challenged by (i) a creditor which is a member of a "dissenting class" of creditors; or (ii) in case there are no classes of creditors, by creditors representing 20% of the claims admitted to vote, to the extent that (a) such challenge(s) are about the "convenience" of the *concordato* proposal; and (b) the court deems that the relevant claim will be satisfied for an amount not lower than the amount that would be paid in the frame of a judicial liquidation.

In addition, if the plan provides that pre-existing shareholders would benefit from the so-called "restructuring value", then *concordato* can be homologated if one or more classes of creditors are dissenting, to the extent that the recovery of each dissenting class is at least equal to the recovery of other classes having the same ranking and more favourable than the recovery proposed to classes ranking junior, even if the restructuring value reserved to the shareholders were to be applied to such classes. According to the Insolvency Code, the "restructuring value reserved to shareholders" means the effective value of the shareholders' stakes into the company following the homologation of the proposal, net of any contributions/injections made by the shareholders for the purposes of the restructuring. Shareholders can challenge the homologation if the latter is prejudicial to them compared to a liquidation scenario.

If the composition with creditors provides for the liquidation of the debtor's assets, the court, if homologates the concordato, appoints one or more liquidators in order to execute the approved plan if it has to be realized by way of a transfer of assets. The court may grant special powers to the commissioner to implement the plan if the debtor does not cooperate, including by taking all corporate actions required.

If the court does not homologate the concordato, it might open judicial liquidation of the company only if there are pending petitions in such respect.

The terms and the performance of the outstanding contracts which have been entered into, from time to time, by the debtor are not automatically affected by the concordato preventivo proceeding and normally continue pending the procedure, any agreement to the contrary being ineffective. However, pursuant to article 97 of the Insolvency Code, the debtor may request the Courts to either terminate or suspend the effectiveness of such pending agreements (save for certain exceptions: for instance, employment contracts cannot be suspended nor terminated) in case the continuation of the agreement is not in line with the plan nor functional to its

implementation. Please note that termination can be requested only if concordato plan and proposal have already been filed before the Courts. In such circumstances, the counterparty shall be entitled to an indemnity equal to the damages suffered because of the termination or suspension of the contract. Such indemnity shall be considered as an unsecured claim arisen before the *concordato* proceeding, without prejudice, however, to the super-senior ranking of those claims arisen because of transactions legally carried out after the publication of the *concordato* petition in the Companies' Register (and before the notification of the suspension/termination petition).

Specific rules are provided in relation to the termination of financial lease agreements and pending facilities agreements. In such latter respect, para. 14 of article 97 of the Insolvency Code states that, upon termination of a facility agreement, the lender is entitled to cash-in and retain the amounts paid by company's debtors up until repayment in full of the advances disbursed by the lender to the company in the period between (i) the date falling 120 days before concordato filing; and (ii) the date on which the petition for termination of the agreement has been notified to the lender.

In addition to all the above, article 95 of the Insolvency Code clarifies that pending contracts with Italian Public Authorities are not terminated as a result of concordato filing and any contrary provisions are ineffective; such contracts continue to be effective if the third-party independent expert certifies that such contracts are consistent with the plan (if already drafted) and that the company is reasonably able to fulfil them. If the composition with creditors on a going concern basis (*in continuità aziendale*), the expert shall also attest that the continuation of such contracts is necessary to achieve the best liquidation of the company's business unit (*migliore liquidazione dell'azienda in esercizio*). After *concordato* filing, the company can participate in public tender processes with the prior authorization of the Courts and upon meeting certain requirements set out under the Insolvency Code (including filing of a third-party expert report in such respect).

Pursuant to article 89 of the Insolvency Code, the rules governing the loss and reduction of the share capital set forth in the Italian Civil Code do not apply to Italian companies during the period from the date of filing of *concordato* application until the date of its homologation. During such period, moreover, the rule according to which a company shall be wound up in case of reduction or loss of the share capital, does not apply. Nevertheless, during the period preceding the filing of the *concordato* application, article 2486 of the Italian Civil Code – providing for the powers and duties of the directors after the occurrence of an event of dissolution of the company – will be applicable.

For the analysis of the rules regulating the new financial resources please see the specific section under paragraph "New financial resources" below.

Pursuant to articles 119 and 120 of the Insolvency Code, in the event of a breach of the composition with creditors plan or fraud, provided that the relevant requirements are met, the *concordato* can be terminated or annulled, as the case may be, upon petition of one or more of the creditors; the judicial liquidation may follow. *Concordato preventivo* is mandatory for all creditors prior to the publication of the application in the companies' register. However, creditors retain without prejudice their rights against co-debtors and guarantors of the debtor.

In case of non-minor breaches, the *concordato* may be terminated by each of the creditors or the judicial commissioner (in case of petition by one or more of the creditors). The relevant lawsuit must be brought within one year from the deadline originally scheduled for the last activity to be carried out under the *concordato* itself. The *concordato* may also be annulled upon request of the judicial commissioner or of one or more creditors in case a portion of the assets of the debtor has been concealed or the liabilities have been wilfully exaggerated. The relevant lawsuit must be brought within six months from the discovery of the concealment/exaggeration and, in any event, within two years from the deadline originally scheduled for the last activity to be carried out under the *concordato* itself.

Finally, please note that articles 284 and followings of the Insolvency Code provide for composition with creditors group-proceedings. More precisely, if more companies (having their centre of main interests in Italy) belonging to the same group are facing a situation of crisis or insolvency they can make a single application for composition with creditors proceeding, including a single *concordato* plan or multiple connected plans. Assets and liabilities of each group company shall be assessed on a single-entity basis. In such case, the legal framework of composition with creditors group-proceedings is the same applicable to the ordinary type, save for certain specific rules/exceptions, among which, *inter alia*: (i) the *concordato* petition shall specify the reasons why a group proceeding is more convenient for creditors than single and separate proceedings; (ii) the *concordato* petition and the plan/plans must include certain additional information, mainly relating to group structure, intercompany relationships, etc.; (iii) the plan(s) must ensure the restructuring of each group company and must be certified by the third-party expert. The expert's report shall also confirm that the group-proceeding is more convenient for creditors than separate proceedings; (iv) the plan(s) might provide both for the continuation of certain business activities and the liquidation of others. The proceeding qualifies as composition with creditors on a going concern basis (*in continuità aziendale*) whenever the proceeds arising from the continuation of business exceed the proceeds arising from the liquidation of assets; and (v) certain specific rules in relation to the voting phase and homologation phase of the proceeding apply.

Negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) under the Insolvency Code

The negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) was originally introduced in the Italian legal framework by Decree 118/2021 and has been subsequently incorporated into the Insolvency Code. It consists of a negotiated and out-of-court tool applicable to both commercial enterprises (*imprenditori commerciali*) and agricultural enterprises (*imprenditori agricoli*), which are undergoing a distressed situation with reference to their assets, their business and/or their financial situation, such that it is likely that a distress/crisis or insolvency will follow. Therefore it a tool aiming at anticipating further deterioration of the debtor's situation.

Without prejudice to the above, the court can be involved in the two following circumstances: (i) when the entrepreneur files a petition pursuant to article 18 of the Insolvency Code requesting the competent court to confirm or modify the protective measures provided for pursuant to the same provision on the same day as the publication of the request in the relevant companies' register and the acceptance of the expert, and, if necessary, to enact the interim measures necessary to complete the negotiations, and (ii) when the entrepreneur files a petition asking the court to authorize certain acts in line with the provisions set forth under article 22 of the Insolvency Code.

Pursuant to article 17 of the Insolvency Code, the entrepreneur or the enterprise filing for a negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*), *inter alia*, shall certify that no judicial liquidation proceedings or similar proceedings are pending towards itself nor requests for the admission to the procedures provided for under articles 40 of the Insolvency Code, including pursuant to articles 44, para. 1, letter (a) and 54, para. 3, have been previously filed. In the event that the petition for a negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) is dismissed (*arhiviata*) shall not submit a new request before one year has elapsed after dismissal (the term is reduced, for one time only, to four months if such dismissal is requested by the entrepreneur within two months starting from the acceptance of the expert).

The negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) is commenced on a voluntary basis only, filing of a petition for the appointment of a third party and independent expert to the Secretary General of the relevant Chamber of Commerce by way of a dedicated electronic platform and the expert is appointed within five days upon the filing of the request. Pursuant to the Insolvency Code, the person to be appointed as expert shall not have or maintain professional relations with the entrepreneur during the two

years following the termination of the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*). The petition cannot be filed pending a procedure for over-indebtedness restructuring agreement or liquidation of assets pursuant to articles 7 and 14-ter of Law no. 3/2012 (*procedimenti di composizione della crisi da sovraindebitamento e di liquidazione del patrimonio*). The expert is responsible for facilitating and managing the negotiations between the company, its creditors and any other interested parties, in order to identify a solution to overcome the crisis or the insolvency, including through the transfer of the business or a branch thereof.

The expert assesses his/her own independence, the adequacy of his/her own professional expertise and his/ her own time availability with respect to the prospected assignment, and, if the outcome of the assessment is positive, notifies his/her acceptance to the entrepreneur and uploads it on the dedicated electronic platform. If the expert accepts the appointment, he/she meets with the entrepreneur in order to assess whether there are concrete and real chances of recovery. The entrepreneur attends the meeting personally, and can be assisted by its advisors.

If the expert finds that there are concrete and real chances of recovery, he/she meets with the parties involved in the entrepreneur's recovery process and presents the possible strategies, scheduling periodic meetings close in time to one another.

During the negotiations, all the parties involved must act in good faith and with fairness, must cooperate and are bound by confidentiality on the entrepreneur's situation, on the actions carried out or planned by the entrepreneur and on the information received in the course of the negotiations. The entrepreneur must provide a complete and clear representation of his/her situation and manage his/her assets without causing unfair prejudice to the creditors. Banks and financial intermediaries, their agents, and, in case of credit assignment and/or transfer, their assignees or transferees, must take part in the negotiations actively and in an informed manner. The access to the composition procedure (*composizione negoziata per la crisi di impresa*) does not, by itself, constitute ground for withdrawal of overdraft facilities. Specific provisions apply to negotiations involving employment contracts.

If the expert finds that there are no real chances of recovery, after the meeting with the entrepreneur or thereafter, he/she has to promptly notify the entrepreneur and the Secretary General of the Chamber of Commerce, which provides for the dismissal of the entrepreneur's petition. The negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) shall not exceed 180 days, subject to a possible extension of additional 180 days upon certain requirements. More specifically, the expert's appointment is considered terminated if, after 180 days from its appointment, the parties have not agreed on a solution (that can also be proposed by the expert) for overcoming the entrepreneur's distressed situation. However, the expert's appointment can continue up to further 180 days if (i) all the parties involved in the negotiations require so and the expert agrees, or (ii) the prosecution of the appointment is required by the fact that the entrepreneur has filed a petition to the court pursuant to article 19 and/ or article 22 of the Insolvency Code.

At the end of his/her appointment the expert issues a final report, to be uploaded it on the platform, and notifies it to the entrepreneur and to the court that has granted the protective measures and interim measures (if any) which declares the termination of their related effects.

Pursuant to article 18 of the Insolvency Code, together with the petition for appointment of the expert, or with a subsequent petition, the entrepreneur can request the application of protective measures, which may also be limited, upon entrepreneur request, to certain creditors' claims or to a specific category of creditors. If the protective measures are granted, from the date of publication of the relevant petition, pre-existing creditors cannot obtain pre-emption rights (*diritti di prelazione*) unless agreed upon by the entrepreneur and all enforcement and interim actions are stayed. However, please note that, differently from what it is provided

under the Insolvency Code for the composition with creditors proceeding (*concordato preventivo*), payment of pre-existing creditors is not forbidden. The protective measures do not apply to employees' claims.

Starting from the date of publication of the petition requesting the application of the protective measures until the date of conclusion of the negotiations or dismissal of the petition for the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*), the judgement of opening the judicial liquidation (*sentenza di apertura della liquidazione giudiziale*) or the declaration of the insolvency of the entrepreneur cannot be declared insolvent by the court, provided that the court revokes the protective measures.

The creditors whose rights are affected by the protective measures cannot unilaterally refuse to perform their obligations under the contracts in place with the entrepreneur, nor terminate such contracts, nor anticipate their expiration date, nor amend them with detrimental consequences for the entrepreneur, solely on the ground of the missed payment of claims arisen prior to the publication of the petition requesting the application of the protective measures. However, the creditors may suspend the fulfilment of the pending contracts from the publication of the petition requesting protective measures to the obtainment of such protective measures.

If the entrepreneur applies for the protective measures, it must simultaneously file the same request to the competent court, in order to allow a judge to check the said measures and to confirm them or, if necessary, to modify them. In the absence of this request, the protective measures will be ineffective.

