



DePfa Bank AG

€ 230,000,000

## DePfa Bank Capital Funding Trust

(a subsidiary of DePfa Bank AG, Wiesbaden, Germany)

### 7.125% Noncumulative Trust Preferred Securities (Liquidation Preference Amount € 25 per Trust Preferred Security)

The 9,200,000 Noncumulative Trust Preferred Securities (the "Trust Preferred Securities"), offered hereby (the "Offering") represent preferred undivided beneficial ownership interests in the assets of DePfa Bank Capital Funding Trust, a Delaware statutory business trust (the "Trust"). These assets consist of 7.125% Noncumulative Class B Preferred Securities (the "Class B Preferred Securities") of DePfa Bank Capital Funding LLC, a Delaware limited liability company (the "Company"), which have the benefit of a support undertaking issued by DePfa Bank AG (the "Bank").

The Trust will pass through Capital Payments and redemption proceeds on the Class B Preferred Securities as Capital Payments and redemptions, respectively, on the Trust Preferred Securities.

Capital Payments on the Class B Preferred Securities will be payable from the date of initial issuance on a noncumulative basis, quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, at a fixed rate per annum on the liquidation preference amount equal to 7.125%, commencing on December 31, 2001.

The Class B Preferred Securities are not redeemable prior to the payment date scheduled to occur on December 31, 2006, except upon the occurrence of certain tax, U.S. Investment Company Act and capital disqualification events.

The Trust Preferred Securities are expected, on issue, to be assigned a rating of A by Fitch. A rating is not a recommendation to buy, sell, or hold securities, and may be subject to revision, suspension, or withdrawal at any time by the relevant rating agency.

Application has been made to admit the Trust Preferred Securities to trading and official quotation on the Official Segment of the Stock Market of Euronext Amsterdam N.V. ("Euronext Amsterdam"). This Offering Circular constitutes a prospectus for the purposes of the listing and issuing rules of Euronext Amsterdam.

The Trust Preferred Securities will be initially evidenced by a temporary global certificate, interests in which will be exchangeable for interests in a permanent global certificate not earlier than 40 days after the issue date upon certification of non-U.S. beneficial ownership by or on behalf of the holders of such interests. The global certificates evidencing the Trust Preferred Securities will be deposited with and registered in the name of a Common Depository for Euroclear Bank S.A./N.V. as operator of the Euroclear System ("Euroclear"), and for Clearstream Banking S.A. ("Clearstream"), or any successor thereto.

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**Offering price: € 25 per Trust Preferred Security.**

The offering price set forth above does not include accumulated Capital Payments, if any. Capital Payments will accumulate from November 20, 2001.

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**These securities have not been registered under the U.S. Securities Act of 1933, as amended (the "Securities Act") and are being offered and sold only outside the United States to non-U.S. Persons in offshore transactions in reliance on Regulation S under the Securities Act ("Regulation S"). For a description of certain restrictions on transfer of these securities, see "Subscription and Sale — Selling Restrictions."**

**BNP PARIBAS**

**RABOBANK INTERNATIONAL**

**DZ BANK AG**



*The Bank, the Company and the Trust assume responsibility for the contents of this Offering Circular. The Bank, the Company and the Trust, having made reasonable inquiries, confirm that (i) the Offering Circular contains all information with respect to the Bank, its affiliates, its subsidiaries, the Trust Preferred Securities, the Class B Preferred Securities and the Debt Securities that is material in the context of the listing, issue and offering of the Trust Preferred Securities; (ii) the information contained in this Offering Circular is true and accurate in all material respects and is not misleading; (iii) the opinions and intentions expressed in this Offering Circular are honestly held; and (iv) there are no other facts the omission of which makes this Offering Circular as a whole or any of the information or the expression of any of the opinions or intentions misleading in any respect. No person has been authorized to give any information or to make any representations other than those contained in this Offering Circular, and, if given or made, such information or representations must not be relied upon as having been authorized by any of the Bank, the Company, the Trust, or the Managers.*

*The statements in this Offering Circular with respect to stabilization, over-allotment and the terms of the offering by the Managers have been provided by the Managers. The other information in this Offering Circular has been provided by sources other than the Managers; accordingly, the Managers do not guarantee its accuracy and completeness and do not accept any responsibility therefor. Nothing has come to the attention of the Managers that would lead them to believe that the particulars in this Offering Circular do not present a true and fair view of the actual situation or that any particulars have been omitted which, if disclosed, would affect the information in this Offering Circular in any material respect.*

*This Offering Circular does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the securities to which it relates. Neither the delivery of this Offering Circular nor any sale hereunder shall create, under any circumstances, any implication that there has been no change in the affairs of the Bank, the Trust or the Company since the date hereof or that the information contained herein is correct as of any time subsequent to its date.*

***Investors should satisfy themselves that they understand all the risks associated with making investments in the nature of the Trust Preferred Securities. If prospective investors are in any doubt whatsoever as to the risks involved in the Trust Preferred Securities, they should consult their professional advisers.***

*Each purchaser of the Trust Preferred Securities must comply with all applicable laws and regulations in force in any jurisdiction in which it purchases, offers or sells the Trust Preferred Securities or possesses or distributes this Offering Circular and must obtain any consent, approval or permission required by it for the purchase, offer or sale by it of the Trust Preferred Securities under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers or sales, and none of the Trust, the Company, the Bank or the Managers shall have any responsibility therefor.*

*Other than in the Netherlands, no action has been taken to permit a public offering of the Trust Preferred Securities in any jurisdiction where action would be required for such purpose. The distribution of this Offering Circular and the offering of the Trust Preferred Securities in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required to inform themselves about, and to observe, any such restrictions. In particular, the Trust Preferred Securities have not been and will not be registered under the Securities Act. Subject to certain exceptions, the Trust Preferred Securities may not be offered, sold or delivered in the United States or to U.S. persons. There are also restrictions on the distribution of this Offering Circular, and the offer and sale of the Trust Preferred Securities, in Germany, the Netherlands, Spain and the United Kingdom. See "Selling Restrictions".*

*So long as the Trust Preferred Securities have not been listed on Euronext Amsterdam, or it is unlikely that the Trust Preferred Securities will soon be admitted to listing, the Trust Preferred Securities may only be offered, sold, or delivered in or from the Netherlands, as part of their initial distribution or as part of any*

*re-offering, and this Offering Circular, and any other document in respect of the offering may only be distributed or circulated in the Netherlands, to individuals or legal entities, which include, but are not limited to, banks, brokers, dealers, institutional investors and undertakings with a treasury department, who or which trade or invest in securities in the conduct of business or profession.*

***In connection with this offering, BNP Paribas and Rabobank may over-allot or effect transactions which stabilize or maintain the market price of the trust preferred securities at a level which might not otherwise prevail. Such stabilizing, if commenced, may be discontinued at any time. Such transactions may include over-allotment, stabilizing and short covering transactions in such securities and the imposition of penalty bids in connection with the offering.***

## FORWARD-LOOKING STATEMENTS

This Offering Circular contains various forward-looking statements regarding events and trends that are subject to risks and uncertainties that could cause the actual results and financial position of the Bank and its consolidated subsidiaries, taken as a whole, to differ materially from the information presented herein. When used in this Offering Circular, the words “estimate”, “project”, “intend”, “anticipate”, “believe”, “expect”, “should”, and similar expressions, as they relate to the Bank, the Company or the Trust or their management, are intended to identify such forward-looking statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. The Bank undertakes no obligation to release publicly the result of any revisions to these forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

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## **PRESENTATION OF FINANCIAL INFORMATION**

The financial statements (including the notes thereto) included herein beginning on page F-1 are unconsolidated statements of DePfa Bank prepared in accordance with German generally accepted accounting principles as provided by the provisions of the German Stock Corporation Act (*Aktiengesetz*) and other applicable German law, which differ in certain respects from accounting principles generally accepted in certain other countries, including United States generally-accepted accounting principles. See “Summary of Material Differences Between German and United States Generally Accepted Accounting Principles”.

Following the restructuring of the DePfa Group described herein (see “The Restructuring”), the Bank and its subsidiaries will also publish consolidated financial statements prepared in accordance with United States generally accepted accounting principles. The Bank is currently a wholly-owned subsidiary of Pfandbriefbank, which publishes consolidated financial statements prepared in accordance with U.S. GAAP. This Offering Circular includes certain financial information from the notes to such consolidated financial statements concerning the property business and IT and corporate consultancy segments of the DePfa Group, substantially all of the business of which will be conducted by the Bank and its subsidiaries after the Restructuring described herein. See “Review of Certain DePfa Group Segment Financial Results.”

In this Offering Circular, all references to “billions” are references to one thousand millions. Due to rounding, the numbers presented throughout this Offering Circular may not add up precisely, and percentages may not precisely reflect absolute figures.

## **EXCHANGE RATE AND CURRENCY INFORMATION**

The Treaty Establishing the European Community as amended by the Treaty on European Union (the “Maastricht Treaty”), to which the Federal Republic of Germany is a signatory, provided that on January 1, 1999, a single unified currency, the euro, became legal currency in those member states of the European Monetary Union that satisfied the convergence criteria set forth in the Maastricht Treaty, including Germany. The conversion rate between the Deutsche Mark, which continues to have legal tender status through a transition period ending June 30, 2002, at the latest, and the euro was fixed by the Council of the European Union at DM 1.95583. Through its financial statements as of and for the period ended December 31, 1998, the Bank published its financial statements in Deutsche Mark; the Bank now publishes its financial statements in euro.

In this Offering Circular, references to “DM” are to Deutsche Mark and references to “€” are to the euro.

## OFFERING CIRCULAR SUMMARY

### Introduction to the Transaction

DePfa Bank Capital Funding Trust (the "Trust") exists for the sole purposes of issuing the Trust Preferred Securities and a single common security (the "Trust Common Security" and, together with the Trust Preferred Securities, the "Trust Securities"), investing the gross proceeds thereof in noncumulative Class B Preferred Securities (the "Class B Preferred Securities") of DePfa Bank Capital Funding LLC, a Delaware limited liability company (the "Company") and engaging in activities necessary or incidental thereto. The Class B Preferred Securities evidence preferred limited liability company interests in the Company. In addition to the Class B Preferred Securities, the Company will also issue one voting common security (the "Company Common Security") and one noncumulative Class A preferred security (the "Class A Preferred Security"), each representing limited liability company interests in the Company. The Company Common Security will be owned by the Bank or a majority-owned subsidiary. The Class A Preferred Security will be owned by the Bank or a wholly-owned subsidiary. Amounts available to the Trust for distribution to the holders of the Trust Securities will be limited to distributions received by the Trust from the Company with respect to the Class B Preferred Securities. Periodic distributions on the Trust Securities and the Class B Preferred Securities are referred to herein as "Capital Payments". For a summary of the terms of the Trust Preferred Securities and the Class B Preferred Securities, see "The Offering" herein.

Capital Payments will accrue on the respective liquidation preference amounts of € 25 per Trust Security (the "Liquidation Preference Amount") and € 25 per Class B Preferred Security at a rate per annum equal to 7.125% payable in arrears on March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001 (each such date, a "Payment Date"). "Stated Rate" refers to the rate in effect at any time in accordance with the terms of the Trust Preferred Securities.

Capital Payments payable on each Payment Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Payment Date (or the issue date, with respect to Capital Payments payable on December 31, 2001) to but excluding the relevant Payment Date (each such period, a "Payment Period").

Capital Payments on the Trust Securities are expected to be paid out of Capital Payments received by the Trust from the Company on the Class B Preferred Securities. Capital Payments on the Class B Preferred Securities are expected to be paid by the Company out of its Operating Profits. **If the Company does not declare (and is not deemed to have declared) a Capital Payment in respect of any Payment Period, holders of the Class B Preferred Securities will have no right to receive a Capital Payment in respect of such Payment Period, and the Company will have no obligation to pay a Capital Payment in respect of such Payment Period, whether or not Capital Payments are declared (or deemed to have been declared) and paid in respect of any future Payment Period. In such a case, no Capital Payments will be made on the Trust Securities in respect of such Payment Period.**

The Company will use the proceeds from the issuance of the Class B Preferred Securities, together with the proceeds from the issuance of the Class A Preferred Security and the Company Common Security, to acquire subordinated notes (the "Initial Debt Obligations") of DePfa Property Services B.V. ("DePfa Services") guaranteed on a subordinated basis by the Bank (the "Initial Guarantee"). The income received by the Company from the Initial Debt Obligations, and any debt obligations issued in substitution therefor (the "Substitute Debt Obligations", and, together with the Initial Debt Obligations, the "Debt Obligations"), will be available for distribution, as appropriate, to the holders of the Class B Preferred Securities and the Class A Preferred Security (together, the "Preferred Securities") and the holder of the Company Common Security.