The duration of the protective measures and, if necessary, the interim measures, is established by an order of the court in a range between 30 and 120 days, and, upon request of the parties and after obtaining the opinion of the expert, can be extended for the time required to positively finalize the negotiations up to a maximum of 240 days, given that the judge may discretionary order the revocation of such protective measures or shorten their duration.

Pending the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*), there is no dispossession: the entrepreneur remains able to continue the ordinary and extraordinary management of the company, subject to certain conditions. More precisely, pursuant to article 21 of the Insolvency Code, pending the negotiations, the entrepreneur may carry out acts pertaining to ordinary activity. Upon written notice to the expert, carry out acts pertaining to extraordinary activity or make payments non-consistent with the negotiations nor with the perspectives of recovery, in such a way as to avoid prejudicing the economic and financial sustainability of the business. Furthermore acts, payments, and guarantees/security interests carried out by the entrepreneur after the appointment of the expert under the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) are not subject to claw-back action under article 166, para. 2 of the Insolvency Code, if they are consistent with the status of the negotiations and the recovery perspectives of the company. If during the course of the negotiations, it appears that the entrepreneur is insolvent but there are real prospects of recovery, the entrepreneur shall manage the enterprise in the best interests of the creditors, subject to his liabilities. If the expert believes that a certain act causes prejudice to the creditors, to the negotiations or to the perspectives of recovery, he/she reports it in writing to the entrepreneur and to the enterprise's control body. If, notwithstanding the expert's report, the entrepreneur carries out the relevant act, the entrepreneur gives immediate notice to the expert, who may file his/her dissent for the registration with the companies' register. At the request of the entrepreneur, one or more creditors or the expert, the court that has granted the protective measures and/or interim measures may, at any time, revoke such measures or reduce their duration when they do not meet the aim of ensuring the positive outcome of the negotiations or they appear disproportionate in relation to the prejudice caused to the creditors. If the protective measures are revoked, the rule relating to the prohibition of the obtainment of pre-emption rights by pre-existing creditors ceases to be effective for the date on which the protective measure has been revoked.

Upon the entrepreneur's request and to the extent that this is consistent with the continuation of the business as a going concern and with the maximization of the creditors' recovery, the court may authorize: (i) the

entrepreneur or one or more companies belonging to the same group to incur new super-senior indebtedness (*prededucibile*) pursuant to article 6 of the Insolvency Code; (ii) the entrepreneur to incur new super-senior indebtedness (*prededucibile*) by virtue of shareholders' financing pursuant to article 6 of the Insolvency Code; and (iii) the entrepreneur to transfer its business, or certain business branches, without the effects provided under article 2560, para. 2, of the Italian Civil Code, without prejudice to article 2112 of the Civil Code, identifying the appropriate measures to protect all the interests involved, taking also into account the requests of the parties concerned. The court shall also verify the compliance with the competitiveness principle (*principio di competitività*) in the selection of the purchaser.

Pursuant to article 23 of the Insolvency Code, if a suitable solution to overcome the entrepreneur's difficulties has been found, the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) can terminate by means of:

(i) the execution of an agreement between the entrepreneur and one or more creditors, which constitutes cause for application of the reward measures provided under article 25-*bis*, para. 1 of the Insolvency Code if, according to the expert's final report, such agreement ensures the continuation of the business as a going concern for at least 2 years;

(ii) the execution of a standstill agreement (*convenzione di moratoria*) pursuant to article 62 of the Insolvency Code;

(iii) the execution of an agreement signed by the entrepreneur, by the creditors and by the expert, with the effects provided under articles 166, paragraph 3, lett. (d) and 324 of the Insolvency Code. With such agreement the expert acknowledges that the reorganization plan (*piano di risanamento*) seems to be consistent with the composition of the insolvency and crisis of the entrepreneur.

If, at the end of the negotiations, none of the above mentioned solution has been elected, the entrepreneur may, alternatively:

(i) draft a certified restructuring plan (*piano attestato di risanamento*) pursuant to article 56 of the Insolvency Code;

(ii) file a petition requesting the homologation of a debt restructuring agreement with creditors (*accordo di ristrutturazione dei debiti*) pursuant to articles 57, 60 and 61 of the Insolvency Code. The percentage referred to under article 61, para. 2, letter (c) of the Insolvency Code is reduced to 60% if the achievement of the agreement results from the final report of the expert;

(iii) file a petition for the simplified composition with creditors proceeding for the liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) (please see the paragraph "*Simplified composition with creditors proceeding for the liquidation of assets (concordato semplificato per la liquidazione del patrimonio) under the Insolvency Code*" below;

(iv) access to one of the proceedings/tools provided under the Insolvency Code or in the Decree 270 or in the Decree 347.

Furthermore, pursuant to article 24 of the Insolvency Code:

(i) the acts authorized by the court pursuant to article 22 of the Insolvency Code shall maintain their effects in the event of the subsequent occurrence of an homologated debt-restructuring agreement (*accordo di ristrutturazione dei debiti omlogato*), an homologated composition with creditors proceeding (*concordato preventivo omologato*), an homologated restructuring plan pursuant to article 64-*bis* of Insolvency Code (*piano di ristrutturazione omologato*), the opening of the judicial liquidation (*liquidazione giudiziale*), the compulsory administrative liquidation (*liquidazione coatta amministrativa*), the extraordinary administration (*amministrazione straordinaria*) or the simplified composition with creditors proceeding for the liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*);

(ii) the transactions, the payments and the granting of security interests carried out by the entrepreneur after the acceptance by the expert of his/her appointment, are exempted from claw-back actions pursuant to article 166, para. 2, of the Insolvency Code, if they are consistent with the development and the status of the negotiations and with the perspectives of recovery in place at the time the transaction/payments/granting of security interest was made; and

(iii) the extraordinary transactions and payment made after the acceptance by the expert of his/her appointment are in any case subject to claw-back actions pursuant to article 165 and article 166 of the Insolvency Code if the expert has registered his/her dissent in the companies' register pursuant to article 21, para. 4 of the Insolvency Code or if the competent court has denied its authorization pursuant to article 22 of the Insolvency Code; and

In addition, payment and transactions carried out after the acceptance by the expert of his/her accepted its appointment, which the expert assesses to be consistent with the development of the negotiations and with the perspectives of recovery of the enterprise, or which have been authorized by the court pursuant to article 22 of the Insolvency Code, benefit of exemptions from the potential application of certain criminal sanctions.

Pursuant to article 25 of the Insolvency Code, the negotiated crisis composition procedure (*composizione negoziata per la crisi di impresa*) may also apply to group of companies, which may commence one proceeding all together. At the end of the negotiations, the companies belonging to the same group may either entering into one of the agreements provided under in article 23, para. 1 of the Insolvency Code as a group, or access to one of the tools provided under article 23 of the Insolvency Code, both separately or as a whole group.

Simplified composition with creditors proceeding for the liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) under the Insolvency Code

Simplified composition with creditors proceeding for liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) is a particular type of composition with creditors proceeding (*concordato preventivo*) available only for those companies which (i) had first made access to composition procedure (*composizione negoziata per la crisi di impresa*); and (ii) as certified by the expert under the composition procedure (*composizione negoziata per la crisi di impresa*), notwithstanding the negotiations in good faith with creditors could not achieve a positive outcome.

Simplified composition with creditors proceeding for liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) – which has merely liquidation purposes – has originally been introduced in the Italian legal framework by Decree 118/2021 and has been subsequently incorporated into the Insolvency Code.

If, in its final report, the expert states that the negotiations did not have a positive outcome but have been conducted according to fairness and in good faith, and that the options provided under article 23, para. 1 and 2, letter (b) of the Insolvency Code are not feasible, within 60 days following the notification of the final report the entrepreneur may file, with the competent court of the place where the company has its registered office, a petition for admission to the simplified composition with creditors proceeding for liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*), a *concordato* proposal providing for the liquidation of the assets together with the liquidation plan and the documents provided under article 39 of the Insolvency Code. The proposal may provide for the division of the creditors into different classes.

The petition for the simplified composition with creditors proceeding for liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) is communicated to the public prosecutor and published with the companies' register within the day following the date of the filing with the court. From the date of such publication, the effects provided under articles 6, 46, 94 and 96 of the Insolvency Code apply.

Upon the filing of the application, the court (i) appoints a so-called "auxiliary" (*ausiliario*) to, *inter alia*, express an opinion on the entrepreneur's proposal; (ii) orders that the proposal, together with the opinion of the auxiliary

and the final report of the expert, be delivered by the debtor to the creditors appearing on the list filed by the debtor itself; and (iii) sets the date of the hearing for the homologation. Creditors and any third party which has any interests are entitled to object to the homologation within ten days before the date fixed for the hearing.

The court homologates the simplified composition with creditors proceeding for liquidation of assets (*concordato semplificato per la liquidazione del patrimonio*) when it verifies (i) the regularity of the adversarial principle among the parties (*contraddittorio*) and the proceeding; (ii) the compliance with the pre-emption rights (*cause di prelazione*); (iii) the feasibility of the liquidation plan, and finds that the proposal does not cause a prejudice to the creditors compared to what they would receive in case of judicial liquidation (*liquidazione giudiziale*) of the entrepreneur, and in any case ensures that each creditor receives a certain recovery. With the homologation decree, the court also appoints a liquidator.

The parties may challenge the homologation decree within 30 days after the notification of the same.

Pursuant to article 25-septies of the Insolvency Code, the liquidation plan may also include an offer by a pre-identified third party to transfer the business or one or more branches of the business or specific assets to such third party, even before the approval: in this case, the judicial liquidator, having verified the absence of better solutions on the market, may implement the offer.

Certified restructuring plans (*piani attestati di risanamento*) under article 56 of the Insolvency Code

Certified restructuring plans (*piani attestati di risanamento*) under article 56 of the Insolvency Code are out-of-court tools consisting of a restructuring plan addressed to creditors and prepared by debtors who are either insolvent or in a state of crisis, in order to permit the restructuring of the debtor's indebtedness and supporting the rebalancing of the debtor's financial condition, which shall be certified by a third-party independent expert appointed directly by the debtor and enrolled in the register of auditors and accounting experts (*Registro dei Revisori Contabili*). The independent expert – which must verify the feasibility of the restructuring plan and the truthfulness of the business data provided by the company – must possess certain specific professional requisites and qualifications and meet the requirements set forth by Article 2399 of the Italian Civil Code and may be subject to liability in case of misrepresentation or false certification.

The certified restructuring plans (*piani attestati di risanamento*) are usually implemented by means of one or more agreements entered by the company with the relevant creditors/counterparties. Such agreements are merely private agreements and do not affect the right of creditors who are not a party to the agreement to enforce their claims, guarantees or securities. As such, there is no "automatic stay" by operation of law.

The certified restructuring plans (*piani attestati di risanamento*) and the relevant debt restructuring arrangements are not under any form of judicial control or approval and, therefore, no application is required to be filed with the court or supervising authority. Also, no approval or consent by a specific majority of all outstanding claims are required.

The terms and conditions of these plans are freely negotiable, provided they are finalized at restructuring the debtor's indebtedness and rebalancing its capital structure. Article 56 of the Insolvency Code sets out the "minimum content" of the plan including, *inter alia*, indication of non-adhering creditors, the financial resources necessary to pay their claims at the relevant due dates as well as the causes of the crisis. Also, it must be supported by adequate documentation representing the financial and commercial situation of the debtor.

As expressly provided under article 166, para. 3, letter (d) of the Insolvency Code, should these plans fail, and the debtor be declared insolvent, the payments and/or acts carried out, and/or security interest granted on the debtor's assets for the implementation of the reorganization plan, subject to certain conditions, are not subject to any claw-back action (*azione revocatoria*), including the ordinary claw-back action provided for pursuant to article 2901 of the Italian Civil Code (*azione revocatoria*). Furthermore, they are exempted from the potential application of certain criminal sanctions.

There is no homologation by the court. The publication in the companies' register of the plan, the report of the independent expert and the agreement(s) is not mandatory and it is possible upon a debtor's request and would allow to certain tax benefits.

The Insolvency Law provides for specific rules regarding the protection against claw-back actions and potential civil and criminal responsibilities in relation to the transactions, the payments and the securities granted on debtor's assets carried out in the context of implementation of certified restructuring plans (*piani attestati di risanamento*) under article 56 of the Insolvency Code.

Debt-restructuring agreements (*accordi di ristrutturazione dei debiti*) under article 57 of the Insolvency Code and ff.

A debtor which is insolvent or is facing a state of crisis may enter into a debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) provided for pursuant to article 57 and ff. of the Insolvency Code with creditors holding at least 60% of the outstanding indebtedness, which shall be certified by an independent expert appointed by the debtor as per assessment of the truthfulness of the business and accounting data provided by the company and the declaration of its feasibility and requesting its homolgation by the competent court.

More specifically, the independent expert, shall certify that the plan and the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) ensure that the indebtedness vis-à-vis non-adhering creditors can be fully satisfied within the following terms in a 120-day term from: (i) the date of homologation of debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) by the court, in the case of debts which are due and payable to the non-participating creditors as of the date of the homologation; and (ii) the date on which the relevant debts fall due, in case of debts which are not yet due and payable to the non-adhering creditors as at the date of the homologation of the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) by the court.

The debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) is published in the companies' register and becomes effective as of the day of its publication. Creditors and other interested parties may challenge the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) within 30 days from the publication of the same in the companies' register. After having decided on the opposition filed (if any), the court homologates the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) by issuing a decree, which can be appealed within 30 days of its publication pursuant to article 51 of the Insolvency Code.

The Insolvency Code does not expressly provide for any indications concerning the contents of the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*). The plan can therefore provide, *inter alia*, either for the debtor or a third party carrying out the business, or the sale of the business, and may contain refinancing agreements, moratoria, write offs and/or postponements of claims. The debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) may also contain a proposed tax settlement for the partial or deferred payment of certain taxes.

Pursuant to article 58, para. 1 of the Insolvency Code, in the event of substantial amendments to the plan before the approval, the report issued by the expert and the consent to the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) expressed by creditors shall be renewed. The report shall also be renewed in the event of substantial amendment. In the event of substantial amendments after the approval, the debtor shall make such amendments as are appropriate to ensure the implementation of the agreements, by requesting the update of the certified report issued by the expert having the requirements set forth in article 57, para. 4 of the Insolvency Code. In this case, the renewed certified report, together with the amended restructuring plan, shall be published in the companies' register, giving proper notice to the creditors by registered letter or *via* certified email. The parties may file an objection (*opposizione*) to the abovementioned decree within 30 days after having been notified of the same.

With the petition for the homologation of the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) by the competent court (or at any time pending the procedure) the debtor may request to be granted any protective measures (aimed at providing for the stay of actions or the creation by creditors of security interest, unless it is agreed in the debt restructuring agreement in relation to pre-existing debts, etc.). Such measures can also be requested (i) pursuant to article 54, para. 3 of the Insolvency Code, to the court by the debtor pending negotiations with creditors (*i.e.*, prior to the filing of the petition for the homologation of the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*)), subject to certain conditions, or (ii) pursuant to article 44 of the Insolvency Code, together with a "simplified application" for the access to one of the restructuring tools provided for by the Insolvency Code. According to article 54, para. 2, of the Insolvency Code, provided that the petition for the homologation of the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) includes the relevant request for measures, from the date of publication of the petition in the companies' registry, it is prohibited to commence or continue the enforcement and the conservative actions (or, in any event, to take any initiatives prohibited under the relevant measures).

It is a court-supervised proceeding which does not provide for the dispossession of debtor; however, the court may appoint a judicial commissioner to oversee the proceedings and must do so in case petitions for the opening of judicial liquidation (*liquidazione giudiziale*) are pending, when it is necessary for the protection of the parties who filed such petitions. Creditors entering into the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) are not required to receive the same treatment (*i.e.*, they are free to reject the proposal and to protect their interests otherwise) and no cram-down is applicable to third-party non-adhering creditors, which shall be fully re-paid within the relevant deadlines outlined above.

The court, having verified the completeness of the documentation filed by the debtor, fixes the date for a hearing to be held no earlier of 15 days from the notification of the relevant filing. Pending such deadline, creditors and other interested parties may file an opposition to the homologation. At such hearing, the court decides upon any opposition and assesses whether the conditions for the approval are met.

Without prejudice to all the above, articles 60, 61 and 62 of the Insolvency Code provide for the following additional types of debt-restructuring agreement (*accordo di ristrutturazione dei debiti*).

First, article 60 of the Insolvency Code provides for the so called facilitated debt-restructuring agreement ("*accordi di ristrutturazione agevolati*"). Such proceeding, is a particular kind of debt restructuring agreement which may be entered into with creditors representing as little as 30% of the total indebtedness (instead of the 60% generally required under article 57, para. 1, of the Insolvency Code) provided that the debtor: (i) does not propose the standstill on the payment of non-adhering creditors; and (ii) has not previously requested (and waives to request) to the court the granting of protective interim measures on the its assets.

Pursuant to the article 61 of the Insolvency Code, debtors are entitled to enter into debt-restructuring agreement by obtaining the approval of creditors representing at least 75% of the credits belonging to the same category (with respect to the homogeneity of their status and economic interests) and can request the court to declare that agreement binding on the non-adhering creditors belonging to the same category (so called "*cram down*").

More in detail, debt-restructuring agreement with extended effects (*accordi di ristrutturazione ad efficacia estesa*) under article 61 of the Insolvency Code – which were previously only permitted in relation to debts owed to banks and financial intermediaries where such debts represented at least 50% of the total indebtedness – can now be applied to any category of creditors, provided that, *inter alia*: (i) all the creditors belonging to the same category have been informed of the start of the negotiations and have been able to participate in them in good faith and have received complete and up-to-date information on the debtor's assets, economic and financial situation as well as on the restructuring agreement and its effects; (ii) the agreement provides for the continuation of the business activity either directly or indirectly pursuant to article 84 of the Insolvency Code; (iii) the claims of the consenting creditors belonging to a same category represent at least 75% of all the claims

belonging to the same category; (iv) the non-adhering creditors belonging to the same category to which the effects of the agreement are extended can be satisfied under the agreement for an amount not lower than the amount they would receive with the judicial liquidation being understood that a creditor may hold claims in more than one category; and (v) the debtor has notified the agreement, the application for court approval and the documents attached thereto to the creditors to be crammed down. The percentage of 75% is lowered to 60% if the debt restructuring agreement is referred to in the final report issued by the expert at the end of the negotiations pertaining to the negotiated crisis composition procedure (*composizione negoziata per la soluzione della crisi d'impresa)*.

Moreover, pursuant to para. 5 of article 61 of the Insolvency Code, if a debtor whose financial indebtedness is at least 50% of their total indebtedness, debt-restructuring agreement may identify one or more categories of creditors which are banks and financial intermediaries which have a homogeneous legal position and economic interests and extend the effects of the agreement to non-participating creditors who are part of the same category. In such case, the agreement is valid even if it does not contemplate the direct or indirect continuation of the business activity as a going concern. However, the rights of creditors who are not banks or financial intermediaries remain valid.

Pursuant to the article 62 of the Insolvency Code, a standstill agreement (*convenzione di moratoria*) entered into between a debtor and its creditors representing 75% of the same class would is also binding over the non-adhering creditors, provided that (i) certain conditions are met, such as, *inter alia*, (a) all the creditors belonging to the relevant category have been duly noticed of the beginning of the negotiations, have been made able to participate in the negotiations and have received complete and up-to-date information on the debtor's assets, economic and financial situation and on the agreement and its related effects; (b) the claims of the adhering creditors belonging to the same categories represent 75% of all the creditors of the same class; and (c) there is a real prospect that the non-adhering creditors of the same category, to whom the effects of the agreement are extended, may be satisfied at the outcome of the agreement to an extent not less than in the judicial liquidation; and (ii) an independent expert certifies (i) the truthfulness of the business data, (ii) the attitude of the standstill agreement to temporarily regulate the effects of the crisis and (iii) the meeting of the condition under (i)(c) above (*i.e.* the fact that the treatment reserved to non-adhering creditors is at least equal to the one they could obtain in the context of a judicial liquidation).

Non-adhering crammed-down creditors can challenge the standstill agreement within 30 days after the notification of the same.

In no case debt restructuring agreements provided for under article 61 of the Insolvency Code and standstill agreements provided under article 62 of the Insolvency Code may impose on the non-adhering creditors, *inter alia*, performance of new obligations, the granting of new overdraft facilities, the maintenance of the possibility to utilize the existing facilities or the utilization of new facilities.

By virtue of **article** 59 of the Insolvency Code, article 1239 of the Italian Civil Code applies to the creditors that have adhered to the debt-restructuring agreements. Non-participating creditors maintain their claims towards (i) those who are jointly and severally liable with the debtor, (ii) the debtor's guarantors and (iii) debtors by way of right of recourse (*regresso*). Unless agreed otherwise, debt restructuring agreements produce effect towards the shareholders who are jointly liable with non-limited liability companies, provided that, if such shareholders have granted guarantees, they will remain liable as guarantors.

For the analysis of the rules provided under article 99 of the Insolvency Code – which applies to both debt-restructuring agreements (*accordi di ristrutturazione dei debiti*) and to the composition with creditors proceedings (*concordati preventivi*) – regulating the supersenior financings authorised before the homologation of a debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) and a composition with creditors

proceeding (*concordato preventivo*) please see the specific section under paragraph "New financial resources" below.

Restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) under article 64-bis of the Insolvency Code

The restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) under articles 64-*bis* and 64-*ter* of the Insolvency Code constitute a novelty in the business and crisis and insolvency legal framework. Pursuant to this new tool, which is available to debtors which are insolvent or are facing a state of crisis, the distribution rules of regular insolvency proceedings can be disregarded, can be enacted provided that certain strict requirements are met.

More precisely, by virtue of this instrument, pursuant to which the creditors must be divided into classes according to homogeneous legal positions and economic interests, the debtor may distribute to the creditors the value generated by the plan even in derogation of the provisions governing the ranking/statutory order of claims (principle of "*par condicio creditorum*"), provided that the proposal is approved by unanimous consent of the classes.

The restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) shall provide for payment in full, by means of cash, of claims secured by the privilege under article 2751-*bis* no. 1 of the Civil Code (*i.e.*, salaries) within 30 days of homologation and must be certified, as to the truthfulness of the company data and the feasibility of the plan, by an independent professional meeting the requirements of the Insolvency Code.

The debtor shall file the restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) before the courts together with all relevant documents provided under the Insolvency Code. The court shall assess the regular filing and the correctness of the criteria for the formation of the classes: in this case, the courts appoint the judicial commissioner, the delegated judge and set the deadlines for the creditors to vote. The following phase must follow the steps of the common framework applicable to all restructuring tools and frameworks (i.e. composition with creditors proceeding (*concordato preventivo*), debt-restructuring agreement (*accordi di ristrutturazione dei debiti*) and judicial liquidation (*liquidazione giudiziale*)).

From the date of filing of the petition until the homologation, the entrepreneur maintains the ordinary and extraordinary management of the company in the prevailing interest of the creditors under the supervision of the judicial commissioner.

There is no "automatic stay": nevertheless, the debtor can file a specific request for the application of the stay of action, to stop/block enforcement and/or pre-cautionary actions by creditors over its assets up until the homologation of the agreement (and such request can be filed also pending the negotiations for the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*)). Final decision on such request (which is provisionally effective) shall be taken by the competent courts and the length of such stay of action period is for maximum 4 months (subject to extensions under certain circumstances, in any case not exceeding an overall period of 12 months). During the stay-of-action period the judicial liquidation (*liquidazione giudiziale*) cannot be opened by the courts.

In each class, the proposal is approved if a majority of the claims allowed to vote is reached or, failing that, if two-thirds of the claims of the voting creditors have voted in favour, provided that creditors holding at least half of the total claims of the same class have voted. Secured creditors are not admitted voting if they are repaid in full (by means of cash) within 180 days (reduced to 30 days for employees) after the homologation without any waiver to their security interests.

If the restructuring plan (*piano di ristrutturazione*) is not approved by all classes, the debtor, *inter alia*, may amend the application by making a proposal for a composition with creditors (*concordato preventivo*).

The court will homologate the restructuring plan (*piano di ristrutturazione*) in the event of approval by all classes. If a dissenting creditor objects to the proposal, the court will approve and homologate the restructuring plan if the proposal satisfies the claim to a not lesser extent than the one resulting from a judicial liquidation. A creditor that has not objected to the lack of convenience in its observations may not file an objection referred before, unless it proves such the lack of objection was due to a cause not attributable to it.

Against the judgment of the court ruling on the homologation of the restructuring plan subject to homologation (*piano di ristrutturazione soggetto a omologazione*), the parties may file an appeal before the competent court of appeal within the term of 30 days from the notification of the relevant judgement of the court.

Acts, payments, and guarantees/security interest on the debtor's assets carried out in execution of the homologated restructuring plans subject to homologation (*piani di ristrutturazione soggetti a omologazione*) and indicated therein are not subject to claw-back action pursuant to article 166 of the Insolvency Code.

Extraordinary administration for large insolvent companies (*amministrazione straordinaria delle grandi imprese insolventi*) under the Decree 270

Decree 270 introduced a specific extraordinary administration proceeding, otherwise known as the "Prodi-*bis*" (the "**Prodi-*bis* Procedure**"), applicable to insolvencies of major companies (the "**Extraordinary Administration**").

The aim of the Prodi-*bis* procedure is to ensure continuation of the business operated by the debtor by either enabling the same to regain the ability to meet its obligations in the ordinary course of business by the end of the procedure or by transferring the business (on a going concern basis) to third parties.