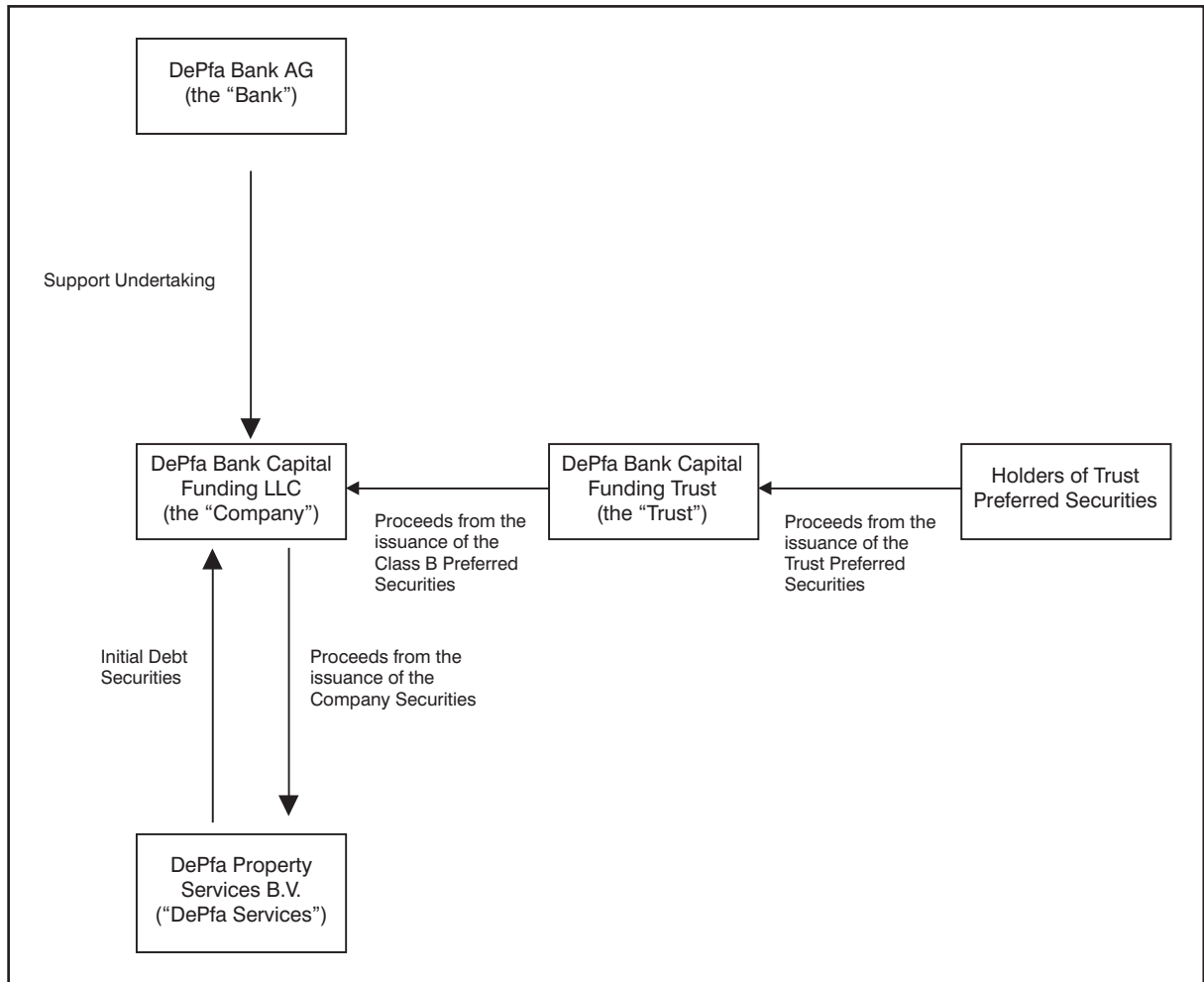
The Bank and the Company will enter into a support agreement (the “Support Undertaking”) for the benefit of the holders of the Class B Preferred Securities prior to the issuance of the Class B Preferred Securities. Pursuant to the Support Undertaking, the Bank will undertake that (i) the Company will at all times be in a position to meet its obligations if and when such obligations are due and payable, including Capital Payments declared (or deemed declared) on, and payments due upon redemption of, the Class B Preferred Securities (plus Additional Amounts thereon, if any), and (ii) in liquidation, the Company will have sufficient funds to pay the liquidation preference amounts of the Class B Preferred Securities, plus accrued and unpaid Capital Payments for the then current Payment Period to but excluding the date of liquidation and Additional Amounts (as defined herein), if any. The Support Undertaking is not a guarantee of any kind that the Company will at any time have sufficient assets to declare a Capital Payment or other distribution. The Bank’s obligations under the Support Undertaking are subordinated to all of its senior and subordinated debt obligations.

Upon any redemption of the Class B Preferred Securities, the Trust must redeem a corresponding number of the Trust Securities. The Class B Preferred Securities are redeemable at the option of the Company, in whole but not in part, on December 31, 2006 (the “Initial Redemption Date”), and on each Payment Date thereafter. The Company will also have the right to redeem the Class B Preferred Securities at any time prior to the Initial Redemption Date, in whole but not in part, upon the occurrence of a Company Special Redemption Event (as defined herein). Any such redemption will be at a redemption price per Class B Preferred Security equal to the liquidation preference amount thereof, plus any accrued and unpaid Capital Payments for the then current Payment Period to but excluding the date of redemption (a “Redemption Date”) and Additional Amounts, if any. See “Description of the Company Securities – Class B Preferred Securities – Redemption”. **The Class B Preferred Securities and the Trust Preferred Securities will not have any scheduled maturity date and will not be redeemable at any time at the option of the holders thereof.**

Upon the occurrence of a Trust Special Redemption Event (as defined herein) or in the event of any voluntary or involuntary dissolution, liquidation, winding up or termination of the Trust, holders of the Trust Preferred Securities will be entitled to receive a corresponding number of the Class B Preferred Securities. See “Description of the Trust Securities – Redemption.” Because the sole assets of the Trust are the Class B Preferred Securities and the holders of the Trust Preferred Securities may receive the Class B Preferred Securities in certain circumstances, prospective purchasers of the Trust Preferred Securities are also making an investment decision with respect to the Class B Preferred Securities and should carefully review all of the information regarding the Class B Preferred Securities. See “Description of the Company Securities – Class B Preferred Securities” and “Investment Considerations – Special Redemption Risk”.



The following diagram outlines the relationship among the Company, the Trust and the Bank following completion of the Offering.



### The Bank

DePfa Bank, currently a subsidiary of DePfa Deutsche Pfandbriefbank AG, is a commercial bank that engages, directly and through subsidiaries, primarily in property finance and other activities in the property sector. The Bank and its subsidiaries offer financial and advisory services, asset management and information technology services to various client groups including major German and international investors in commercial property, residential property developers, clients in the residential housing sector and private clients. Over the past decade the Bank has increasingly emphasized activities outside Germany and built up an international network that is active in 15 countries.

Under a restructuring, expected to be completed in 2002, the Bank will become a separately listed bank which can pursue its strategic development, free of the limitations imposed by capital markets and regulatory constraints that arise by virtue of being a subsidiary of a mortgage bank. See "The Restructuring".

Set forth below is certain historical financial information for the Bank on an unconsolidated basis in accordance with German GAAP.

	As at or for the year ended December 31,			As at or for the nine months ended September 30, 2001
	2000	1999	1998	
	(€ in millions)			
Net Income . . . . .	10.2	39.8	122.2	86.8
Total assets . . . . .	27,573.7	21,683.7	17,987.7	33,087.2
Equity . . . . .	887.3	862.8	584.1	965.0

*This section contains a summary of the terms of the Trust Preferred Securities and the Class B Preferred Securities, as well as information relating to this Offering. For a more complete description of the terms of the Trust Preferred Securities, the Class B Preferred Securities, the Initial Debt Obligations and the Support Undertaking, see “Description of the Trust Securities,” “Description of the Company Securities,” “Description of the Terms of the Initial Debt Obligations” and “Description of the Support Undertaking”, as well as “Distributable Profits of the Bank.” For a description of the Trust, the Company and the Bank, see “DePfa Bank Capital Funding Trust,” “DePfa Bank Capital Funding LLC” and “The DePfa Group,” respectively. The following summary is qualified in its entirety by the detailed information and financial data presented elsewhere in this Circular, including in the Consolidated Financial Statements.*

**Summary of the Offering**

**The Trust** . . . . . DePfa Bank Capital Funding Trust is a Delaware statutory business trust formed for the purpose of holding the Class B Preferred Securities, the Capital Payments and redemption payments from which will be passed through to holders of the Trust Securities.

**Securities Offered** . . . . . The Trust will offer 9,200,000 Trust Preferred Securities with a Liquidation Preference Amount of €25 per Trust Preferred Security. The terms of the Trust Preferred Securities will be substantially identical to the terms of the Class B Preferred Securities.

**Use of Proceeds** . . . . . All the proceeds from the sale of the Trust Securities will be invested by the Trust in the Class B Preferred Securities. The Company will use the funds from the sale of the Class B Preferred Securities, together with funds contributed for the Class A Preferred Security and the Company Common Security, to make an investment in the Initial Debt Obligations. The Bank intends that the proceeds of the sale of the Initial Debt Obligations will be used for general corporate purposes of the Bank and its subsidiaries. After the Restructuring, the Bank expects to treat the Class B Preferred Securities as consolidated Tier I regulatory capital of the Bank. Prior thereto, the Class B Preferred Securities are expected to be treated as consolidated Tier I regulatory capital of the DePfa Group.

**The Company** . . . . . DePfa Bank Capital Funding LLC, a Delaware limited liability company, is a wholly-owned subsidiary of the Bank which will be consolidated with the Bank for German bank regulatory purposes. The sole assets of the Company will be the Debt Obligations.

**Bank’s Support Undertaking** . . . The Bank will execute a Support Undertaking under which it will agree that:

- (i) the Company will at all times be in a position to meet its obligations if and when such obligations are due and payable, including Capital Payments declared (or deemed declared) on

and payments due upon redemption of the Class B Preferred Securities, and

(ii) in liquidation, the Company will have sufficient funds to pay the liquidation preference amounts of the Class B Preferred Securities, plus accrued and unpaid Capital Payments for the then current Payment Period to but excluding the date of liquidation and Additional Amounts, if any.

**The Support Undertaking is not a guarantee of any kind that the Company will at any time have sufficient assets to declare a Capital Payment or other distribution.**

The Bank's obligations under the Support Undertaking will be subordinated to all senior and subordinated debt obligations of the Bank, will rank *pari passu* with the most senior ranking preference shares of the Bank, if any, and will rank senior to any other preference shares and the common shares of the Bank. The holders of the Class B Preferred Securities will be third party beneficiaries of the Support Undertaking. If a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking, and such failure continues for 60 days or more after such notice is given, the holders of the Class B Preferred Securities will have the right to elect the Independent Enforcement Director (as defined and described herein) who will be required to enforce the rights of the Company under the Support Undertaking without prejudice to the rights of the holders of the Class B Preferred Securities thereunder.

The Bank will also undertake not to give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support of, any other preference shares or similar securities of any other affiliated entity that would rank senior in any regard to the Support Undertaking unless the Support Undertaking is amended so that it ranks at least *pari passu* with and contains substantially equivalent rights of priority as to payment as any such other guarantee or other support agreement.