To be eligible for the Prodi-*bis* procedure, the company must be insolvent although able to demonstrate serious recovery prospects and have:

(i) employed at least 200 employees in the year before the procedure was commenced; and

(ii) debts equal to at least two-thirds of the value of its assets as shown in its financial statements and two-thirds of income from sales and the provision of services during the last financial year.

Insolvent companies, belonging to the group of a company that qualifies for the Prodi-*bis* Procedure, may be submitted to the latter, if certain conditions are met, also if they do not qualify per-se for the Prodi-*bis* Procedure.

The Prodi-*bis* Procedure is divided into two main phases:

(i) judicial phase: following a petition, (which may be filed by one or more creditors, the debtor or the public prosecutor), the court will determine whether the company meets the criteria for admission and, in particular whether the company is insolvent. If the company is insolvent, the court will issue a decision to that effect and appoint one or three judicial receiver(s) to evaluate whether the business has serious prospects of recovery (either through a sale of assets or a reorganisation of its business) and to report back to the court within 30 days. Following receipt of the report of the judicial receiver, the court has a further 30 days to decide whether to admit the company to the Extraordinary Administration procedure or place into bankruptcy;

(ii) administrative phase: once the Extraordinary Administration procedure has been approved, the extraordinary commissioner(s) appointed by the Minister of Economic Development shall prepare a restructuring plan. The plan can provide either for the sale of the business as a going concern within one year (unless extended by the Ministry of Economic Development) (the "**Disposal Plan**") or a reorganization leading to the company's economic and financial recovery within two years (unless extended by the Ministry of Economic Development) (the "**Recovery Plan**"). The proceedings are administered by the extraordinary commissioner(s) who acts under the supervision of the Minister of Economic Development. While unsecured creditors may appoint one or two members to the supervisory

committee for the proceedings, the majority of the supervisory committee, and also the chair, will be appointed by the Minister of Economic Development.

Once the Extraordinary Administration procedure has been approved, the principal effects are as follows:

(i) the company continues to carry out its business and debts incurred during the Extraordinary Administration are treated as priority claims which rank ahead of the claims of creditors whose rights accrued prior to the commencement of the Extraordinary Administration procedure and may be paid as they fall due;

(ii) the Extraordinary Commissioner(s) is/are entitled to terminate pending contracts to which the company is a party.

Furthermore, in the context of the Prodi-*bis* Procedure a debt-restructuring plan is approved exclusively by the Minister of Economic Development but is not subject to any vote by creditors.

Extraordinary administration for the industrial restructuring of large insolvent companies (*amministrazione straordinaria per la ristrutturazione industriale delle grandi imprese insolventi*) under the Decree 347

The Decree 347/2003 introduced a specific extraordinary set of rules for companies meeting certain size requirements, also known as the "**Marzano Procedure**". Decree 347/2003 is complementary to the Prodi-*bis* Procedure and except as otherwise provided in Decree 347/2003 the provisions of the Prodi-*bis* Procedure shall apply. The Marzano Procedure only applies to insolvent companies which, on a consolidated basis, have at least 500 employees in the year before the procedure was commenced and at least Euro 300 million of outstanding debt.

Under Decree 347, the decision whether to open the procedure is taken by the Minister of Economic Development that, upon request of the debtor (who at the same time must file with the relevant court an application for the declaration of its insolvency), assesses whether the relevant requirements are met and if such requirements are met appoints the extraordinary commissioner(s). The extraordinary commissioner(s) immediately becomes responsible for the management of the company. The court decides on the insolvency of the company.

Within 180 days of his appointment (or 270 days if so agreed by the Minister of Economic Development) the extraordinary commissioner(s) must submit a plan for the rescue of the business by way of an asset liquidation or restructuring to the Minister of Economic Development for approval and at the same time must file with the competent court a report on the state of the business.

A restructuring plan proposed in the context of proceedings subject to Decree 347 may include a composition plan, with the possibility to divide creditors into classes, with different treatment applicable to creditors belonging to different classes and with proposals for a write-off of any obligations owed by the debtor and/or a conversion of debt securities (such as the Securities) into shares of the debtor company or any of its group companies. Decree 347 provides that a composition plan is approved by creditors according to the same majority voting rules as those which apply in the context of proceedings for composition with creditors, as described above. If the restructuring plan is not approved by the Minister of Economic Development, the extraordinary commissioner(s) may propose a plan for the disposal of the assets. If the asset disposal program is not approved, the company is to be placed into liquidation.

Where Decree 134 applies to an extraordinary administration, its purpose is broadly to widen the powers of sale. For this purpose, the insolvency administrator is granted powers to identify and compose lines of business or partial lines of business, even if not pre-existing, which may be made subject to sale.

As a general consideration, please note that, pursuant to the claw-back rules applicable to extraordinary administration (i) the hardening period would be calculated with reference to the date of insolvency declaration; and (ii) as far as intercompany transactions only are concerned, longer hardening periods (*i.e.* 5 years or 3 years, depending on the kind of transactions) would be applicable.

Compulsory administrative winding-up (liquidazione coatta amministrativa)

The compulsory administrative winding-up (*liquidazione coatta amministrativa*), provided under article 293 and ff. of the Insolvency Code, is only available for public interest entities such as state-controlled companies, insurance companies, credit institutions and other financial institutions, none of which can be wound up pursuant to judicial liquidation proceedings, save for a different indication under Italian law. It is irrelevant whether these companies belong to the public or the private sector.

The compulsory administrative winding-up (*liquidazione coatta amministrativa*), is special insolvency proceedings in that the entity is liquidated not by the court but by the relevant administrative authority that oversees the industry in which the entity is active. The procedure may be triggered not only by the insolvency of the relevant entity, but also by other grounds expressly provided for by the relevant legal provisions (e.g., in respect of Italian banks, serious irregularities concerning the management of the bank or serious violations of the applicable legal, administrative or statutory provisions).

The effect of this procedure is that the entity loses control over its assets and a liquidator (*commissario liquidatore*) is appointed to wind up the company by the relevant governmental authority (e.g., the Bank of Italy or the Ministry of Economic Development, which are competent for the filing of an application for a declaration of insolvency with the subsequent opening of the compulsory administrative winding-up proceeding). The liquidator's actions are monitored by a steering committee (*comitato di sorveglianza*).

The powers granted to the delegated judge and the court under the other insolvency proceedings are assumed by the relevant administrative authority under this procedure.

The effect of the compulsory administrative winding-up (*liquidazione coatta amministrativa*) on creditors is largely the same as under insolvency proceedings and includes, for example, a ban on enforcement measures. The same rules set forth for insolvency proceedings with respect to existing contracts and creditors' claims largely apply to a compulsory administrative winding-up (*liquidazione coatta amministrativa*).

Adequate organizational, administrative and accounting corporate structures

The Insolvency Code has introduced the definition of the organizational, administrative and accounting structures (*assetto organizzativo, amministrativo e contabile*) of a company which are deemed to be adequate (*adeguato*) under article 2086 of the Italian Civil Code, required by the applicable regulations for the purpose of timely detection of the state of crisis and the undertaking of suitable initiatives by the debtor.

More precisely, article 3 of the Insolvency Code requires the entrepreneur to adopt an appropriate organizational structure in accordance with article 2086 of the Italian Civil Code, for the purpose of timely detection of the crisis of the company as well as the timely undertaking of suitable initiatives to overcome the crisis and recover business continuity.

According to article 3 of the Insolvency Code:

(i) for the purpose of the timely detection of the company's state of crisis, the measures and structures deemed to be adequate should make it possible to:

  (a) detect any imbalances of an equity or economic-financial nature, related to the specific characteristics of the company as well as to the business activity carried out by the debtor;

  (b) verify the non-sustainability of debts and the absence of prospects for business continuity for the

next twelve months as well as the warning signs identified by article 3, para. 4 of the Insolvency Code; and

(c) derive the information necessary to follow the detailed checklist and conduct the practical test for the reasonable pursuit of the debtor's financial recovery.

(ii) the warning signs are identified, *inter alia*, as follows:

(a) the existence of payroll debts overdue for at least 30 days equal to more than half of the total monthly payroll amount;

(b) the existence of receivables owed to suppliers that are at least 90 days past due in an amount greater than the amount of receivables that are not past due;

(c) the existence of exposures to banks and other financial intermediaries that have been past due for more than 60 days or have exceeded the limit of credit facilities obtained in any form for at least 60 days provided that they represent in the aggregate at least 5% of the total exposures; and

(d) the existence of one or more exposures to certain public institutions listed under article 25-novies of the Insolvency Code.

New financial resources

Please find below a brief summary of the main features of the provisions concerning different available financings under the Insolvency Code.

Interim financings – article 99, paragraphs from 1 to 4 of the Insolvency Code

Pursuant to article 99, para. 1 and 2, of the Insolvency Code, in the context of restructuring transactions on a going concern basis (*continuazione dell'attività aziendale*), also in cases in which business continuity is maintained exclusively in a view of liquidation, upon the debtor's request, the court, until the homologation of the debt-restructuring agreements (*accordi di ristrutturazione dei debiti*) (pursuant to article 57, or article 60 or 61 of the Insolvency Code) or a petition pursuant to article 87 of the Insolvency Code in relation to the composition with creditors proceeding (*concordato preventivo*), including in the case of a "simplified petition" pursuant to article 44 of the Insolvency Code, may authorize the debtor to be granted with new super-senior loans (*finanziamenti prededucibili*) and to secure such indebtedness, subject to the court's authorisation with in rem security (*garanzie reali*), or by assigning claims, provided that the petition specifies:

(i) the purpose of the financing;

(ii) that the debtor is unable to otherwise obtain the required funds; and

(iii) that the absence of such financing will entail an imminent and irreparable prejudice to the going concern or to the proceedings;

The petition shall be accompanied by the report of the expert appointed by the debtor in which he/her, having verified the overall financial needs of the company until the homologation, declares that the new loans are functional to the continuity of the business activities until the homologation of the relevant insolvency proceedings or to the opening of the proceedings or to conduct them and, in any case, are aimed at providing a better satisfaction of the rights of the creditors. The expert report is not necessary in case the court recognizes that there is the urgent need to avoid an imminent and irreparable prejudice to the going concern. In the event of the subsequent admission of the debtor to the judicial liquidation (*liquidazione giudiziale*), the aforementioned financings do not benefit from the super-senior priority (*prededucibilità*) in case the petition or the expert report contain false data or omit important information or in case the debtor performed acts in fraud of the creditors (*atti in frode ai creditori*) and the receiver proves that who made available such financings to the debtor, had knowledge of such circumstances at the date of the disbursement.

Bridge financings – article 99, para. 5 of the Insolvency Code

Pursuant to article 99, para. 5, of the Insolvency Code, loans (together with the related claims) granted, in any form, in view of the filing of a petition for the homologation of a debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) or a composition with creditors proceeding (*concordato preventivo*) (*finanza ponte*), may be rank super-senior (*prededucibili*) provided that (i) they meet the requirements of article 99, para. 1 and 2 (as outlined above), and (ii) they are provided under the relevant plan and provided that super-seniority (*prededucibilità*) is expressly provided for in the decree by means of which the court accepts the application for admission to the composition with creditors proceeding (*concordato preventivo*) or homologate the restructuring agreement (*accordo di ristrutturazoine*).

The indebtedness under such loans may be secured, subject to the court's authorization, with in rem security (*garanzie reali*), or by assigning claims.

Implementation financing – article 101 of the Insolvency Code

Pursuant to article 101 of the Insolvency Code, in the context of restructuring transactions on a going concern basis (*continuazione dell'attività aziendale*), any loan granted to the debtor as implementation of an homologated composition with creditors proceeding (*concordato preventivo*) or debt-restructuring agreement (*accordi di ristrutturazione dei debiti*) ranks super-senior (*prededucibile*) to the extent that they are expressly provided under the relevant plan providing for the continuation of the business activity.

In the event of the subsequent admission of the debtor to the judicial liquidation (*liquidazione giudiziale*), the abovementioned loans do not benefit from the super senior priority (*prededucibilità*) in case the plan of the composition with creditors proceeding (*concordato preventivo*) or of the debt-restructuring agreement (*accordo di ristritturazione*), on the basis of an assessment to be made at the time of the relevant filing, results to be based upon false data or omission of relevant information or in case the debtor performed acts in fraud of the creditors (*atti in frode ai creditori*) and the receiver proves that who made available such financings to the debtor, had knowledge of such circumstances at the date of the disbursement.

The shareholders' financing – article 102 of the Insolvency Code

Pursuant to article 102, para. 1 of the Insolvency Code, super-seniority (*prededucibilità*) is granted also for claims up to 80% of the value of shareholder loans that have been granted to the company in any form (including any guarantee facility or granting counter-indemnities) in implementation or in anticipation of a homologated composition with creditors proceeding (*concordato preventivo*) or debt-restructuring agreement (*accordo di ristrutturazione*) (also by way of derogation from the statutory subordination regime provided under the Italian Civil Code with respect to loans granted to limited liability companies by its shareholders or by entities that exercise direction and coordination activities).