**Ratings** .....

The Trust Preferred Securities are expected, on issue, to be assigned a rating of A by Fitch. Fitch has assigned a rating of A+ to the Bank's senior debt. A rating is not a recommendation to buy, sell, or hold securities, and may be subject to revision, suspension, or withdrawal at any time by the relevant rating agency.

**Summary of the Terms of the Trust Preferred Securities  
and the Class B Preferred Securities**

**Form and Denomination** . . . . . The Trust Preferred Securities will be issued in book-entry form only, in the denomination of the € 25 Liquidation Preference Amount and will be evidenced by global certificates deposited with and registered in the name of the common depository (the “Common Depository”) for Euroclear and Clearstream.

**Maturity** . . . . . The Trust Preferred Securities and the Class B Preferred Securities will not have a maturity date and will not be redeemable at any time at the option of the holders thereof.

**Stated Rate** . . . . . Capital Payments will accrue on the respective liquidation preference amounts of € 25 per Trust Preferred Security and € 25 per Class B Preferred Security at a rate per annum equal to 7.125% payable in arrears on March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001.

Capital Payments payable on each Payment Date or Redemption Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Payment Date (or the issue date with respect to Capital Payments payable on December 31, 2001) to but excluding the relevant Payment Date or Redemption Date.

**Paying Agent and Transfer Agent** . Deutsche Bank AG London

**Netherlands Paying Agent** . . . . . Rabobank

**Payment Dates** . . . . . If any Payment Date or Redemption Date falls on a day that is not a Business Day (as defined herein), the relevant payment will be payable on the next succeeding Business Day, unless that day falls in the next calendar year, in which case such payment will be due on the next preceding Business Day, without adjustment, interest or further payment as a result thereof. “Business Day” means a day on which all relevant parts of the Trans-European Automated Real-time Gross Settlement Transfer system (TARGET) are operational.

**Declaration of Capital Payments** . . Capital Payments on the Trust Securities are expected to be paid out of Capital Payments received by the Trust from the Company on the Class B Preferred Securities. Capital Payments on the Class B Preferred Securities are expected to be paid by the Company out of its Operating Profits. If the Company does not declare (and is not deemed to have declared) a Capital Payment in respect of any Payment Period, the holders of the Class B Preferred Securities will have no right to receive a Capital Payment on the Class B Preferred Securities in respect of such

Payment Period, and the Company will have no obligation to pay a Capital Payment on the Class B Preferred Securities in respect of such Payment Period, whether or not Capital Payments on the Class B Preferred Securities are declared (or deemed to have been declared) and paid on the Class B Preferred Securities in respect of any future Payment Period.

Capital Payments on the Class B Preferred Securities are authorized to be declared and paid on any Payment Date to the extent that:

- (i) the Company has an amount of Operating Profits (as defined herein) for the Payment Period ending on the day immediately preceding such Payment Date at least equal to the amount of such Capital Payments, and
- (ii) the Bank has an amount of Distributable Profits (as defined herein) for the most recent preceding fiscal year for which audited financial statements are available at least equal to the aggregate amount of such Capital Payments on the Class B Preferred Securities and capital payments or dividends or other distributions or payments on Parity Securities, if any, pro rata on the basis of Distributable Profits for such preceding fiscal year.

For a discussion of the calculation of Operating Profits by the Company and of Distributable Profits by the Bank, see “Description of the Company Securities – Class B Preferred Securities – Capital Payments” and “Distributable Profits of the Bank.”

**Deemed Declaration of Capital Payments** .....

Notwithstanding the foregoing, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities if the Bank or any of its subsidiaries declares or pays any dividends or makes any other payment or other distribution on any Parity Securities. The Capital Payments to be made as a result of such a deemed declaration will be pro rata with such Parity Securities and payable on the first Payment Date falling contemporaneously with or immediately after the date on which the Bank, or the Bank’s subsidiary, as the case may be, declared the related dividend or made the related payment.

Further, notwithstanding the foregoing, if the Bank or any of its subsidiaries declares or pays any dividend or makes any other payment or distribution on its Junior Securities, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities at the Stated Rate in full for a number of Payment Dates that varies according to how often the relevant Junior Securities pay dividends.

- If such Junior Securities pay dividends annually, Capital Payments will be deemed to have been declared for payment on the first four Payment Dates falling contemporaneously with and/or immediately following the date on which such dividend was declared or other payment made.
- If such Junior Securities pay dividends semiannually, Capital Payments will be deemed to have been declared for payment on the first two Payment Dates falling contemporaneously with and/or immediately following the date on which such dividend was declared or other payment made.
- If such Junior Securities pay dividends quarterly, Capital Payments will be deemed to have been declared for payment on the first Payment Date falling contemporaneously with or immediately following the date on which such dividend was declared or other payment made.

If the Bank or any of its subsidiaries redeems, repurchases or otherwise acquires any Parity Securities or Junior Securities (as defined herein) for any consideration except by conversion into or exchange for shares of common stock of the Bank, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities at the Stated Rate in full for payment on the first four Payment Dates falling contemporaneously with and/or immediately following the date on which such redemption, repurchase or other acquisition occurred. This obligation is, however, subject to certain exceptions set forth in “Description of the Company Securities – Class B Preferred Securities – Capital Payments”.

**Prohibition of Capital Payments** . . . Despite sufficient Operating Profits of the Company and sufficient Distributable Profits of the Bank, the Company will not be permitted to make Capital Payments on the Class B Preferred Securities on any Payment Date (or a date set for redemption or liquidation) if on such date there is in effect an order of the BAKred pursuant to the German Banking Act (“KWG”) (or any other relevant regulatory authority) prohibiting the Bank from making any distributions of its profits (including to the holders of Parity Securities).

**Payments of Additional Amounts** . . . All payments by the Company and the Trust on the Class B Preferred Securities and the Trust Preferred Securities, as the case may be, and any repayment upon redemption thereof, will be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of the United States or Germany or the jurisdiction of

residence of any obligor on the Debt Obligations (or any jurisdiction from which payments are made) or in case of Debt Obligations issued by a non-German branch of the Bank, the jurisdiction in which such branch is located) (each, a “Relevant Jurisdiction”) or by or on behalf of any political subdivision or authority therein or thereof having the power to tax (collectively, “Withholding Taxes”), unless the Company or the Trust is required by law to make such deduction or withholding. In such event, the Company or the Trust, as the case may be, will pay, as additional Capital Payments, such additional amounts (“Additional Amounts”) as may be necessary in order that the net amounts received by the Company and the holders of the Class B Preferred Securities and Trust Preferred Securities, after such deduction or withholding, will equal the amounts that would have been received had no such deduction or withholding been required. However, no such Additional Amounts will be payable in respect of the Class B Preferred Securities and the Trust Preferred Securities:

- if and to the extent that the Company is unable to pay such Additional Amounts because such payment would exceed the Distributable Profits of the Bank for the most recent preceding fiscal year for which audited financial statements are available (after subtracting from such Distributable Profits the amount of Capital Payments on the Class B Preferred Securities and dividends or other distributions or payments on Parity Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable);
- with respect to any Withholding Taxes that are payable by reason of a holder or beneficial owner of the Class B Preferred Securities (other than the Trust) or Trust Preferred Securities, as the case may be, having some connection with any Relevant Jurisdiction; or
- with respect to any Withholding Taxes imposed in consequence of the implementation of the Proposed EU Savings Tax Directive; or
- where such deduction or withholding can be avoided if the holder or beneficial owner of the Class B Preferred Securities (other than the Trust) or the Trust Preferred Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority.

**Redemption** . . . . . Upon any redemption of Class B Preferred Securities, the Trust must redeem a corresponding number of the Trust Securities.



The Class B Preferred Securities are redeemable at the option of the Company, in whole but not in part, on the Initial Redemption Date and on each Payment Date thereafter. The Company will also have the right, at any time, prior to the Initial Redemption Date, to redeem the Class B Preferred Securities in whole but not in part, upon the occurrence of a Company Special Redemption Event. Any such redemption will be at a redemption price per Class B Preferred Security equal to the liquidation preference amount thereof, plus any accrued and unpaid Capital Payments for the then current Payment Period to but excluding the Redemption Date, plus Additional Amounts, if any. The Company may exercise its right to redeem the Class B Preferred Securities only if it has:

- (i) given at least 30 days' prior notice (or such longer period as may be required by the relevant regulatory authorities) to the holders of the Class B Preferred Securities of its intention to redeem the Class B Preferred Securities on the Redemption Date and
- (ii) obtained any required regulatory approvals.

See "Description of the Company Securities – Class B Preferred Securities – Redemption".

**Limitations on Redemption . . . . .** No redemption of the Class B Preferred Securities for any reason may take place unless on the Redemption Date:

- the Company has sufficient funds (by reason of payments on the Debt Obligations, Permitted Investments or pursuant to the Support Undertaking) to pay the redemption price and to pay in full an amount corresponding to the Capital Payments accrued and unpaid as of the Redemption Date, plus Additional Amounts, if any, and on the Redemption Date the Debt Obligations have been redeemed;
- the Bank has an amount of Distributable Profits for the preceding fiscal year at least equal to the Capital Payments on the Class B Preferred Securities accrued and unpaid as of the Redemption Date, plus Additional Amounts, if any; and
- no order of the BAKred pursuant to the KWG (or any other relevant regulatory authority) is in effect prohibiting the Bank from making any distributions of its profits (including to the holders of Parity Securities).

**Trust Special Redemption Event . . . . .** Upon the occurrence of a Trust Special Redemption Event holders of the Trust Preferred Securities will be entitled to receive a corresponding number of the Class B Preferred Securities. See "Description of the Trust Securities – Redemption."

**Distributions at Liquidation** . . . . . In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Trust, the holders of the Trust Securities will be entitled to receive a corresponding amount of the Class B Preferred Securities. The holders of the Trust Preferred Securities will have a preference over the holder of the Trust Common Security with respect to distributions upon liquidation of the Trust.

Upon liquidation of the Company, the holder of the Class A Preferred Security will receive the Debt Obligations or Permitted Investments (including accrued and unpaid interest thereon) as its liquidation distribution. Each holder of the Class B Preferred Securities will be entitled to receive the liquidation preference amount of such Class B Preferred Securities, plus accrued and unpaid Capital Payments in respect of the current Payment Period to but excluding the date of liquidation and Additional Amounts, if any. The Company expects that the liquidation distribution to the holders of the Class B Preferred Securities will be paid out of funds received from the Bank under the Support Undertaking. Under the terms of the LLC Agreement and to the fullest extent permitted by law, the Company will not be dissolved until all obligations under the Support Undertaking have been paid in full pursuant to its terms.

**Ranking** . . . . . In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Company, the Class B Preferred Securities will rank junior to the Class A Preferred Security, and the Class B Preferred Securities will rank senior to the Company Common Security; *provided* that any payments made by the Bank pursuant to the Support Undertaking will be payable by the Company solely to the holders of the Class B Preferred Securities.

**Voting Rights** . . . . . Holders of the Trust Preferred Securities will not have any voting rights, except that the holders of a majority of the outstanding Trust Preferred Securities (excluding Trust Preferred Securities held by the Bank or any of its affiliates) will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee (as defined herein), or direct the exercise of any trust or power conferred upon the Property Trustee under the Trust Agreement (as defined herein). This includes the right to direct the Property Trustee, as holder of the Class B Preferred Securities, on how to vote the Class B Preferred Securities in respect of the matters on which holders of the Class B Preferred Securities are entitled to vote (including certain matters as to enforcement of rights under the Class B Preferred Securities described under “ – Enforcement Rights” below). So long as any Class B Preferred Securities are outstanding, the Company will not, without the vote of at least 66 $\frac{2}{3}$ % in aggregate liquidation preference amount of the Class B Preferred Securities, voting separately as a class (excluding any

Class B Preferred Securities held by the Bank or any of its affiliates):

- (i) amend, alter, repeal or change any provision of the LLC Agreement (including the terms of the Class B Preferred Securities) if such amendment, alteration, repeal or change would materially adversely affect the rights, preferences, powers or privileges of the Class B Preferred Securities, or
- (ii) effect any merger, consolidation, or business combination involving the Company, or any sale of all or substantially all of the assets of the Company, *provided*, that any such merger, consolidation, or business combination involving the Company, or any sale of all or substantially all of the assets of the Company also must comply with the provisions of the LLC Agreement.

For a description of these provisions set forth in the LLC Agreement, see “Description of the Company Securities – Mergers, Consolidations and Sales”.

The Company will not, without the consent of all the holders of the Class B Preferred Securities (excluding any Class B Preferred Securities held by the Bank or any of its affiliates), issue any additional securities of the Company ranking prior to or *pari passu* with the Class B Preferred Securities as to periodic distribution rights or rights on liquidation or dissolution of the Company.

**Enforcement Rights . . . . . If:**

- (i) the Company fails to pay Capital Payments (plus any Additional Amounts thereon, if any) on the Class B Preferred Securities at the Stated Rate in full for four consecutive Payment Periods or
- (ii) a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking and such failure continues for 60 days after such notice is given,

then the holders of the Class B Preferred Securities will have the right to appoint one independent member of the Board of Directors (the “Independent Enforcement Director”). Any Independent Enforcement Director so appointed will vacate office if, in such Independent Enforcement Director’s sole determination:

- (i) Capital Payments (plus Additional Amounts, thereon, if any) on the Class B Preferred Securities have been made on the Class B Preferred Securities at the Stated Rate in full by the

Company for at least four consecutive Payment Periods, and the Bank is in compliance with its obligations under the Support Undertaking.

**Listing** . . . . . Application will be made to admit the Trust Preferred Securities to trading and official quotation on Euronext Amsterdam.

**Notices** . . . . . Notices to holders of the Company Preferred Securities will be mailed by first-class mail, postage prepaid, to the holders' addresses appearing in the Company's records. Notices to holders of the Trust Preferred Securities shall be deemed to have been given upon: (i) publication in one English language daily newspaper of general circulation in Europe; and (ii) as long as the Trust Preferred Securities are listed on Euronext Amsterdam and the rules of such exchange so require, publication in a daily newspaper of general circulation in the Netherlands (which is expected to be the *Het Financieele Dagblad*), notice thereof given to Euronext Amsterdam, and in the Euronext Official Daily List.

**Governing Law** . . . . . The LLC Agreement, including the terms of the Class A Preferred Security and the Class B Preferred Securities, and the Trust Agreement, including the terms of the Trust Securities, will be governed by Delaware law. The Agency Agreement and the Support Undertaking will be governed by German law.

### Summary of the Terms of the Class A Preferred Security

The Bank or a wholly-owned subsidiary will initially own the Class A Preferred Security issued by the Company. The Class A Preferred Security is expected to receive capital payments only to the extent that

- (i) Capital Payments are not permitted to be paid on the Class B Preferred Securities in full on any Payment Date due to insufficient Distributable Profits of the Bank or on such date an order of the BAKred pursuant to the KWG (or any other relevant regulatory authority) prohibiting the Bank from making any distributions of its profits (including to the holders of the Parity Securities) is in effect, and
- (ii) the Company has sufficient Operating Profits.

### Summary of the Terms of the Initial Debt Obligations

<b>Maturity</b> .....	December 31, 2026 (the "Maturity Date").
<b>Principal Amount</b> .....	€ 230,000,300 (equal to the proceeds from the offer and sale of the Trust Securities and the resulting issuance of the Class B Preferred Securities plus the aggregate amounts contributed for the Class A Preferred Security and the Company Common Security) (the "Principal Amount") of an issue of subordinated notes of DePfa Services.
<b>Interest Payments</b> .....	Interest will be payable by DePfa Services in euro on the Principal Amount, quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001 (each, an "Interest Payment Date") at not less than the Stated Rate. Interest payments payable on each Interest Payment Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Interest Payment Date (or the issue date with respect to interest payable on December 31, 2001) to but excluding the relevant Interest Payment Date (each such period, an "Interest Period").  If any Interest Payment Date or Debt Redemption Date (as defined herein) falls on a day that is not a Business Day, the relevant payment will be due on the next succeeding Business Day unless that day falls in the next calendar month, in which case such payment will be due on the next preceding Business Day, without adjustment, interest or further payment as a result thereof.
<b>Ranking</b> .....	The obligations of DePfa Services under the Initial Debt Obligations will be subordinated to all obligations of DePfa Services that are not subordinated.

**Initial Guarantee** . . . . . The Bank will guarantee payment of the principal of and interest on the Initial Debt Obligations, *provided* that upon liquidation of the Bank, the obligations of the Bank under the Initial Guarantee:

- (i) will be subordinated to all debt obligations of the Bank that are not subordinated,
- (ii) will rank at least *pari passu* with other subordinated debt obligations or any other instruments, and
- (iii) will be senior to all junior subordinated debt obligations and to preference shares of the Bank, if any, and the common shares of the Bank.

**Redemption** . . . . . The Initial Debt Obligations will not be redeemable prior to December 31, 2006 (the “Initial Debt Redemption Date”), except upon the occurrence of a Company Special Redemption Event or in the event of replacement with Substitute Debt Obligations. DePfa Services may, at its option, redeem the Initial Debt Obligations, in whole but not (except in the event of replacement with Substitute Debt Obligations) in part, on the Initial Debt Redemption Date or on any Interest Payment Date thereafter. DePfa Services may also at its option redeem the Initial Debt Obligations in whole but not in part at any time prior to the Initial Debt Redemption Date upon the occurrence of a Company Special Redemption Event and the election of the Company to redeem the Class B Preferred Securities. Any such redemption shall be made at a redemption price equal to the Principal Amount to be redeemed, plus accrued and unpaid interest thereon for the then current Interest Period to but excluding the date of redemption and Additional Interest Amounts (as defined below), if any, and upon at least 30 days’ prior notice and subject to having obtained any required regulatory approvals.

Except as set forth under “Substitution” below, the Initial Debt Obligations may not be redeemed for any reason unless the Company has the right to, and has given notice that it will, redeem Class B Preferred Securities in an aggregate liquidation preference amount equal to the aggregate Principal Amount of Initial Debt Obligations to be redeemed.

**Substitution** . . . . . At any time, the Bank will have the right to:

- (i) substitute as obligor on the Debt Obligations the Bank or a non-German branch of the Bank or a direct or indirect majority owned subsidiary of the Bank that is a credit institution, financial services institution or financial enterprise within the meaning of the German Banking Act (a “Qualified Issuer”), or

- (ii) replace the Debt Obligations with Substitute Debt Obligations issued by the Bank or a Qualified Issuer with identical terms to those of the Initial Debt Obligations;

*provided*, in each case, that:

- (a) such substitution or replacement does not result in a Company Special Redemption Event, and
- (b) the Bank, unless the Bank itself or a branch of the Bank is the substitute obligor, guarantees on a subordinated basis, at least equal to the ranking of the Initial Guarantee, the obligations of the substitute obligor.

The LLC Agreement provides that after the Maturity Date, if the Class B Preferred Securities have not been redeemed on the Maturity Date, the Company will invest the proceeds from the redemption of the Debt Obligations in debt obligations issued by a Qualified Issuer (not including the Bank) and guaranteed by the Bank on a subordinated basis at least equal to the ranking of the Debt Obligations or, alternatively, in U.S. Treasury Securities (together, "Permitted Investments"), *provided*, that such investment does not result in a Company Special Redemption Event.

**Governing Law** ..... The Initial Debt Obligations and the Initial Guarantee will be governed by the laws of Germany.

## **INVESTMENT CONSIDERATIONS**

An investment in the Trust Preferred Securities involves certain risks. An investor should carefully consider the following information, in conjunction with the other information contained in this Circular, before deciding whether an investment in the Trust Preferred Securities is suitable.

### **Risks Associated with the Financial Condition of the Bank and Its Affiliates**

If the financial condition of the Bank or its subsidiaries were to deteriorate, then it could result in:

- (i) the Bank having insufficient Distributable Profits for the Company to declare and pay Capital Payments on the Class B Preferred Securities at the Stated Rate in full, or
- (ii) the Company receiving reduced payments under the Initial Debt Obligations or the Support Undertaking.

This could reduce the amounts received by the Trust in respect of the Class B Preferred Securities, which, in turn, would reduce the amounts available to the Trust for periodic distributions to holders of the Trust Preferred Securities. In addition, if a voluntary or involuntary liquidation, dissolution or winding up of the Bank were to occur, holders of the Trust Preferred Securities may lose all or part of their investment.

### **The Company Is Not Required to Make Capital Payments**

The declaration of Capital Payments by the Company on the Class B Preferred Securities (and, accordingly, the payment of Capital Payments on the Trust Preferred Securities by the Trust) is limited by the terms of the LLC Agreement. Although it is the policy of the Company to distribute the full amount of Operating Profits for each Payment Period as Capital Payments to the holders of the Class B Preferred Securities, the Board of Directors has discretion in declaring and making Capital Payments (except with respect to deemed declarations which are mandatory). Notwithstanding the foregoing sentence, however, the Company will be deemed to have authorized Capital Payments on the Class B Preferred Securities under certain circumstances involving payments made in respect of Parity Securities or Junior Securities. See “Description of the Company Securities – Class B Preferred Securities – Capital Payments”.

In addition, even if the Bank has sufficient Distributable Profits, the Company will not be permitted to make Capital Payments on the Class B Preferred Securities on any Payment Date if on such date there is in effect an order of the BAKred pursuant to the KWG (or any other relevant regulatory authority) prohibiting the Bank from making any distributions of its profits (including to the holders of the Parity Securities). To the extent the Company is not permitted to make Capital Payments on the Class B Preferred Securities on any Payment Date, this will reduce the amounts available to the Trust to make Capital Payments on the Trust Preferred Securities. See “Description of the Company Securities – Class B Preferred Securities – Capital Payments” and “Description of the Trust Securities”.

### **Capital Payments Are Noncumulative**

The Capital Payments are discretionary and noncumulative. The LLC Agreement provides that it is the policy of the Company to distribute all of its Operating Profits; however, even if the Distributable Profits test has been met by the Bank, holders of the Trust Preferred Securities will have no right to receive any Capital Payments in respect of such Payment Period unless the Board of Directors declares (or is deemed to have declared) Capital Payments on the Class B Preferred Securities for such Payment Period. See “Description of the Company Securities – Class B Preferred Securities – Capital Payments”.



**No Voting Rights; Relationships with the Bank and Its Affiliates;  
Certain Conflicts of Interest**

The Bank will control the Company through the Bank's or majority-owned subsidiary's power to elect a majority of the Board of Directors as holder of the Company Common Security. Generally, the Trust, to the extent that it is the holder of the Class B Preferred Securities, will have no right to vote to elect members of the Board of Directors. The only exception is that holders will have the right to elect one independent member to the Board of Directors, the Independent Enforcement Director, if:

- (i) the Company fails to make Capital Payments (and Additional Amounts thereon) on the Class B Preferred Securities at the Stated Rate in full for four consecutive Payment Periods, or
- (ii) a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking and such failure continues for 60 days after such notice is given.

The Company expects that the initial (and all future) directors and officers of the Company and Regular Trustees (as defined herein) of the Trust will be officers or employees of the Bank or its affiliates. Under the Services Agreement, the Bank or one of its branches or affiliates (the "Servicer") also will provide certain accounting, legal, tax and other support services to the Company and the Trust. Consequently, conflicts of interest may arise for those officers and employees of the Bank and its affiliates in the discharge of their duties as officers or employees of the Company or Regular Trustees of the Trust.

**Special Redemption Risk**

*Redemption upon Occurrence of a Company Special Redemption Event.* The Class B Preferred Securities (and, consequently, the Trust Preferred Securities) will be redeemable at any time at the option of the Company, in whole but not in part, upon the occurrence of a Company Special Redemption Event. A Company Special Redemption Event will arise if, as a result of certain changes in law, there are changes in the tax status of the Company, Additional Amounts relating to withholding taxes become applicable to payments on the Class B Preferred Securities, the Trust Securities or the Debt Obligations, the Bank is not permitted to treat the Class B Preferred Securities as Tier I regulatory capital on a consolidated basis or the Company will be considered an "investment company" within the meaning of the U.S. Investment Company Act of 1940, as amended (the "1940 Act"). See "Description of the Trust Securities – Redemption".