According to para. 2 of article 102 of the Insolvency Code, if the lender become a shareholder only following the execution of the composition with creditors proceeding (*concordato preventivo*) or the debt-restructuring agreement (*accordo di ristrutturazione dei debiti*), the superior seniority will apply to the entire amount of the loan.

Super senior ranking – article 99 para. 6 and article 101 para. 2 of the Insolvency Code

Pursuant to article 6, para. 1 of the Insolvency Code, provided that the relevant requirements are met, the claims deriving from the bridge financings, interim financings and implementation financings are super-senior (*prededucibili*) by operation of law.

According to article 6, para. 2 of the Insolvency Code, the super-seniority (*prededucibilità*) continues in the context of any subsequent insolvency or enforcement proceedings.

In specific cases, the abovementioned loans may not rank super-senior in case of judicial liquidation, if, *inter alia*, the receiver proves that acts of fraud were committed by debtor.

More specifically, for interim financings or bridge financings false data or omission of relevant information are relevant when found by the court in the request for the incurrence of the financings or the attestation of the independent expert, whilst for implementation financings such elements are relevant when on included in plan underlying the composition with creditors or the debt restructuring agreement.

With reference to interim financings and bridge financings, article 99 para. 6 of the Insolvency Code provides that, in case of the opening of a judicial liquidation (*liquidazione giudiziale*), such financings (although authorized by the court in the context of the composition with creditors proceeding (*concordato preventivo*) or the debt-restructuring agreement (*accordo di ristrutturazione*)) do not benefit from super senior ranking when it is proved (jointly) that: (i) the request or the independent expert report contains false data or omits relevant information, or when the debtor has committed acts to defraud creditors in order to obtain the authorization; and (ii) the receiver proves that the lender, at the date of granting of the loan, was aware of the abovementioned circumstances.

With reference to implementation financings, article 101 para. 2 of the Insolvency Code provides that such loans do not benefit from the super-seniority (*prededucibilità*), in case of the opening of a judicial liquidation (*liquidazione giudiziale*) (alternatively): (i) when, based on an assessment to be made at the time of filing of the petition for the opening of the proceeding, the plan underlying the composition with creditors proceeding (*concordato preventivo*) or debt-restructuring agreement (*accordo di ristrutturazione dei debiti*) turns out to be based on false data or on the omission of relevant information; or (ii) when the debtor has carried out acts of fraud towards its creditors and the receiver proves that the lenders providing the loans were aware of such circumstances at the time of the establishment of the financings.

OVERVIEW OF PROVISIONS RELATING TO THE SECURITIES WHILE REPRESENTED BY THE GLOBAL SECURITIES

The following is a summary of the provisions in relation to the relevant Securities to be contained in the relevant Trust Deed to constitute the relevant Securities, and in the Global Securities, which will apply to, and in some cases modify, the relevant Terms and Conditions of the Securities while the Securities are represented by the Global Securities.

Exchange

The Permanent Global Security will be exchangeable in whole but not in part (free of charge to the holder) for definitive Securities only:

(A) on the Liquidation Event Date; or

(B) if either Euroclear or Clearstream is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so.

Thereupon the holder of the Permanent Global Security (acting on the instructions of one or more of the Accountholders (as defined below)) may give notice to the Issuer of its intention to exchange the Permanent Global Security for definitive Securities on or after the Exchange Date (as defined below).

On or after the Exchange Date, the holder of the Permanent Global Security may surrender such Permanent Global Security to or to the order of the Principal Paying Agent. In exchange for the Permanent Global Security the Issuer will deliver, or procure the delivery of, an equal aggregate principal amount of definitive Securities (having attached to them all Coupons in respect of interest which has not already been paid on such Permanent Global Security and one Talon), security printed in accordance with any applicable legal and stock exchange requirements and in or substantially in the form set out in the relevant Trust Deed. On exchange of the Permanent Global Security, the Issuer will procure that it is cancelled and, if the holder so requests, returned to the holder together with any definitive Securities.

For these purposes, "**Exchange Date**" means a day specified in the notice requiring exchange falling not less than 60 days after that on which such notice is given and being a day on which banks are open for general business in the place in which the specified office of the Principal Paying Agent is located and, except in the case of exchange pursuant to (b) above, in the place in which the relevant clearing system is located.

Payments

On and after 17 April 2021, no payment will be made on the Temporary Global Security unless exchange for an interest in the Permanent Global Security is improperly withheld or refused.

Payments of principal and interest in respect of Securities represented by a Global Security will (subject as provided below) be made in the manner specified in Conditions 4 and 5 of the relevant Terms and Conditions of the Securities in relation to definitive Securities or otherwise against presentation for endorsement and, if no further payment falls to be made in respect of the Securities, against surrender of such Global Security to the order of the Principal Paying Agent or such other Paying Agent as shall have been notified to the relevant Securityholders for such purposes. A record of each payment made will be endorsed on the appropriate part of the schedule to the Global Security by or on behalf of the Principal Paying Agent, which endorsement shall be *prima facie* evidence that such payment has been made in respect of the relevant Securities. Payments of interest on a Temporary Global Security (if permitted by the first sentence of this paragraph) will be made only upon certification as to non-U.S. beneficial ownership unless such certification has already been made.

The holder of a Global Security shall be the only person entitled to receive payments in respect of the Securities represented by such Global Security and the payment obligations of the Issuer will be discharged by payment to, or to the order of, the holder of such Global Security in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream as the beneficial holder of a particular nominal amount of Securities represented by such Global Security must look solely to Euroclear or Clearstream, 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 Security.

Payments on business days

In the case of all payments made in respect of a Temporary Global Security or a Permanent Global Security "**business day**" means any day on which the TARGET System is open.

Optional Redemption and Early Redemption

In order to exercise any option contained in Condition 6 of the relevant Terms and Conditions of the Securities, the Issuer shall give notice to the Securityholders and Euroclear and/or Clearstream (or procure that such notice is given on its behalf) within the time limits set out in and containing the information required by that Condition.

Notices

For so long as all of the Securities are represented by one or both of the Global Securities and such Global Security is or Global Securities are held on behalf of Euroclear and/or Clearstream, notices to Securityholders may be given by delivery of the relevant notice to Euroclear and/or Clearstream (as the case may be) for communication to the relative Accountholders rather than by publication as required by Condition 12 of the relevant Terms and Conditions of the Securities, provided that, so long as such Securities are listed on Euronext Dublin, notice will also be given by publication on Euronext Dublin's website at https://www.euronext.com/en/markets/dublin. Any such notice shall be deemed to have been given to the Securityholders on the day on which such notice is delivered to Euroclear and/or Clearstream (as the case may be) as aforesaid.

While any of the Securities held by a Securityholder are represented by a Global Security, notices to be given by such Securityholder may be given by such Securityholder (where applicable) through Euroclear and/or Clearstream and otherwise in such manner as the Principal Paying Agent and Euroclear and Clearstream may approve for this purpose.

Accountholders

For so long as all of the Securities are represented by one or both of the Global Securities and such Global Securities is/are held on behalf of Euroclear and/or Clearstream, each person (other than Euroclear or Clearstream) who is for the time being shown in the records of Euroclear or Clearstream as the holder of a particular principal amount of the Securities (each, an "**Accountholder**") (in which regard any certificate or other document issued by Euroclear or Clearstream as to the principal amount of such Securities standing to the account of any person shall, in the absence of manifest error, be conclusive and binding for all purposes) shall be treated as the holder of such principal amount of such Securities for all purposes (including but not limited to, for the purposes of any quorum requirements of, or the right to demand a poll at, meetings of the Securityholders) other than with respect to the payment of principal and interest on such principal amount of such Securities, the right to which shall be vested, as against the Issuer and the Trustee, solely in the bearer of the relevant Global Security in accordance with and subject to its terms and the terms of the relevant Trust Deed. Each Accountholder must look solely to Euroclear or Clearstream, as the case may be, for its share of each payment made to the bearer of the relevant Global Security.

Prescription

Claims against the Issuer in respect of principal and interest on the Securities represented by a Global Security will be prescribed after ten years (in the case of principal) and five years (in the case of interest) from the Relevant Date (as defined in the relevant Terms and Conditions of the Securities), subject to the provisions of Condition 9 of the relevant Terms and Conditions of the Securities.

Cancellation

Cancellation of any Security represented by a Global Security and required by the relevant Terms and Conditions of the Securities to be cancelled following its redemption or purchase will be effected by endorsement by or on behalf of the Principal Paying Agent of the reduction in the principal amount of the relevant Global Security on the relevant part of the schedule thereto.

Euroclear and Clearstream

References in the Global Securities and this summary to Euroclear and/or Clearstream shall be deemed to include references to any other clearing system approved by the Trustee.

Because the Securities are held by or on behalf of Euroclear and Clearstream, investors will have to rely on their procedures for transfer, payments and communication with the Issuer

The Securities will be represented by the Global Securities except in certain limited circumstances described in each Permanent Global Security. The Global Securities will be deposited with a common depositary for Euroclear and Clearstream. Except in certain limited circumstances described in each Permanent Global Security, investors will not be entitled to receive definitive Securities. Euroclear and Clearstream will maintain records of the beneficial interests in the Global Securities. While the Securities are represented by the Global Securities, investors will be able to trade their beneficial interests only through Euroclear and Clearstream.

The Issuer will discharge their payment obligations under the Securities by making payments to or to the order of the common depositary for Euroclear and Clearstream for distribution to their account holders. A holder of a beneficial interest in a Global Security must rely on the procedures of Euroclear and Clearstream to receive payments under the Securities. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Securities.

Relevant Securityholders of beneficial interests in the Global Securities will not have a direct right to vote in respect of the Securities. Instead, such holders will be permitted to act only to the extent that they are enabled by Euroclear and Clearstream to appoint appropriate proxies.

Minimum denominations

As the Securities have a denomination consisting of the minimum denomination of €100,000 plus a higher integral multiple of amounts which are integral multiples of €1,000, up to a maximum of €199,000, it is possible that the Securities may be traded in amounts in excess of €100,000 (or its equivalent) that are not integral multiples of €1,000 (or its equivalent). In such case a Securityholder who, as a result of trading such amounts, holds a principal amount of less than the minimum denomination may not receive a definitive Security in respect of such holding (should definitive Securities be printed) and would need to purchase a principal amount of Securities such that its holding amounts to the minimum denomination.

CERTAIN TAX CONSIDERATIONS

The statements herein regarding taxation are based on the laws and/or interpretations in force as of the date of this Offering Circular. The Issuer will not update this summary to reflect changes and/or interpretations. The following summary does not purport to be a comprehensive description of all the tax considerations which may be relevant to a decision to subscribe for, purchase, own or dispose of Securities and does not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in securities or commodities) may be subject to special rules. Prospective purchasers of Securities are advised to consult their own tax advisors concerning the overall tax consequences of their ownership of Securities.

This summary is based upon the laws and/or practice in force as of the date of this Offering Circular. Tax laws and interpretations may be subject to frequent changes which could be made on a retroactive basis.

The considerations contained in this Offering Circular in relation to tax issues are made in order to support the marketing of the financial instruments herein described and cannot be considered as a legal or tax advice. Investors should consult their own tax advisors in connection with the tax regime applicable to the purchase, the ownership and the sale of the Securities.

Prospective purchasers of the Securities are advised to consult their own tax advisers concerning the overall tax consequences under the tax laws of the country in which they are resident for tax purposes and of any other potentially relevant jurisdiction of acquiring, holding and disposing of the Securities and receiving payments of interest, principal and/or other amounts under the Securities, including in particular the effect of any state, regional or local tax laws.

The Republic of Italy

General

Where in this summary English terms and expressions are used to refer to Italian concepts, the meaning to be attributed to such terms and expressions shall be the meaning to be attributed to the equivalent Italian concepts under Italian tax law.

Tax Treatment of the Securities

Legislative Decree 1 April 1996, No. 239 ("**Decree 239**") provides for the applicable regime with respect to the tax treatment of interest, premium and other income, including the difference between the redemption amount and the issue price (hereinafter, collectively referred to as "**Interest**") from notes falling within the category of bonds (*obbligazioni*) or debentures similar to bonds (*titoli similari alle obbligazioni*) within the meaning of Article 44 of Italian Presidential Decree 22 December 1986, No. 917 ("**Decree 917**") issued, *inter alia*, by companies listed on an Italian regulated market.

For this purpose, pursuant to Article 44 of Decree 917, debentures similar to bonds are securities that (i) incorporate an unconditional obligation to pay, at maturity, an amount not lower than their nominal value and (ii) do not grant to the relevant holders any right to directly or indirectly participate to the management of the issuer or of the business in relation to which they are issued or to control the same management.