*Liquidation of the Trust upon Occurrence of a Trust Special Redemption Event.* If there has occurred a Tax Event or an Investment Company Act Event (in each case, as defined herein) each solely with respect to the Trust, then the Trust will be dissolved and liquidated. Upon such dissolution and liquidation of the Trust, each holder of the Trust Preferred Securities would receive as its liquidation distribution a corresponding number of the Class B Preferred Securities. Upon such distribution, the Class B Preferred Securities may not be listed on any securities exchange or eligible for clearing through Euroclear or Clearstream, and holders of the Class B Preferred Securities and their nominees would become subject to nominee reporting requirements under the U.S. Internal Revenue Code of 1986, as amended, and would receive reports on Schedule K-1 from the Company. Schedule K-1 is the U.S. federal income tax form on which a partnership is required to report to each partner, the partner's allocable share of income, gain, loss, deduction or credit for the partnership's prior calendar year. Accordingly, the Class B Preferred Securities which an investor may subsequently receive on dissolution and liquidation of the Trust may trade at a discount to the price of the Trust Preferred Securities for which they were exchanged.

### **The Support Undertaking Is Not A Guarantee**

The Bank and the Company have entered into the Support Undertaking for the benefit of the Company and the holders of the Class B Preferred Securities. However, the Support Undertaking does not represent a guarantee from the Bank that the Company will be authorized to declare and make a Capital Payment for any Payment Period. Furthermore, the obligations of the Bank under the Support Undertaking rank junior to all indebtedness of the Bank with the effect that, if the Bank (and therefore the Company) were liquidated, holders of the Trust Preferred Securities would have the right to receive any payments on the Liquidation Preference Amount, plus any accrued and unpaid Capital Payments for the then current Payment Period to but excluding the date of liquidation and Additional Amounts, if any, pursuant to the Support Undertaking *pari passu* with amounts payable to the holders of the most senior preference shares of the Bank. See “Description of the Support Undertaking”.

### **No Prior Public Market; Resale Restrictions**

The Trust Preferred Securities are a new issue of securities. There has been no public market for the Trust Preferred Securities. Application will be made to admit the Trust Preferred Securities to trading and official quotation on Euronext Amsterdam. Listing of the Trust Preferred Securities on Euronext Amsterdam is expected to occur shortly after closing. The Trust Preferred Securities may trade at a discount to the price that the investor paid to purchase the Trust Preferred Securities offered by this Circular. There can be no assurance that an active secondary market for the Trust Preferred Securities will develop. The liquidity and the market prices for the Trust Preferred Securities can be expected to vary with changes in market and economic conditions, the financial condition and prospects of the Bank and other factors that generally influence the secondary market prices of securities. Such fluctuations may significantly affect liquidity and market prices for the Trust Preferred Securities. The Trust Preferred Securities have not been registered under the Securities Act and will be subject to a number of resale restrictions. See “General Information – Selling Restrictions”.

### **Regulatory Restrictions on the Company’s Operations**

Because the Company is a subsidiary of the Bank, German bank regulatory authorities could make determinations in the future with respect to the Bank that could adversely affect the Company’s ability to make Capital Payments in respect of the Class B Preferred Securities. In addition, United States federal or state regulatory authorities, as well as German and European Union regulatory authorities and regulatory authorities in other countries, have regulatory authority over the Bank and/or the Bank’s subsidiaries. Under certain circumstances, any of such regulatory authorities could make determinations or take decisions in the future with respect to the Bank and/or any of the Bank’s subsidiaries or a portion of their respective operations or assets that could adversely affect the ability of any of them to, among other things, make distributions to their respective securityholders, engage in transactions with affiliates, purchase or transfer assets, pay their respective obligations or make any redemption or liquidation payments to their securityholders.

### **Considerations Arising from the Restructuring**

The Bank is currently a subsidiary of Pfandbriefbank. Upon the completion of the proposed restructuring of the DePfa Group, it will become an independent company with a separate listing on the Frankfurt Stock Exchange. See “The Restructuring”. Although the Bank has had operational responsibility for all property finance of the DePfa Group for several years, it will have to function separately from Pfandbriefbank in a number of general administrative areas and considerable management attention will have to be paid to creating a new organizational structure and culture for the Bank and its subsidiaries. In addition, the Bank’s lending portfolio will increase dramatically, and without access to the Pfandbrief market it will need to provide funding to carry these assets or remove them from the balance sheet through substantially increased use of securitization and syndication. If funding or

capital costs rise and lending margins decline or the Bank is unable to securitize or syndicate assets to the extent it expects, the Bank's capital adequacy ratios and net income could be adversely affected.

Although the shareholders of Pfandbriefbank have authorized the Restructuring with an affirmative vote of 99.9% of the shares, the Restructuring also requires shareholders of Pfandbriefbank to exchange their shares for shares in a new holding company. If less than 90% by value of such shareholders do not accept this exchange offer, the Restructuring will not proceed. In addition, elements of the Restructuring are subject to the approval of various regulatory authorities and the Irish High Court. If the Restructuring is not completed, the Bank will remain part of the DePfa Group. In that event, the Bank cannot predict which, if any, of the transfers between the Bank and Pfandbriefbank of assets and business activities discussed in this Offering Circular would occur.

### **Ratings considerations**

The Trust Preferred Securities are expected, on issue, to be assigned a rating of A by Fitch. Fitch has assigned a rating of A+ to the Bank's senior debt. The Bank has started the process of obtaining ratings from another rating agency. It expects that these ratings will be published shortly but has not yet received an indication from that agency of what those ratings will be. Any publication or revision of the Bank's ratings at levels below the current Fitch rating is likely to increase the Bank's funding costs and may affect the market price for the Trust Preferred Securities.

### **Property Market**

The German and international property markets are inherently cyclical and can be adversely affected by general economic conditions. A downturn in economic conditions in any market may have a disproportionately adverse effect on the willingness of investors and developers to commit to significant property projects in that market and thus on the business of the Bank.

The Bank has had to make significant provisions over the past four financial years for problem loans in its German portfolio, particularly for lending in eastern Germany. While the Bank believes that these provisions are currently adequate, there can be no assurance that further provisions for these loans may not be required.

## **USE OF PROCEEDS**

All the proceeds from the sale of the Trust Securities will be invested by the Trust in the Class B Preferred Securities. The Company will use the funds from the sale of the Class B Preferred Securities, together with funds contributed in return for the Class A Preferred Security and the Company Common Security, to make an investment in the Initial Debt Obligations. The Bank intends that the proceeds of the sale of the Initial Debt Obligations will be used for general corporate purposes of the Bank and its subsidiaries.

The Bank (after the Restructuring) and Pfandbriefbank (before the Restructuring) expect to treat the Class B Preferred Securities as consolidated Tier I regulatory capital for purposes of measuring regulatory capital adequacy.

## DISTRIBUTABLE PROFITS OF THE BANK

The Company's authority to declare Capital Payments on the Class B Preferred Securities for any Payment Period depends, among other things, on the Distributable Profits of the Bank for the most recent preceding fiscal year for which audited financial statements are available.

"Distributable Profits" of the Bank for any fiscal year is the balance sheet profit (*Bilanzgewinn*) as of the end of such fiscal year, as shown in the audited unconsolidated balance sheet of the Bank as of the end of such fiscal year. Such balance sheet profit includes the annual surplus or loss (*Jahresüberschuß/fehlbetrag*), plus any profit carried forward from previous years, minus any loss carried forward from previous years, plus transfers from capital reserves and earnings reserves, minus allocations to earnings reserves, all as determined in accordance with the provisions of the German Stock Corporation Act (*Aktiengesetz*) and accounting principles generally accepted in the Federal Republic of Germany as described in the German Commercial Code (*Handelsgesetzbuch*) and other applicable German law then in effect.

Distributable Profits are determined on the basis of the Bank's audited unconsolidated financial statements required by the German Stock Corporation Act (*Aktiengesetz*) and are prepared in accordance with accounting principles generally accepted in the Federal Republic of Germany as described in the German Commercial Code (*Handelsgesetzbuch*) and other applicable German law then in effect. The German Commercial Code differs in certain respects from U.S. GAAP, in accordance with which Pfandbriefbank prepares its consolidated financial statements and the Bank will prepare its consolidated financial statements after the Restructuring.

Distributable Profits in respect of any fiscal year includes, in addition to annual profit, transfers made by the Bank, in its discretion, of amounts carried on its balance sheet as Other Profit Reserves. In addition, in determining Distributable Profits for any fiscal year, the amounts shown below as Capital Reserve may be transferred in the Bank's discretion to offset any losses which may be incurred by the Bank; such amounts may not otherwise be used to make Capital Payments.

In determining the availability of sufficient Distributable Profits of the Bank for any fiscal year to permit Capital Payments to be declared with respect to the Class B Preferred Securities during the succeeding fiscal year of the Bank, any Capital Payments already paid on the Class B Preferred Securities, and any capital payments or dividends already paid during the succeeding fiscal year of the Bank on Parity Securities, if any, on the basis of Distributable Profits for such fiscal year, will be deducted from such Distributable Profits.

The following table sets forth, as of December 31, 2000 and 1999, the items derived from the Bank's audited unconsolidated balance sheet that affect the calculation of the Bank's Distributable Profits:

	<u>2000</u>	<u>1999</u>
	(€ in millions)	
Annual Net Income After Transfers to Profit Reserves . . . . .	9.2	24.2
Other Profit Reserves . . . . .	424.0	407.0
Capital Reserve Available to Offset a Loss . . . . .	45.7	47.1

In furtherance of the dividend policy of the DePfa Group, the Bank paid total dividends on its ordinary shares of € 9.2 million and € 8.2 million in respect of the years ended December 31, 2000 and 1999, respectively. In addition to net income in the ordinary course of its business, the Bank expects its net income for the year ending December 31, 2001 and its Distributable Profits as of that date to reflect a capital gain of approximately € 185 million from the sale of its interest in DePfa Investment Bank Ltd. in connection with the restructuring of the DePfa Group. In 2002, however, Distributable Profits is expected to be reduced by the payment by the Bank of an extraordinary dividend to equalize the capital between the two businesses of the DePfa Group being separated in the Restructuring. See "The Restructuring". The Bank has not yet determined what its dividend policy will be following the Restructuring.

### CAPITALISATION OF THE BANK

The following table sets forth the capitalisation of the Bank, on the basis of the Bank's unconsolidated balance sheet in accordance with German GAAP, as at December 31, 2000 and September 30, 2001:

	December 31, 2000	September 30, 2001
	(€ in millions)	
Subordinated liabilities . . . . .	382.9	457.2
Profit participation capital . . . . .	77.1	72.1
Total hybrid capital . . . . .	460.0	529.3
Subscribed capital . . . . .	83.2	83.2
Contributions by silent partners . . . . .	320.7	320.7
Capital reserve . . . . .	45.7	45.7
Profit reserves . . . . .	428.5	428.5
Retained Profit . . . . .	9.2	86.8
Total equity . . . . .	887.3	964.9
Total capitalisation . . . . .	1,347.3	1,494.2

There will be changes in the Bank's capital as a result of the proposed restructuring of the DePfa Group. See "The Restructuring".

## SELECTED DEPFA BANK UNCONSOLIDATED FINANCIAL INFORMATION

The following tables present selected historical financial data concerning DePfa Bank AG on an unconsolidated basis that has been derived from, and should be read in conjunction with, the unconsolidated financial statements of the Bank as at and for the years ended December 31, 2000, 1999 and 1998 prepared in accordance with German GAAP included herein beginning on page F-1. In the presentation of the information in these tables certain items in the Bank's unconsolidated financial statements have been combined for ease of understanding. Totals may not compute due to rounding.

	Year Ended December 31,		
	2000	1999	1998
	(€ in thousands)		
<b>Income Statement Data</b> . . . . .			
Net interest income . . . . .	283,486	265,849	196,469
Net commission income . . . . .	85,334	84,965	22,284
Administrative expenses <sup>(1)</sup> . . . . .	(170,978)	(151,783)	(87,145)
Other operating income less other operating expenses . . . . .	11,612	(6,735)	8,017
Writeoffs and transfers to loan provisions (net of writebacks) . . . . .	(164,360)	317	46,153
Expense on assumption of losses . . . . .	(20,723)	(1,509)	(1,986)
Transfer to the fund for general banking risks pursuant to Commercial Code, Section 340g . . . . .	—	(58,000)	—
Extraordinary income (expense) . . . . .	10,000	—	(7,863)
Taxes . . . . .	(365)	(59,561)	(53,730)
Payment on silent contributions . . . . .	(3,855)	(33,741)	—
Net income for the year . . . . .	10,152	39,802	122,199

<sup>(1)</sup> Including depreciation on intangible assets and property, plant and equipment.

	Year Ended December 31,		
	2000	1999	1998
	(€ in thousands)		
<b>Balance Sheet Data</b>			
<b>Assets</b>			
Cash reserve . . . . .	831,317	762,422	78,167
Treasury bills and other bills eligible for refinancing with central banks . . . . .	—	—	50,573
Loans and advances to banks . . . . .	4,711,437	4,362,047	3,526,147
Loans and advances to customers . . . . .	11,701,791	10,032,471	10,012,688
Debentures and other fixed-interest securities . . . . .	6,207,115	3,820,394	2,184,640
Shares and other nonfixed-interest . . . . .	357,973	394,954	376,526
Participations and shares in affiliated companies . . . . .	528,322	455,834	158,141
Trust assets . . . . .	2,753,488	1,614,505	1,392,433
Property, plant and equipment . . . . .	19,223	21,310	20,403
Intangible assets . . . . .	17,874	20,932	1,188
Other assets <sup>(1)</sup> . . . . .	445,128	198,788	186,786
<b>Total assets . . . . .</b>	<b>27,573,669</b>	<b>21,683,658</b>	<b>17,987,693</b>
<b>Liabilities</b>			
Deposits by banks . . . . .	8,185,741	7,073,289	3,251,874
Deposits by customers . . . . .	8,606,117	7,548,027	7,986,835
Securitized liabilities . . . . .	6,423,555	4,008,650	4,150,152
Trust liabilities . . . . .	2,753,488	1,614,505	1,392,433
Other liabilities <sup>(1)</sup> . . . . .	104,266	117,342	217,624
Provisions . . . . .	95,092	88,371	91,875
Subordinated liabilities . . . . .	382,941	235,597	235,626
Profit sharing capital . . . . .	77,125	77,125	77,125
Fund for general banking risks . . . . .	58,000	58,000	—
Equity . . . . .	887,345	862,753	584,148
<b>Total liabilities and equity . . . . .</b>	<b>27,573,669</b>	<b>21,683,658</b>	<b>17,987,693</b>
<b>Contingent Liabilities and Other Commitments</b>			
Contingent liabilities and other commitments <sup>(2)</sup> . . . . .	2,620,460	2,874,706	2,528,354

<sup>(1)</sup> Includes deferred items.

<sup>(2)</sup> Includes liabilities from guarantees and indemnities and irrevocable loan commitments.



## **REVIEW OF CERTAIN DEPFA GROUP SEGMENT FINANCIAL RESULTS**

In 1999 the DePfa Group began preparing its consolidated financial statements in accordance with U.S. GAAP. (The 1998 consolidated financial statements were restated on this basis). As a result, the notes to these financial statements include certain information for each of the DePfa Group's three principal business segments, public sector finance, property business and IT and corporate consultancy, broken down on the basis of products, services and client groups.

Substantially all of the business conducted in the property business and IT and corporate consultancy segments of the DePfa Group will be conducted by DePfa Bank and its subsidiaries after the Restructuring. This section presents information on certain income statement information for these two segments extracted from the notes to the Group's consolidated financial statements. The allocation of income, expenditure and equity was based on the assumption that the segments are legally autonomous units, which operate independently of one another. Income and expenditure resulting from transactions between profit centers within a segment are, therefore, directly consolidated within the appropriate segment. There are no internal services spanning more than one segment and intersegment transactions were limited to consolidation and reconciliation items included in section (E) of the notes to the DePfa Group's consolidated financial statements for the years ended December 31, 2000 and 1999 and December 31, 1999 and 1998, respectively.

The results discussed in this section are not comparable with the unconsolidated financial statements of DePfa Bank included in this Offering Circular. Among other things, these results are derived from financial statements prepared on a consolidated basis for the DePfa Group in accordance with U.S. GAAP, rather than German GAAP on the basis of which DePfa Bank's historical unconsolidated financial statements are prepared. In addition, the unconsolidated historical financial statements of DePfa Bank include income and expenses attributable to the results of certain businesses reflected in the public sector financing segment of the DePfa Group and do not include income from certain activities included in the property business segment of the Group.

This segment information is presented solely as a convenience to prospective investors in the Trust Preferred Securities and does not purport to represent what the results of DePfa Bank and its subsidiaries in these segments would necessarily have been had the Restructuring as proposed been effective since January 1, 1998. Nevertheless, DePfa Bank believes this section provides information on the historical results since 1998 of the businesses that will be conducted by DePfa Bank and its subsidiaries after the Restructuring that is fairly presented on the basis described herein.

## Segment results

	Property business			IT and corporate consultancy			Property business	IT and corporate consultancy	
	2000	1999	Year ended 1998	December 31,			Nine months ended	September 30, 2001	
				2000	1999	1998			
	(€ in millions)								
Operating income:									
Net interest income . . . . .	336	394	304	—	—	—	177	(1)	
Net commission income	35	32	33	108	102	97	24	94	
Trading result . . . . .	(30)	28	45	—	—	—	70	—	
Other income/ expenditure . . . . .	(15)	12	(15)	5	(8)	(5)	33	3	
Total operating income . . . . .	326	466	367	113	94	92	304	96	
Administrative expenses . . . . .	210	178	164	104	73	70	150	86	
Provisions for loan losses . . . . .	155	62	139	0	0	0	88	0	
Net income before taxes	(39)	226	64	9	21	22	66	10	
Taxes <sup>(1)</sup> . . . . .	(44)	116	30	8	12	13	—	—	
Net income after taxes and minority interests <sup>(1)</sup> . . . . .	5	110	34	1	9	9	—	—	
Cost-income ratio . . . . .	61.6%	39.2%	43.0%	96.8%	71.6%	72.5%	55.1%	93.1%	
Allocated equity . . . . .	1,053	1,043	916	51	51	51	1,047	51	
RoE before tax . . . . .	(3.7%)	21.7%	6.9%	17.0%	42.1%	42.7%	8.4%	25.4%	
RoE after tax <sup>(1)</sup> . . . . .	0.5%	10.6%	3.6%	1.8%	17.7%	16.9%	—	—	

In the result of the Property business segment earnings from treasury operations are included.

<sup>(1)</sup> The Group does not report provisions for taxes and net income after taxes on a segment basis for interim periods.

### Years ended December 31, 2000, 1999 and 1998

#### Property business

Net interest income declined by € 58 million, or 14.7%, to € 336 million during the year ended December 31, 2000. The decline arose from lower contribution from Treasury activities. In 2000 the DePfa Group endeavored to be very prudent in its asset and liability management and therefore largely resisted boosting the Treasury result with additional earnings. Another source of the decline was reduced income from the property assets written down and placed in a separate work-out pool for ultimate disposition. See “Business of the Bank – Property Business – Commercial property finance and development in Germany”. Total net interest income in 2000 on assets not assigned to the work-out pool was € 399 million, or € 5 million higher than net interest income for the property business segment during the year ended December 31, 1999. Net interest income in the property segment in 1999 was € 394 million, representing an increase of 29.6% over the 1998 level, primarily due to a higher financing volume and increased contribution from Treasury activities.

The segment’s net commission income rose to € 35 million in 2000 from € 32 million in 1999 and € 33 million in 1998, reflecting a continuing emphasis in the property business on fee-generating business. Trading results declined sharply, by € 58 million, to produce a loss of € 30 million in 2000 compared to a gain of € 28 million in 1999. The primary cause of this decline was valuation losses (compared to valuation gains the prior year) on interest rate derivatives which are entered into for

hedging purposes and not with a view to generating trading profits. The income from trading results in 1999, in turn, showed a 37.8% decline from the € 45 million level achieved in 1998 reflecting lower accrued interest in the derivatives trading portfolio in a year in which a lower portion of accrued interest on certain derivatives was recorded as trading result instead of net interest income.

Other income also declined from a gain of € 12 million in 1999 to a loss of € 15 million in 2000. This decline reflected writedowns of € 91 million taken on properties assigned to the special asset pool to facilitate their sale. These writedowns and charges offset increased rental income. Excluding actions taken with respect to properties assigned to the asset pool, other operating income would have been € 41 million. Other operating income had shown a negative balance of € 15 million in 1998, primarily as a result of expenses in connection with the reorganization of the property business that took effect at the beginning of 1999, including the cost of relocating the Bank's head office from Frankfurt to Wiesbaden and consolidating certain branch offices of the Bank and Pfandbriefbank.

Administrative expenses in the property business rose 18% to 210 million in 2000, after increasing only 8.5% in 1999 compared to 1998. The increase in 2000 was due primarily to additional personnel reflected in first-time consolidation of new acquisitions and provisions for the Group's long-term incentive plan.

Provisions for loan losses increased 150% to € 155 million in 2000 as a result of the reassessment of risk in the lending portfolio carried out in preparation for the Restructuring and to specific problems in the lending portfolio at a German branch. Additions to specific charges and provisions totaled € 210 million, an increase of 52.2% over 1999 levels, while releases of charges previously taken were € 46 million, slightly lower than the prior year. In 1999, provisions were € 62 million, having declined by 55.4% for 1998 levels, when the Group recorded significant provisions to address its problem loans in eastern Germany. See "Risk Management – Loan Loss Provisions".

The combination of lower revenues and increased administrative expenses, together with substantially increased provisions, produced a pre-tax loss for the property business segment of € 39 million in 2000, compared to pre-tax income of € 226 million in 1999. That figure represented a 253% increase over the € 64 million pre-tax income in 1998. (Pre-tax income in the property business segment in 2000, excluding the writedowns and other impacts of assigning properties to the asset pool, but including all loan loss provisions, would have been € 80 million.) Correspondingly, the cost-income ratio for the property business segment rose to 61.6% in 2000 from 39.2% in 1999, but would have been 52.0% in the absence of the impact of properties in the asset pool.

After giving effect to a positive tax impact of € 44 million, due to changes in the tax rate on domestic deferred taxes and the effect of lower tax rates in countries outside Germany, net income after taxes for the property business segment was € 5 million, down from € 110 million in 1999. That, in turn, represented a 224% increase over the € 34 million after tax net income recorded in 1998. The lower rate of increase for after tax income in 1999 compared to pre-tax income reflected a slightly higher overall tax rate in 1999 than in 1998.

#### *IT and Corporate Consultancy*

Net commission income, which accounts for substantially all of the revenues in the IT and corporate consultancy segment of the DePfa Group, rose 5.9% to € 108 million in 2000, reflecting the continuing expansion of business in this segment. The 1999 level for the segment of € 102 million represented a 5.1% increase over the € 97 million net commission income in 1998.

Administrative expenses, however, rose 42.5% from € 73 million in 1999 to € 104 million in 2000. This increase resulted from increased staff costs due to first-time consolidations of new acquisitions and the reclassification of certain expenditures previously recorded under other income/expenditure.

The 1999 level was 4.3% higher than in 1998. Pre-tax income declined to € 9 million in 2000 from € 21 million in 1999 (a 57.1% decline) and € 22 million in 1998, and the cost-income ratio in this segment rose to 96.8% in 2000 from 71.6% in 1999 and 72.5% in 1998. The component of pre-tax income arising from payment transactions was € 15 million in both 2000 and 1999 and € 13 million in 1998.

Net income after taxes for the IT and corporate consultancy segment declined to € 1 million in 2000 from € 9 million in 1999, which was the same level as in 1998. The greater rate of decline in 2000 after-tax, compared to pre-tax, income resulted from higher levels of non-deductible losses of foreign operations and subsidiaries as well as from certain differences between accounting for financial reporting and taxes.