Italian Resident Securityholders

In case of Securities qualifying as bonds (*obbligazioni*) or debentures similar to bonds (*titoli similari alle obbligazioni*) held by an Italian resident Securityholder who is beneficial owner of the Securities and is (i) an individual not engaged in an entrepreneurial activity to which the Securities are connected, (ii) a non-commercial partnership, (iii) a non-commercial private or public institution (other than Italian undertakings for collective investment), or (iv) an investor exempt from Italian corporate income taxation (in each case, unless the Securityholder has entrusted the management of its financial assets, including the Securities, to an Italian

authorised intermediary and has opted for the application of the *risparmio gestito* regime provided for by Article 7 of Italian Legislative Decree 21 November 1997, No. 461 – the "Risparmio Gestito" regime – see under "Capital gains tax" below), Interest relating to the Securities, accrued during the relevant holding period, are subject to a final tax, referred to as "*imposta sostitutiva*", levied at the rate of 26 per cent.

In the event that the Securityholders described under (i) or (iii) above are engaged in an entrepreneurial activity to which the Securities are connected, the *imposta sostitutiva* applies as a provisional tax. In such case, Interest relating to the Securities (i) will be subject to the *imposta sostitutiva* on account of income tax due and (ii) will be included in the Securityholder's annual corporate taxable income to be reported in the income tax return. As a consequence, such income will be subject to the ordinary income tax and the *imposta sostitutiva* may be recovered as a deduction from the income tax due.

Subject to certain conditions (including minimum holding period requirement) and limitations, Interest relating to the Securities may be exempt from any income taxation (including from the 26 per cent. *imposta sostitutiva*) if the Securityholders are Italian resident individuals not engaged in entrepreneurial activity or social security entities pursuant to Legislative Decree No. 509 of 30 June 1994 and Legislative Decree No. 103 of 10 February 1996 and the Securities are included in a long-term individual savings account (*piano individuale di risparmio a lungo termine*) that meets the requirements from time to time applicable as set forth by Italian law.

Pursuant to Decree 239, *imposta sostitutiva* is generally applied by banks, *società di intermediazione mobiliare* (SIMs), fiduciary companies, *società di gestione del risparmio* (SGRs), stockbrokers and other entities identified by decrees of the Ministry of Finance who are (i) resident in Italy or permanent establishments in Italy of non-Italian resident financial intermediaries and (ii) intervene, in any way, in the collection of interest, premium and other income relating to the Securities or in the transfer of the Securities (each an "**Intermediary**").

Where an Italian resident Securityholder who is beneficial owner of the Securities is a company or similar commercial entity, or a permanent establishment in Italy of a foreign company to which the Securities are effectively connected, and the Securities are timely deposited together with the Coupons with an Intermediary, Interest from the Securities will not be subject to *imposta sostitutiva*, but must be included in the Securityholder's income tax return and are therefore subject to general Italian corporate income tax ("**IRES**"), currently applying at 24 per cent., and, in certain circumstances, depending on the "status" of the Securityholder, also to *imposta regionale sulle attività produttive*, the regional tax on productive activities ("**IRAP**"), generally applying at the rate of 3.9 per cent. (IRAP applies at different rates for certain categories of investors, e.g. banks, financial institutions and insurance companies and, in any case, can be increased by regional laws).

Payments of Interest in respect of the Securities made to Italian resident real estate investment funds established pursuant to Article 37 of Legislative Decree No. 58 of 24 February 1998 and Article 14-*bis* of Law No. 86 of 25 January 1994 ("**Real Estate Funds**") should not be subject to *imposta sostitutiva* and do not suffer any other income tax in the hands of the Real Estate Fund, provided that the Securities, together with the relevant Coupons, are timely deposited with an Intermediary. Unitholders are generally subject to a 26 per cent. withholding tax on distributions from the Real Estate Funds. However, in certain circumstances, income of a real estate fund is allocated pro rata to investors and taxed in their hands, even if no distribution is made. Under Article 9 of Legislative Decree No. 44 of 4 March 2014 ("**Decree 44**"), the above regime applies also to Interest payments made to closed-ended real estate investment companies (*società di investimento a capitale fisso immobiliari*, or "**Real Estate SICAFs**") which meet the requirements expressly provided by applicable law.

If an Italian resident Securityholder is an open-ended or a closed-ended collective investment fund ("**Fund**") other than a real estate investment fund, a closed-ended investment company (*società di investimento a capitale fisso*, or "**SICAF**") other than a Real Estate SICAF or an open-ended investment company (*società di investimento a capitale variabile*, or "**SICAV**") established in Italy and either (i) the Fund, the SICAF or the

SICAV or (ii) their manager is subject to supervision by the competent regulatory authority and the Securities are deposited with an authorised intermediary, Interest accrued during the holding period on the Securities will not be subject to *imposta sostitutiva*. Interest must, however, be included in the management results of the Fund, the SICAF or the SICAV accrued at the end of each tax period. The Fund, the SICAF or the SICAV will not be subject to *imposta sostitutiva*, but a withholding tax of 26 per cent. will be levied, in certain circumstances, on proceeds distributed in favour of unitholders or shareholders by the Fund, the SICAF or the SICAV.

Where an Italian resident Securityholder is a pension fund (subject to the regime provided for by Article 17 of Legislative Decree 5 December 2005, No. 252) (the "**Pension Funds**") and the Securities, together with the relevant Coupons, are timely deposited with an Intermediary, Interest relating to the Securities and accrued during the holding period will not be subject to *imposta sostitutiva*, but must be included in the result of the relevant portfolio accrued at the end of the tax period, to be subject to an *ad hoc* 20 per cent. substitute tax. Subject to certain conditions (including minimum holding period requirement) and limitations, Interest relating to the Securities may be excluded from the taxable base of the 20 per cent. substitute tax if the Securities are included in a long-term individual savings account (*piano individuale di risparmio a lungo termine*) that meets the requirements from time to time applicable as set forth by Italian law.

Where an Italian resident Securityholder has opted for the *Risparmio Gestito* regime with respect to its investment in the Securities, such Securityholder will be subject to a 26 per cent. annual substitute tax on the increase in value of the managed assets accrued at the end of each tax year. In such case, Interest on the Securities will be included in the calculation of said annual increase in value of managed assets.

Where the Securities and the relevant Coupons are not deposited with an Intermediary, the *imposta sostitutiva* is applied and withheld by any Italian intermediary (or permanent establishment in Italy of foreign intermediary) that intervenes in the payment of interest to any Securityholder or by the Issuer and Securityholders who are Italian resident companies or permanent establishments in Italy of foreign corporations to which the Securities are effectively connected are entitled to deduct *imposta sostitutiva* suffered from income taxes due.

Non-Italian Resident Securityholders

Where a Securityholder who is the beneficial owner of the Securities is a non-Italian resident, an exemption from the *imposta sostitutiva* applies provided that the non-Italian resident beneficial owner is either (i) resident, for tax purposes, in a country which allows for a satisfactory exchange of information with Italy as listed in Ministerial Decree of 4 September 1996, as amended by Ministerial Decree of 23 March 2017 and possible further amendments according to Article 11(4)(c) of Decree 239 (as amended by Legislative Decree No. 147 of 14 September 2015) ("**White List**"); or (ii) an international body or entity set up in accordance with international agreements which have entered into force in Italy; or (iii) a central bank or an entity which manages, *inter alia*, the official reserves of a foreign State; or (iv) subject to certain exceptions, an "institutional investor" which is resident or established in a country which allows for a satisfactory exchange of information with Italy, even if it does not possess the status of taxpayer in its own country of residence.

The *imposta sostitutiva* will be applicable at the rate of 26 per cent. or at the reduced or nil rate provided for by the applicable double tax treaty (if any, and in any case subject to compliance with relevant subjective and procedural requirements) to Interest paid to Securityholders who are resident, for tax purposes, in countries which do not allow for a satisfactory exchange of information with Italy.

In order to ensure gross payment, qualifying non-Italian resident Securityholders must be the beneficial owners of the payments of Interest and (i) deposit, directly or indirectly, the Securities, together with the relevant Coupons, with an Italian resident bank or SIM or other qualified intermediary or a permanent establishment in Italy of a non-Italian resident bank or SIM or other qualified intermediary or with a non-Italian resident entity or company participating in a centralised securities management system which is in contact, via computer, with the Ministry of Economics and Finance and (ii) timely file with the relevant depository a statement of the

Securityholder, which remains valid until withdrawn or revoked, in which the Securityholder declares to meet the requirements to be eligible to benefit from the applicable exemption from *imposta sostitutiva*. Such statement, which is not requested for international bodies or entities set up in accordance with international agreements which have entered into force in Italy nor in the case of foreign central banks or entities which manage, *inter alia*, the official reserves of a foreign State, must comply with the requirements set forth by Ministerial Decree of 12 December 2001. Additional statements may be required for non-Italian resident Securityholders who are institutional investors.

Capital Gains Tax

Any gain obtained from the sale or redemption of the Securities would be treated as part of the taxable business income subject to ordinary taxation (and, in certain circumstances, depending on the "status" of the Securityholder, also as part of the net value of the production for IRAP purposes) if realised by an Italian company or a similar commercial entity (including the Italian permanent establishment of foreign entities to which the Securities are connected) or Italian resident individuals engaged in an entrepreneurial activity to which the Securities are connected.

Where an Italian resident Securityholder is (i) an individual holding the Securities not in connection with an entrepreneurial activity, (ii) a non-commercial partnership, (iii) a non-commercial private or public institution any capital gain realised by such Securityholder from the sale or redemption of the Securities would be subject to an *imposta sostitutiva*, levied at the current rate of 26 per cent. Securityholder may set-off capital losses with gains of the same nature. For the purposes of determining the taxable capital gain, any interest, premium and other income on the Securities accrued and unpaid up to the time of the purchase and the sale of the Securities must be deducted from the purchase price and the sale price, respectively.

In respect of the application of *imposta sostitutiva*, taxpayers may opt for one of the three regimes described below.

Under the tax declaration regime (*regime della dichiarazione*), which is the default regime for Italian resident Securityholders under (i) to (iii) above, the *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all capital gains, net of any incurred capital loss of the same nature, realised by the Italian resident Securityholder pursuant to all sales or redemptions of the Securities carried out during any given tax year. The Securityholders must indicate the overall capital gains realised in any tax year, net of any relevant incurred capital loss of the same nature, in the annual tax return and pay the *imposta sostitutiva* on such gains together with any balance income tax due for such year. Capital losses in excess of capital gains may be carried forward against capital gains of the same nature realised in any of the four succeeding tax years.

As an alternative to the tax declaration regime, Italian resident Securityholders under (i) to (iii) above may elect to pay the *imposta sostitutiva* separately on capital gains realised on each sale or redemption of the Securities (the "*risparmio amministrato*" regime). Such separate taxation of capital gains is allowed subject to (i) the Securities being deposited with Italian banks, SIMs or certain authorised financial intermediaries (or permanent establishments in Italy of foreign intermediaries) and (ii) an express election for the *risparmio amministrato* regime being timely made in writing by the relevant Securityholder. The depository is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of the Securities, net of any incurred capital loss of the same nature, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from the proceeds to be credited to the Securityholder or using funds provided by the Securityholder for this purpose. Under the *risparmio amministrato* regime, where a sale or redemption of the Securities results in a capital loss, such loss may be deducted from capital gains of the same nature subsequently realised, within the same securities

management relationship, in the same tax year or in the following tax years up to the fourth. Under the *risparmio amministrato* regime, the Securityholder is not required to declare the capital gains in the annual tax return.

Any capital gains on Securities held by Italian resident Securityholder under (i) to (iii) above who have entrusted the management of their financial assets, including the Securities, to an authorised intermediary and have opted for the so-called "*Risparmio Gestito*" regime will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end, subject to a 26 per cent. substitute tax, to be paid by the managing authorised intermediary. Under the *Risparmio Gestito* regime, any depreciation of the managed assets accrued at year end may be carried forward against increase in value of the managed assets accrued in any of the four succeeding tax years. Under the *Risparmio Gestito* regime, the Securityholder is not required to declare the capital gains realised in the annual tax return.

Subject to certain limitations and requirements (including a minimum holding period), Italian resident individuals not engaged in an entrepreneurial activity or social security entities pursuant to Legislative Decree No. 509 of 30 June 1994 and Legislative Decree No. 103 of 10 February 1996 may be exempt from Italian capital gain taxes, including the *imposta sostitutiva*, on capital gains realised upon sale or redemption of the Securities if the Securities are included in a long-term individual savings account (*piano individuale di risparmio a lungo termine*) that meets the requirements from time to time applicable as set forth by Italian law.