### **Nine months ended September 30, 2001**

*Property business.* Net interest income in the property business segment continued to decline to € 177 million in the nine months ended September 30, 2001. The primary reasons for the decline were a negative contribution from Treasury asset and liability management activities; the reclassification, as trading results rather than as interest income, of income arising from the revaluation of certain interest rate derivatives; and the cost of carrying properties assigned to the asset pool. Excluding interest income and expense attributable to the assigned assets, net interest income for the segment would have been € 219 million.

Net commission income of € 24 million reflected first-time consolidation of new acquisitions including Deutsche Structured Finance, which offset certain non-recurring commission expenses and fees associated with the Bank's hotel loan securitization. See "Business of the Bank – Funding, Syndication and Securitization". The positive trading result of € 70 million represented gains achieved in the unwinding of interest swap contracts.

The balance of other income and expenditure, which was adversely affected in 2000 by a write down on properties the Bank plans to sell, reached € 30 million primarily attributable to rental income. Administrative expenses were € 150 million and reflected for all of 2001 costs in connection with the Restructuring and new consolidations of new acquisitions that were first recognised late in 2000. Provisions for loan losses of € 88 million reflected a lower rate of provisioning than was recorded in 2000 as a whole but rose in the third quarter in comparison to earlier quarters of 2001.

Pre-tax income for the property business segment was € 66 million, as the trading results and other income, together with lower loan loss provisions, largely offset the continuing decline in net interest income.

*IT and corporate consultancy.* Net commission income in this segment reached € 94 million for the nine months ended September 30, 2001. Administrative expenses, however, were € 86 million as a result of first-time consolidations of new acquisitions and continued investment in human resources. Accordingly, after the effect of other income and expenditures, pre-tax income for the IT and corporate consultancy segment was € 10 million in the first nine months of 2001.

## **THE BANK AND THE DEPFA GROUP**

DePfa Bank AG is a commercial bank organized under the laws of Germany that specializes in real property financing and related services. Formerly called Deutsche Bau- und Bodenbank AG, since 1979 it has been a subsidiary of DePfa Deutsche Pfandbriefbank AG, the parent company of the DePfa Group. Formerly a public law financial institution owned by the federal government, Pfandbriefbank was privatized as a stock corporation regulated under the Mortgage Bank Act beginning in 1991. The law providing for the privatization allowed Pfandbriefbank to retain ownership of the Bank as an exception to the usual prohibition on mortgage banks owning commercial banks. Pfandbriefbank is listed on the Frankfurt Stock Exchange and is one of the leading issuers of Pfandbriefe, the medium-to long-term instruments issued by German mortgage banks and covered by mortgage and public sector loans meeting certain criteria.

The DePfa Group is a specialist European institution focusing on three core areas: (1) public sector finance, (2) property finance and (3) information technology and corporate consulting for the property industry. Under a new organizational structure implemented at the beginning of 1999 to reflect these business segments, all operational property business of the DePfa Group is administered by the Bank. The Bank's wholly-owned subsidiary, DePfa IT Services AG, is responsible for the Group's information technology and consulting segment.

The Board of Management of Pfandbriefbank has proposed, and at an Extraordinary General Meeting on October 15, 2001 the shareholders of Pfandbriefbank authorized, a restructuring plan for the DePfa Group. The restructuring would lead to the creation of two independent listed groups, one for the public sector finance business and the other, with the Bank as the parent company, for property finance and related businesses. See "The Restructuring".

## **THE RESTRUCTURING**

In November 2000 the Management and Supervisory Boards of Pfandbriefbank announced a proposal for the strategic realignment of the DePfa Group that would result in the creation of two independent listed banks to operate the public sector finance and property businesses of the Group. Public sector finance activities will be managed by a newly established bank in Ireland and property activities by the Bank, which will remain based in Wiesbaden, Germany. At an Extraordinary General Meeting on October 15, 2001, shareholders of Pfandbriefbank authorized the Management Board to take all actions necessary to implement the proposed Restructuring.

*In connection with the Extraordinary General Meeting, the Management Board of Pfandbriefbank issued a report outlining the Restructuring, a copy of which is available from the Bank.*

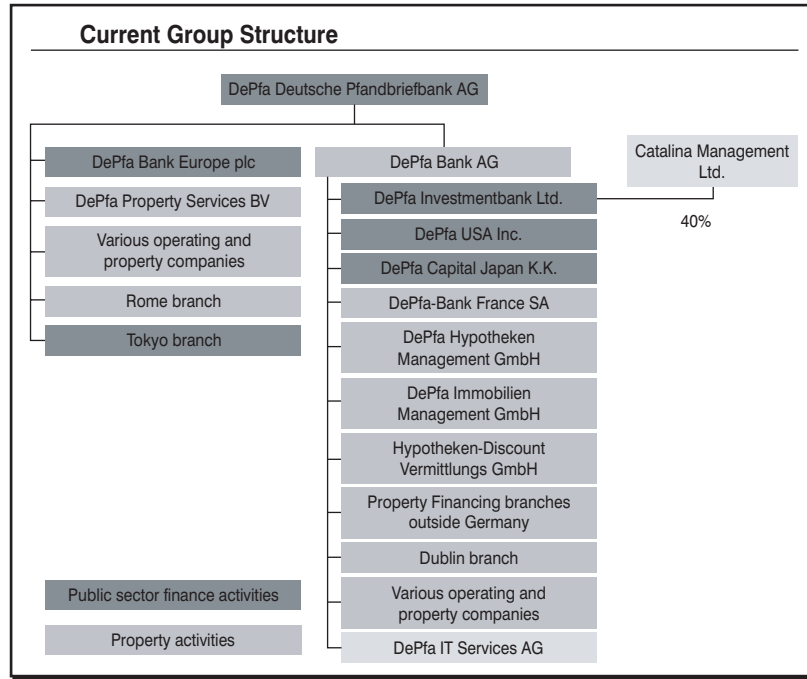
### **Rationale for the Restructuring**

The DePfa Group believes that splitting the public finance and property businesses into separate listed groups provides an opportunity to create a combined shareholder value that will be greater than that of a single institution operating in two divisions. Combining both business divisions in a group with a mortgage bank made sense historically in the German domestic context, especially in terms of financing in the Pfandbrief market. However, the amount of cross-selling benefits and other synergies, which can be achieved between the two businesses, is limited. Furthermore, the Bank believes that the competitive advantages of access to refinancing in the Pfandbrief market have become less important for the property business the Bank intends to conduct, where the decisive factors are meeting increasingly sophisticated client requirements and maintaining strict risk management.

The Group believes the split will permit both banks to focus more on expanding their core expertise and providing improved service to their clients with a broader product range and to take advantage of new strategic options through mergers and acquisitions. In addition, the further expansion of an investment banking business in each division requires that key staff be able to participate in the institution's equity. It is difficult to attract and integrate investment bankers into a group possessing two entirely different risk structures – only one of which would present any degree of familiarity to them.

## Steps in the Restructuring Process

The current structure of the DePfa Group is summarized below:



The major transactional steps relevant to DePfa Bank in the restructuring process are planned to occur as follows:

1. *Sale of DePfa Investment Bank.* In December 2001, the Bank will sell its 60% interest in DePfa Investment Bank Ltd. ("DIBL") to DePfa-Bank Europe plc, a subsidiary of Pfandbriefbank. The purchase price corresponds to the pro rata portion of the market value of DIBL as determined by PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, Frankfurt am Main ("PwC"), and equals € 254 million plus interest at a rate of 11.05% per annum for the period from October 15, 2001 to the closing. This interest rate equals the discount rate that was applied to rebase the valuation of DIBL to the valuation date of October 15, 2001; the Management Board of Pfandbriefbank may determine that the discounting rate does not fairly reflect the results of DIBL to that date and therefore apply a different corresponding interest rate.

The completion of the transaction is subject to (1) the approval of the Central Bank of Cyprus, as the competent regulatory authority, for which an application is pending, and (2) clearance by certain Irish authorities pursuant to Irish antitrust legislation without any conditions. Each party is entitled to rescind the transaction if the main steps to the Restructuring have not been completed by June 30, 2002.

The Bank will realize a non-taxable net gain of approximately € 185 million from the sale of DIBL.

2. *Other transfers.* Several smaller intra-Group transfers will occur, at market value as determined by PwC, primarily in order to align the DePfa Group's legal structure with its two businesses. In particular, Pfandbriefbank plans to contribute the shares of DePfa Services to the Bank in January 2002 against a capital increase of approximately € 30 million. In addition, the Bank may elect in 2002 to sell to one of its wholly-owned subsidiaries the Bank's direct subsidiary DePfa IT Services AG to release hidden reserves on the Bank's balance sheet and strengthen its regulatory capital.

3. *Conversion of silent partnership into shares.* In January 2002 Pfandbriefbank will exchange its silent partnership interest in the Bank, granted to Pfandbriefbank in 1998 as consideration for transferring its operative property lending business to the Bank, for common shares of the Bank through a capital increase against contributions in kind. The transaction will not have any impact on the Bank's regulatory capital.

4. *Exchange offer for Pfandbriefbank shares.* A new company, initially called "DePfa Holding plc", has been established in Ireland (the "Irish Parent Company"). In January 2002 the Irish Parent Company will offer to the shareholders of Pfandbriefbank the right to exchange their shares for shares in the Irish Parent Company (the "Exchange Offer"). *The terms of the Exchange Offer will require that a minimum of 90% of Pfandbriefbank's shares must be tendered for the share exchange to become effective; if that level is not achieved by the final deadline for tendering shares (as that deadline may be extended), the Restructuring plan will be abandoned.* If the Exchange Offer is successful, Pfandbriefbank will become a subsidiary of the Irish Parent Company.

5. *Transfer of the Bank to the Irish Parent Company.* Immediately following the successful completion of the Exchange Offer, Pfandbriefbank will transfer all the shares of the Bank to the Irish Parent Company. The purchase price will be determined in two steps. Initially, PwC will determine an estimated enterprise value for the Bank, including the impact of the acquisition by the Bank of Pfandbriefbank's property financing portfolio described below. (This valuation will be used to determine the amount of a capital reduction by the Irish Parent Company when shares of the Bank are allocated to shareholders of the Irish Parent Company). The purchase price will subsequently be adjusted to a level that takes into account the average closing price of the Bank's shares on the Frankfurt Stock Exchange's Xetra trading system during the three months following the listing of such shares.

6. *Transfer of Pfandbriefbank's property financing portfolio to the Bank.* Pfandbriefbank holds a property loan portfolio in the aggregate amount, at June 30, 2001, of approximately € 13.45 billion, or € 12.97 billion net of provisions. The Bank already manages the entire administration of this portfolio, including since 1999 the origination of new assets (subject to approval by Pfandbriefbank of loans in excess of certain amounts), and receives all income in excess of a defined portion retained by Pfandbriefbank to cover its risks and capital costs. Thus, the Bank's income from the portfolio is in part variable depending on interest margins on the loans. This structure, which has precedents in other German banking groups, centralizes the operation of the DePfa Group's property lending business in the Bank while retaining the ability to fund loans through a mortgage bank in the Pfandbrief market.

The portfolio comprises 49,180 separate loans comprising (i) 2,231 loans in the commercial property sector totaling € 7.82 billion and (ii) 46,949 loans in the housing sector totaling € 5.63 billion. Approximately 47,000 of these loans are for 500,000 or less, substantially all of which are in the housing sector and represent primarily private client business in Germany. The amounts of the remaining exposures range up to 29 loans in excess of € 50 million totaling € 2.84 billion. 48,146 loans totaling € 8.68 billion are to borrowers in Germany.

Pfandbriefbank intends to transfer these loans outright to DePfa Bank to the greatest extent possible. However, the Management Board has adopted certain guidelines in these transfers: (1) the transfer must not impede access to collateral, (2) all necessary approvals for a transfer by counterparties and third parties and public authorities must be obtained, (3) the transfer must not result in the immediate taxation of interest income payable in subsequent years, (4) loans backed by tax incentives may only be transferred if repayment of the subsidy is not required, (5) the transfer of the portfolio must be harmonized with the Bank's refinancing options to the greatest extent possible and (6) where loans cannot be legally transferred, or where the transfer would result in expenditures that are not economically justifiable, the loans will remain on the books of Pfandbriefbank. However, the Bank (or a third party contracted by the Bank) will assume the credit risk of loans not transferred to its books through credit derivatives, leaving Pfandbriefbank with only the funding risk.