Any capital gains on Securities held by a Securityholder who is a Fund, a SICAV or a SICAF to which the provisions of Article 9 of Legislative Decree No. 44 of 4 March 2014 apply, is subject neither to *imposta sostitutiva* nor to any other income tax in the hands of the Fund, the SICAV or SICAF. However, a withholding tax of 26 per cent. will be levied, in certain circumstances, on proceeds distributed in favour of unitholders or shareholders by the Fund, the SICAF or the SICAV.

Any capital gains on Securities held by a Securityholder who is a Pension Fund will be included in the result of the relevant portfolio accrued at the end of the tax period, to be subject to a 20 per cent. substitute tax. Subject to certain conditions (including minimum holding period requirement) capital gains relating to the Securities may be excluded from the taxable base of the 20 per cent. substitute tax if the Securities are included in a long-term individual savings account (*piano individuale di risparmio a lungo termine*) that meets the requirements from time to time applicable as set forth by Italian law.

Any capital gains realised by Real Estate Funds on the Securities are not taxable at the level of Real Estate Funds. Unitholders are generally subject to a 26 per cent. withholding tax on distributions from the Real Estate Funds. However, in certain circumstances, income of real estate fund is allocated pro rata to the investors and taxed in their hands, even if no distribution is made.

Capital gains realised by non-Italian-resident Securityholders (without a permanent establishment in Italy to which the Securities are effectively connected) from the sale or redemption of Securities traded on regulated markets in Italy or abroad are not subject to the *imposta sostitutiva*, regardless of whether the Securities are held in Italy. In such a case, in order to benefit from this exemption from Italian taxation on capital gains, non-Italian resident Securityholders who hold the Securities with an Italian authorised financial intermediary and elect to be subject to the *Risparmio Gestito* regime or are subject to the so-called *risparmio amministrato* regime, may be required to produce in due time to the Italian authorised financial intermediary an appropriate self-declaration that they are not resident in Italy for tax purposes.

Capital gains realised by non-Italian resident Securityholders from the sale or redemption of Securities not traded on regulated markets may in certain circumstances be taxable in Italy if the Securities are held in Italy. However, a non-Italian resident beneficial owner of Securities without a permanent establishment in Italy to which the Securities are effectively connected is not subject to the *imposta sostitutiva* on capital gains realised upon sale or redemption of the Securities, provided that the beneficial owner: (i) is resident in a country which allows for a satisfactory exchange of information with Italy; or (ii) is an international entity or body set up in

accordance with international agreements which have entered into force in Italy; or (iii) is a central bank or an entity which manages, inter alia, the official reserves of a foreign State; or (iv) is an institutional investor which is resident or established in a country which allows for a satisfactory exchange of information with Italy, even if it does not possess the status of taxpayer in its own country of residence. In such cases, in order to benefit from this exemption from Italian taxation on capital gains, non-Italian resident Securityholders who hold the Securities with an Italian authorised financial intermediary and elect to be subject to the *Risparmio Gestito* regime or are subject to the so-called *risparmio amministrato* regime may be required to produce in due time to the Italian authorised financial intermediary an appropriate self-declaration stating that they meet the subjective requirements indicated above. Additional statements may be required for non-Italian resident Securityholders who are institutional investors.

Moreover, in any event, non-Italian resident individuals or entities without a permanent establishment in Italy to which the Securities are connected that may benefit from a double taxation treaty with Italy providing that capital gains realised upon the sale or redemption of Securities are to be taxed only in the country of tax residence of the recipient, will not be subject to *imposta sostitutiva* in Italy on any capital gains realised upon the sale or redemption of Securities. In such a case, in order to benefit from this exemption from Italian taxation on capital gains, non-Italian resident Securityholders who hold the Securities with an Italian authorised financial intermediary and elect to be subject to the *Risparmio Gestito* regime or are subject to the so-called *risparmio amministrato* regime may be required to produce in due time to the Italian authorised financial intermediary appropriate documents which include*, inter alia*, a statement from the competent tax authorities of the country of residence.

Inheritance and Gift Taxes

Transfers of any valuable asset (including the securities) as a result of death or donation are generally taxed as follows:

(a) transfers in favour of spouses and direct descendants or direct ancestors are subject to an inheritance and gift tax applied at a rate of 4 per cent. on the value of the inheritance or gift exceeding, for each beneficiary, €1,000,000;

(b) transfers in favour of relatives to the fourth degree or relatives-in-law to the third degree are subject to an inheritance and gift tax at a rate of 6 per cent. on the entire value of the inheritance or the gift. Transfers in favour of brothers/sisters are subject to the 6 per cent. inheritance and gift tax on the value of the inheritance or gift exceeding, for each beneficiary, €100,000; and

(c) any other transfer is, in principle, subject to an inheritance and gift tax applied at a rate of 8 per cent. on the entire value of the inheritance or gift.

If the transfer is made in favour of persons with severe disabilities, the tax is levied at the rate mentioned above in (a), (b) and (c) on the value exceeding, for each beneficiary, €1,500,000.

Transfer Tax

Contracts relating to the transfer of securities are subject to a €200 registration tax as follows: (i) public deeds and private deeds with notarised signatures are subject to mandatory registration; and (ii) private deeds are subject to registration only in "case of use" (*caso d'uso*), in case of "explicit reference" (*enunciazione*) or in case of voluntary registration (*registrazione volontaria*).

Stamp Duty

Pursuant to Article 13(2-*ter*) of the tariff Part I attached to Presidential Decree No. 642 of 26 October 1972 ("**Decree No. 642**"), a proportional stamp duty applies on an annual basis to any periodic reporting communications which may be sent by a financial intermediary to their clients in respect of any financial

product and instrument (including the Securities), which may be deposited with such financial intermediary in Italy. The stamp duty applies at a rate of 0.2 per cent. and it cannot exceed €14,000 for taxpayers which are not individuals. This stamp duty is determined on the basis of the market value or, if no market value figure is available, on the face value or redemption value, or in the case the face or redemption values cannot be determined, on the purchase value of the financial assets (including the Securities) held.

The statement is deemed to be sent at least once a year, even for instruments for which is not mandatory nor the deposit nor the release nor the drafting of the statement. In case of reporting periods of less than 12 months, the stamp duty is payable based on the period accounted.

Based on the wording of the law and the implementing decree issued by the Italian Ministry of Economy and Finance on 24 May 2012, the stamp duty applies to any investor who is a client - regardless of the fiscal residence of the investor - (as defined in the regulations issued by the Bank of Italy on 9 February 2011, as subsequently amended, supplemented and restated) of an entity that exercises in any form a banking, financial or insurance activity within the Italian territory.

Wealth tax on financial assets deposited abroad

According to the provisions set forth by Law No. 214 of 22 December 2011, as amended and supplemented, Italian resident individuals, Italian non-commercial private or public institutions and Italian non-commercial partnership (*società semplici* or similar partnerships in accordance with Article 5 of Presidential Decree No. 917 of 22 December 1986) holding financial products – including the Securities – outside the Republic of Italy are required to pay a wealth tax at the rate of 0.2 per cent. and it cannot exceed €14,000 for taxpayers which are not individuals. In this case the above mentioned stamp duty provided for by Article 13 of the tariff attached to Decree No. 642 does not apply.

The tax is determined in proportion to the period of ownership. This tax is calculated on the market value at the end of the relevant year or, in the lack thereof, on the nominal value or redemption value, or in the case the face or redemption values cannot be determined, on the purchase price of any financial product (including the Securities) held abroad.

Taxpayers are entitled to an Italian tax credit equivalent to the amount of wealth taxes paid in the State where the financial assets are held (up to an amount equal to the Italian wealth tax due).

Financial assets held abroad are excluded from the scope of the wealth tax if they are administered by Italian financial intermediaries pursuant to an administration agreement. In this case, the above mentioned stamp duty provided for by Article 13 of the tariff attached to Decree No. 642 does apply.

Tax Monitoring Obligations

Under Law Decree No. 167 of 28 June 1990, as subsequently amended and supplemented, individuals, non-business entities and non-business partnerships (*società semplici* or similar partnerships in accordance with Article 5 of Presidential Decree No. 917 of 22 December 1986) that are resident in Italy and, during the fiscal year, hold investments abroad or have financial assets abroad (including possibly the Securities) must, in certain circumstances, disclose these investments or financial assets to the Italian tax authorities in their income tax return (or, in case the income tax return is not due, in a proper form that must be filed within the same time as prescribed for the income tax return), regardless of the value of such assets (save for deposits or bank accounts having an aggregate value not exceeding €15,000 threshold throughout the year, which per se do not require such disclosure).

The requirement applies also where the persons above, being not the direct holder of the financial assets, are the actual economic owners thereof for the purposes of anti-money laundering legislation.

No disclosure requirements exist for investments and financial assets (including the Securities) under management or administration entrusted to Italian resident intermediaries (Italian banks, SIMs, fiduciary companies or other professional intermediaries, indicated in Article 1 of Law Decree No. 167 of 28 June 1990) and for contracts concluded through their intervention, provided that the cash flows and the income derived from such activities and contracts have been subjected to Italian withholding or substitute tax by the such intermediaries.

U.S. Foreign Account Tax Compliance Act ("FATCA")

Pursuant to certain provisions of the U.S. Internal Revenue Code of 1986, commonly known as FATCA, a "foreign financial institution" may be required to withhold U.S. tax at a rate of 30 per cent. on certain payments it makes ("foreign passthru payments") to persons that fail to meet certain certification, reporting, or related requirements. A number of jurisdictions (including the jurisdiction of the Issuer) have entered into, or have agreed in substance to, intergovernmental agreements with the United States to implement FATCA ("IGAs"), which modify the way in which FATCA applies in their jurisdictions. Certain aspects of the application of the FATCA provisions and IGAs to instruments such as the Securities, including whether withholding would ever be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Securities, are uncertain and may be subject to change. Even if withholding would be required pursuant to FATCA or an IGA with respect to payments on instruments such as the Securities, such withholding would not apply prior to the date that is two years after the date on which final regulations defining "foreign passthru payments" are published in the U.S. Federal Register. In the event any withholding would be required pursuant to FATCA or an IGA with respect to payments on the Securities, no person will be required to pay additional amounts as a result of the withholding. Holders should consult their own tax advisors regarding how these rules may apply to their investment in the Securities.

SUBSCRIPTION AND SALE

The Joint Lead Managers have, pursuant to a subscription agreement (the "**Subscription Agreement**") dated the date hereof, each jointly and severally agreed with the Issuer, subject to the satisfaction of certain conditions, to subscribe or procure subscribers for (i) the NC 5.5 Securities at the issue price of 100 per cent. of the principal amount of the NC 5.5 Securities, less certain commissions and (ii) the NC 8.5 Securities at the issue price of 100 per cent. of the principal amount of the NC 8.5 Securities, less certain commissions.

The Issuer will also reimburse the Joint Lead Managers in respect of certain of their expenses, and has agreed to indemnify the Joint Lead Managers against certain liabilities, incurred in connection with the issue of the Securities. The Subscription Agreement may be terminated in certain circumstances prior to payment to the Issuer.

United States

The Securities 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 accordance with Regulation S under the Securities Act. Each Joint Lead Manager represents that it has offered and sold the Securities, and agrees that it will offer and sell the Securities (i) as part of their distribution at any time and (ii) otherwise until 40 days after the commencement of this offering, only in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, neither it, its affiliates, nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Securities, and it and they have complied and will comply with the offering restrictions requirement of Regulation S. Each Joint Lead Manager, has represented and agreed in the Subscription Agreement that, at or prior to confirmation of sale of Securities, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The Securities covered hereby have not been registered under the Securities Act and may not be offered and sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the commencement of this offering, except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S".

Terms used in this paragraph have the meanings given to them by Regulation S.

Each Joint Lead Manager represents that it has not entered and agrees that it will not enter into any contractual arrangement with any distributor (as that term is defined in Regulation S) with respect to the distribution or delivery of the Securities, except with its affiliates or with the prior written consent of the Issuer.

In addition:

1. except to the extent permitted under U.S. Treas. Reg. §1.163-5(c)(2)(i)(D) (or any successor rules in substantially the same form that are applicable for the purposes of Section 4701 of the Internal Revenue Code of 1986, as amended (the "**Code**")) (the "**TEFRA D Rules**"), each Joint Lead Manager (i) has represented that it has not offered or sold, and agrees that during a 40-day restricted period it will not offer or sell, Securities to a person who is within the United States or its possessions or to a United States person, and (ii) has represented that it has not delivered and agrees that it will not deliver within the United States or its possessions definitive Securities that are sold during the restricted period;

2. each Joint Lead Manager has represented that it has and throughout the restricted period will have in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged

in selling Securities are aware that such Securities may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the TEFRA D Rules;

3. if it is a United States person, each Joint Lead Manager has represented that it is acquiring the Securities for the purposes of resale in connection with their original issue and if it retains Securities for its own account, it will only do so in accordance with the requirements of U.S. Treas. Reg. §1.163-5(c)(2)(i)(D)(6) (or any successor rules in substantially the same form that are applicable for the purposes of Section 4701 of the Code); and

4. with respect to each affiliate that acquires from it Securities for the purpose of offering or selling such Securities during the restricted period, each Joint Lead Manager either (i) has repeated and confirmed the representations and agreements contained in paragraphs (1), (2) and (3) on its behalf or (ii) has agreed that it will obtain from such affiliate for the benefit of the Issuer the representations and agreements contained in paragraphs (1), (2) and (3).

Terms used in paragraphs (1), (2), (3) and (4) have the meaning given to them by the Code and regulations thereunder, including the TEFRA D Rules.

The Securities are in bearer form and are subject to certain U.S. tax law requirements. The Securities may not be offered, sold or delivered within the United States or its possessions or to a United States person (as defined in Regulation S under the Securities Act), except in certain transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the Code and the regulations promulgated thereunder.

Singapore

Each Joint Lead Manager has acknowledged that this Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Joint Lead Manager has represented and agreed that it has not offered or sold any Securities or caused the Securities to be made the subject of an invitation for subscription or purchase and will not offer or sell any Securities or cause the Securities to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Offering Circular or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Securities, whether directly or indirectly, to any person in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act 2001 of Singapore, as modified or amended from time to time (the "**SFA**")) pursuant to Section 274 of the SFA (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1), or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

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

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

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

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred

within six months after that corporation or that trust has acquired the Securities pursuant to an offer made under Section 275 of the SFA except:

(i) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(c)(ii) of the SFA;

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

(iii) where the transfer is by operation of law;

(iv) as specified in Section 276(7) of the SFA; or

(v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Singapore SFA Product Classification: Solely for the purposes of its obligations pursuant to Sections 309B(1)(a) and 309B(1)(c) of the Securities and Futures Act 2001 (the "SFA"), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A of the SFA) that the Securities are "prescribed capital markets products" (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018).

Republic of Italy

Each of the Joint Lead Managers has represented and agreed that the offering of the Securities has not been registered with the *Commissione Nazionale per le Società e la Borsa* ("**CONSOB**") pursuant to Italian securities legislation and, accordingly, no Securities may be offered, sold or delivered, nor may copies of this Offering Circular nor any other document relating to any Securities be distributed in the Republic of Italy, except, in accordance with the Prospectus Regulation and all Italian securities, tax and exchange control and other applicable laws and regulations.

Each of the Joint Lead Managers has represented and agreed that it will not offer, sell or deliver any Security or distribute any copies of this Offering Circular and/or any other document relating to the Securities in the Republic of Italy except:

1. to qualified investors (*investitori qualificati*) as defined pursuant to article 2 of the Prospectus Regulation and any applicable provision of Legislative Decree No. 58 of 24 February 1998, as amended (the "**Consolidated Financial Act**") and Italian CONSOB regulations; or

2. in other circumstances which are exempted from the rules on public offerings pursuant to Article 1 of the Prospectus Regulation, Article 34-ter of CONSOB Regulation No. 11971 of 14 May 1999, as amended from time to time ("**Regulation No. 11971**") and the applicable Italian laws.

Any offer, sale or delivery of the Securities or distribution of copies of this Offering Circular or any other document relating to the Securities in the Republic of Italy under paragraphs 1. or 2. above must be:

1. made by an investment firm, bank or financial intermediary permitted to conduct such activities in the Republic of Italy in accordance with the Consolidated Financial Act, CONSOB Regulation No. 20307 of 15 February 2018 (as amended from time to time), Legislative Decree No. 385 of 1 September 1993, as amended (the "**Banking Act**") and any other applicable laws or regulation;

2. in compliance with Article 129 of the Banking Act, and the implementing guidelines of the Bank of Italy, as amended from time to time; and

3. in compliance with any other applicable laws and regulations or requirement imposed by CONSOB or the Bank of Italy or other competent authority.

The Issuers and each Joint Lead Managers acknowledge and accept that in no event may the Securities be sold or transferred (at any time after the Issue Date) to persons other than "qualified investors", as referred to under the Prospectus Regulation.

Prohibition of Sales to EEA Retail Investors

Each Joint Lead Manager has represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Securities to any retail investor in the European Economic Area. For the purposes of this provision:

(a) the expression "**retail investor in the European Economic Area**" means a person who is one (or more) of the following:

(i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or

(ii) a customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; and

(b) the expression an "**offer**" includes the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase or subscribe for the Securities.

Prohibition of Sales to UK Retail Investors

Each Joint Lead Managers has represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Securities which are the subject of the offering contemplated by this Offering Memorandum in relation thereto to any retail investor in the UK.

For the purposes of this provision:

(a) the expression "**retail investor**" means a person who is one (or more) of the following:

(i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018 ("**EUWA**"); or

(ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of UK domestic law by virtue of the EUWA; and

(b) the expression an "**offer**" includes the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase or subscribe for the Securities.

Other United Kingdom Regulatory Restrictions

Each Joint Lead Manager has represented and agreed that:

1. it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 ("**FSMA**") received by it in connection with the issue or sale of the Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and

2. it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the UK.

General

Save as stated herein, no action has been taken in any jurisdiction that would permit an offer to the public of any of the Securities, or possession or distribution of this Offering Circular or any other offering material, in any country or jurisdiction where action for that purpose is required.

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

GENERAL INFORMATION

Authorisation

The offering of the Securities has been duly authorised by resolution of the board of directors of ENEL dated 14 December 2022.

Listing and Admission to Trading

Application has been made to Euronext Dublin for the Securities to be admitted to the Official List and trading on its regulated market. The total expenses related to the admission of the Securities to trading on Euronext Dublin's regulated market are expected to amount to approximately €7,140.

Clearing systems

The Securities are eligible for clearance through Euroclear and Clearstream. The ISIN is XS2576550086 and the Common Code is 257655008 for the NC 5.5 Securities and ISIN is XS2576550243 and the Common Code is 257655024 for the NC 8.5 Securities. The address of Euroclear is Euroclear Bank SA/NV, 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream is Clearstream Banking, Luxembourg, 42 Avenue JF Kennedy, L-1855 Luxembourg.

No significant or material adverse changes

Except as disclosed in the sections entitled "*Risk Factors - The Group is vulnerable to any severe slowdown in power demand as a consequence of COVID-19 and other industrial sector weaknesses or potential energy intensity*", and "*Risk factors - Risks relating to macro-economic conditions and country risks"* of this Offering Circular, there has been no material adverse change in the prospects of the Issuer or the ENEL Group since 31 December 2021 and there has been no significant change in the financial performance or financial position of the Issuer or the ENEL Group since 30 September 2022.

Litigation

Except as set out under the paragraph "*Description of ENEL – Litigation*" on page 183 of the EMTN Base Prospectus and in the documents incorporated by reference herein, none of the Issuer nor any of its subsidiaries is or has been involved in any governmental, legal or arbitration proceedings, including any such proceedings which are pending of which the Issuer or any of its subsidiaries is aware, in the 12 months preceding the date of this Offering Circular which may have or have had in the recent past significant effects on the financial position or profitability of the Issuer or the Group taken as a whole.

Websites

The website of the Issuer is www.enel.com. The information on www.enel.com does not form part of this Offering Circular, except where that information has been incorporated by reference into this Offering Circular. The content of the ENEL website has not been scrutinised or approved by the competent authority.

Any information contained in any other website specified in this Offering Circular does not form part of this Offering Circular, except where that information has been incorporated by reference into this Offering Circular.

Listing Agent

Walkers Listing Services Limited is acting solely in its capacity as listing agent for the Issuer in connection with the Securities and is not itself seeking admission of the Securities to the Official List or to trading on the Market for the purposes of the Prospectus Regulation.

Independent auditors

The ENEL's current independent auditors are KPMG S.p.A. ("**KPMG**"), pursuant to the resolutions of the shareholders' meeting of ENEL held on 16 May 2019, which appointed KPMG to audit the financial statements from 2020 to 2028.

The consolidated financial statements of ENEL as at 31 December 2021 and for the year then ended, incorporated by reference herein, has been audited by KPMG that issued an unqualified audit opinion.

The consolidated financial statements of ENEL as at 31 December 2020 and for the year then ended, incorporated by reference herein, has been audited by KPMG. The audit report covering the 31 December 2020 consolidated financial statements, incorporated by reference herein, includes an other matters paragraph that states: "The group's 2019 consolidated financial statements were audited by other auditors, who expressed their unqualified opinion thereon on 8 April 2020."

The unaudited condensed interim consolidated financial statements of ENEL as at and for the six months ended 30 June 2022, incorporated by reference herein, has been subject to limited review by KPMG.

With respect to the unaudited condensed interim consolidated financial statements of ENEL as at and for the six months ended 30 June 2022, incorporated by reference herein, KPMG has reported that they applied limited procedures in accordance with professional standards for a review of such information. However, their separate report incorporated by reference herein state that they did not audit and they do not express an opinion on that unaudited condensed interim consolidated financial statements. Accordingly, the degree of reliance on their report on such information should be restricted in light of the limited nature of the review procedures applied.

KPMG is registered in the Register of Independent Auditors held by the Ministry of Economy and Finance pursuant to Legislative Decree No. 39 of 27 January 2010 and the relevant implementing regulations and is also a member of ASSIREVI (*Associazione Nazionale Revisori Contabili*), the Italian association of auditing firms. The registered office of KPMG is at Via Vittor Pisani, 25, 20124, Milan, Italy.

Documents available

So long as Securities are outstanding, copies of the following documents will, when published, be available for inspection on the website of ENEL at https://www.enel.com/investors/overview:

(i) the articles of association/by-laws (with an English translation thereof) of the Issuer;

(ii) this Offering Circular;

(iii) the Trust Deed, the Agency Agreement, the forms of the Global Securities and the Securities in definitive form;

(iv) the Audited Consolidated Financial Statements; and

(v) the most recently published unaudited interim financial statements and audited annual financial statements of the Issuer (with an English translation thereof), in each case, together with any audit or review reports prepared in connection therewith. The Issuer currently prepares unaudited consolidated interim accounts on a quarterly basis.

Additionally, for so long as Securities are outstanding, a copy of the Offering Circular will be available for collection, without charge, from the registered office of the Issuer and for inspection by appointment from the specified office of the Paying Agent for the time being in London or at the Paying Agent's option may be provided by email to such holder requesting copies of such document, subject to the Paying Agent being supplied by the Issuer with copies of such documents.

Post-issuance information

The Issuer does not intend to provide any post-issuance information in relation to the Securities.

Potential Conflicts of Interest

In connection with the offering, the Joint Lead Managers may purchase and sell the Securities in the open market. These transactions may include short sales, stabilising transactions and purchases to cover positions created by short sales. Short sales involve the sale by the Joint Lead Managers of a greater number of Securities than they are required to purchase in the offering. Stabilising transactions consist of certain sales or purchases made for the purpose of preventing or retarding a decline in the market price of the Securities while the offering is in progress.

These activities by the Joint Lead Managers, as well as other purchases by the Joint Lead Managers for their own accounts, may stabilise, maintain or otherwise affect the market price of the Securities. As a result, the price of the Securities may be higher than the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the Joint Lead Managers at any time. These transactions may be effected in the over-the-counter market or otherwise.

The Joint Lead Managers and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, lending, commercial and investment banking, issuance of financial instruments linked to the Issuer's shares, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the Joint Lead Managers and their respective affiliates have provided, and may in the future provide, a variety of these services to the Issuer and to persons and entities with relationships with the Issuer, for which they received or will receive customary fees and expenses. Moreover, certain of the Joint Lead Managers have issued financial instruments linked to the Issuer.

In addition, in the ordinary course of their business activities, the Joint Lead Managers and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/ or instruments of the Issuer's affiliates.

Certain of the Joint Lead Managers or their affiliates that have a lending relationship with the Issuer, some of which may have granted significant financing to the Issuer and its subsidiary companies, routinely hedge their credit exposure to the Issuer consistent with their customary risk management policies. Typically, such Joint Lead Managers 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 Securities. Any such positions could adversely affect future trading prices of Securities.

The Joint Lead Managers 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. For the purpose of this paragraph the term "affiliates" include also parent companies.

Yield

The yield on the NC 5.5 Securities from (and including) the Issue Date to (but excluding) the NC 5.5 Securities First Reset Date will be 6.386 per cent. per annum. The yield on the NC 8.5 Securities from (and including) the Issue Date to (but excluding) the NC 8.5 Securities First Reset Date will be 6.633 per cent. per annum. The yield is calculated at the Issue Date on the basis of the issue price. It is not an indication of future yield.

Legal Entity Identifier

The Legal Entity Identifier code of the Issuer is WOCMU6HCI0OJWNPRZS33.

Legend Concerning US Persons

The Securities and any Coupons and Talons appertaining thereto will bear a legend to the following effect: "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".

Foreign languages used in this Offering Circular

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

THE ISSUER

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