The Bank has not yet completed a full case-by-case identification of limitations on transfer. Its current analysis, however, is that:

- The obstacles to transferring about 1,100 exposures in an aggregate amount of approximately € 6 billion, largely attributable to large transactions outside Germany, and related swaps should be dealt with reasonably quickly (and some of these credits have already been transferred);
- approximately € 5 billion in loans representing 47,000 loans attributable to small-size German domestic business (largely with private clients), much of which has been applied to cover Pfandbriefe issued by Pfandbriefbank, are not as easily transferable; a transfer of risk through credit derivatives and securitization for much of this portfolio appears the most practicable outcome; and
- the timing of the transfer of the balance of the portfolio, approximately € 3 billion worth of larger-ticket German domestic loans, is the most difficult for the Bank to predict; on the basis of assessments to date, the Bank expects an outright transfer of about € 1 billion worth of these loans in 2002.

Transfers of loans have commenced and by September 30, 2001, Pfandbriefbank's property loan portfolio had been reduced to € 12.43 billion. The Bank estimates that the transfer of Pfandbriefbank loans and acquisition of credit derivatives will increase its balance sheet by approximately € 11 billion.

7. *Allocation of shares in the Bank to shareholders of the Irish Parent Company.* The final step in the split of the public sector finance and property businesses will be the allocation of shares in the Bank to the shareholders of the Irish Parent Company. That allocation will be carried out once the Irish High Court approves a reduction in the capital of the Irish Parent Company equal to the value of the Bank's shares as determined by PwC. The Management Board of Pfandbriefbank expects that the Irish High Court ruling will occur in June or July 2002.

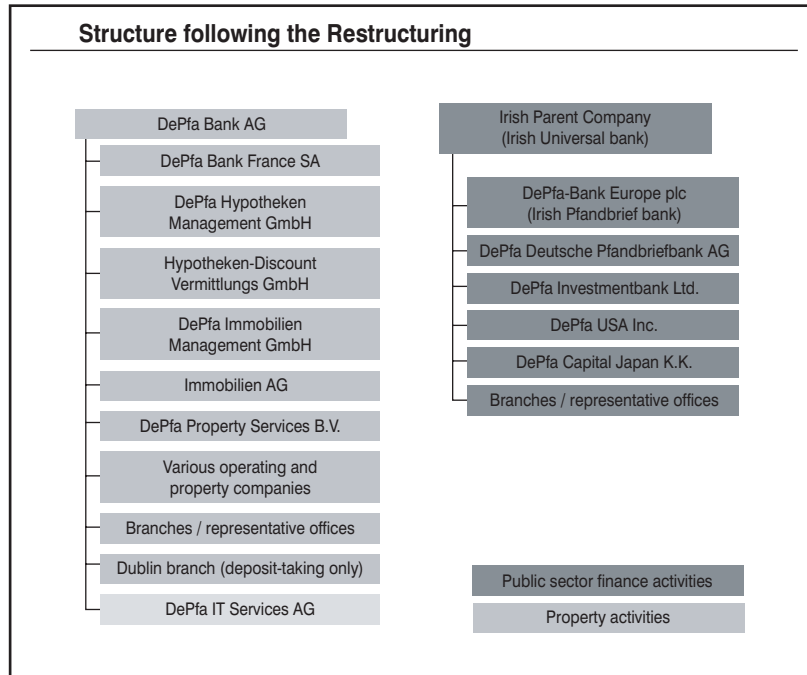
The Bank intends to apply for its shares to be listed for trading on the official market of the Frankfurt Stock Exchange, effective upon completion of the allocation of its shares to shareholders of the Irish Parent Company.

The Irish Parent Company will offer shareholders of Pfandbriefbank that did not tender their shares in the Exchange Offer the opportunity to purchase shares in the Bank equivalent to their pro rata share interest in Pfandbriefbank.

8. *Special dividend payable by the Bank.* At the 2002 Annual General Meeting of the shareholders of the Bank, which will be held prior to the allocation of shares in the Bank to shareholders of the Irish Parent Company, it is expected that the Bank will declare a special dividend to the Irish Parent Company for the purpose of allocating the capital of the DePfa Group as at December 31, 2001 evenly between the public sector finance and property businesses. The exact amount of this dividend will depend on the final financial results of the businesses for the fiscal year ended December 31, 2001; on the basis of its current assessment, the Management Board of Pfandbriefbank has assumed that the Bank will distribute a total dividend of € 200 million, comprising an ordinary dividend of € 40 million in respect of 2001 income and a special distribution of € 160 million to allocate equity capital between the businesses of the DePfa Group.

## Effect of the Restructuring on the Bank

Following the Restructuring, the organizational structure of the Bank and its subsidiaries, and the new public sector bank, will be substantially as follows:



*Impact on the balance sheet of the Bank.* Based on figures as at June 30, 2001, following completion of the restructuring process and the disposition of assets in the asset pool (including project development subsidiaries with losses carried forward), the Bank estimates it will have (on the basis of U.S. GAAP) consolidated shareholders' equity of approximately € 1.0 billion and consolidated total assets of approximately € 41 billion including the impact of the planned transfer of the Pfandbriefbank property financing portfolio, which the Bank expects will add approximately € 11 billion to its balance sheet.

*Accounting policies and segments.* Following the completion of the Restructuring the Bank will, in addition to preparing its unconsolidated financial statements in accordance with German GAAP, publish consolidated financial statements for the Bank and its subsidiaries in accordance with U.S. GAAP.

In its consolidated financial statements, the Bank expects to report its activities in the three business segments:

- Property asset management, encompassing the businesses of DePfa Immobilien Management in Germany and of DePfa Property Services and Deutsche Structured Finance internationally;
- Property credit and structured finance, encompassing international and German lending and including the businesses of the Bank, DePfa Bank France S.A. and other international subsidiaries;
- Advisory services, encompassing software development, IT consulting, integrated banking, investment banking and consulting services for the housing sector and private client referrals and including the businesses of DePfa IT Services, DePfa Hypotheken-Management, Hypotheken-Discout, Deutsche Bau-und Grundstücks and Immo Consulting in Rome.

*Regulatory Environment.* The Bank will continue to be subject to regulation under the German Banking Act by the German Banking Supervisory Authority both as a universal, or commercial, bank and for capital adequacy purposes as the parent company of a group of institutions. Accordingly, it will report ratios of core and total capital to risk-weighted assets, calculated pursuant to Principle I under the German Banking Act, on a consolidated as well as an unconsolidated basis. Its targets for these core and total capital ratios are 5.5% and between 9% and 10%, respectively. The Bank believes these levels are suitable to the business it proposes to conduct. After the Restructuring, the Bank also expects to report its consolidated regulatory capital ratios in direct application of the recommendations of the Basle Committee. See “Supervision and Regulation and Capital Adequacy – Capital Adequacy Requirements”.

## BUSINESS OF THE BANK

DePfa Bank is a commercial bank that engages, directly and through subsidiaries, primarily in property finance and other activities in the property sector. The Bank and its subsidiaries offer financial and advisory services, asset management and information technology services to various client groups including major German and international investors in commercial property, residential property developers, clients in the residential housing sector and private clients. Over the past decade the Bank has increasingly emphasized activities outside Germany and built up an international network that is active in 15 countries.

Under the Restructuring, the Bank will become a separately listed bank which can pursue its strategic development, free of the limitations imposed by capital markets and regulatory constraints that arise by virtue of being a subsidiary of a mortgage bank. See “The Restructuring”.

### Strategy

The strategic objective of the Bank is to expand to become one of the leading international property specialists for institutional investors. In addition to its European core market, the Bank intends to increase its North American business. With its international network, client-focused service, extensive product range and efficient risk management infrastructure, the Bank will focus on profit-oriented growth. The Bank intends by this strategy to offset cyclical fluctuations in individual regional markets with a high degree of geographic diversification. The main components of the new strategic focus, which will be implemented whether or not the Restructuring proceeds, are:

*Replacing the “buy and hold” with a “buy and sell” strategy.* The Bank’s portfolio has reached a level where keeping loans on its books until maturity is not the most efficient use of the Bank’s capital. This is particularly true as the Bank will no longer have the option of refinancing the property lending portfolio with Pfandbriefe after the Restructuring unless it establishes or acquires a new mortgage bank. See “– Funding, Syndication and Securitization” and “Investment Considerations – Considerations Arising from the Restructuring”. Securitization and syndication will permit the Bank to optimize its portfolio as well as to keep capital available for new business opportunities.

*Developing and expanding property asset management and other services.* The Bank intends to expand its advisory services to become a comprehensive property services provider to institutional investors and various operators in the property sector. See “Property Business – Institutional Housing Business” and “– Property asset management”.

*Realigning the German property lending business.* In Germany, the Bank intends to concentrate on a smaller number of clearly-focused sectors with higher profit potential. The practices that have been successful in the Bank’s international business will be applied in Germany as well, especially in commercial lending. The Bank will cease lending to private clients. See “– Property Business – Residential property development business”, “– Commercial property finance and development in Germany” and “– Private client business”.

A number of processes for organizational change have been initiated that are directly linked to the new strategy. These changes are necessary even in the absence of the Restructuring but will be considerably easier to implement when the independent property bank results from the Restructuring. The split from public sector finance activities will allow the Bank to proceed with the essential steps for its expansion plans, without being impacted by the extreme sensitivity to financing costs in the capital markets that arises in the public sector finance business. Following the Restructuring, the Bank expects to report on its business on a consolidated basis in three segments: property asset management; property credit and structured finance; and advisory services. (See “The Restructuring – Effects of the Restructuring – Accounting Policies and Segments”.)

## Property Business

The Bank has full operational responsibility for all property business of the DePfa Group. (Accordingly, this discussion encompasses all property finance activities of the DePfa Group, even if not formally booked at present with the Bank and its subsidiaries. All of these activities will be carried on by the Bank and its subsidiaries after the Restructuring.) Outstanding property loans of the DePfa Group totaled € 23.1 billion at December 31, 2000, almost evenly divided between loans for residential property (€ 11.6 billion) and loans for commercial property (€ 11.5 billion). The proportion of the portfolio represented by commercial property loans has risen steadily since 1996, when commercial property represented 40% of the Group's property loans, primarily as a result of the Group's increasing emphasis on business outside Germany. Commercial property loans are spread across the following sectors: office buildings (47.9%), shopping centers (17.5%), hotels (16.4%), social (hospitals and retirement homes) (4.7%), logistics (4.3%) and other (9.2%). At September 30, 2001, total property loans were € 24.3 billion, a 5.2% increase over the level at December 31, 2000.

The property loan portfolio of Pfandbriefbank, aggregating € 13.5 billion at December 31, 2000 and € 12.4 billion at September 30, 2001, is managed by the Bank under an agency contract. This management includes not only loan administration but, since 1999, origination of new business as well (subject to approval by Pfandbriefbank of loans over a certain size). Since the preliminary decision to split the DePfa Group was made in November 2000, origination of new business for Pfandbriefbank has been discontinued. The service income received by the Bank depends on the interest margin earned on the loans. The full risk on this portfolio and, where possible, ownership of the loans is to be transferred to the Bank in connection with the restructuring of the DePfa Group. See "The Restructuring".

Property loans in Germany at December 31, 2000 still accounted for 65.8% of the Group's property loan portfolio, or € 15.2 billion. Of this total, residential property loans accounted for approximately € 10.2 billion, commercial property loans for approximately € 4.4 billion and undeveloped property and other loans € 0.6 billion. Loans classified as non-performing, or impaired, totalled € 1.9 billion.

In recent years, the DePfa Group has followed a policy of restraint with regard to property financing in Germany. Outstanding loans in Germany at December 31, 2000 (before loan loss provisions) had increased only 7.6% from their level at December 31, 1996 while international lending increased by nearly 400% during the same period.

At December 31, 2000, the volume-weighted loan-to-value ratio of the Group's property loan portfolio (other than non-performing German loans) was 75%. This ratio was approximately 68% for international property loans and 79% for loans (other than the non-performing loans) on properties in Germany. These percentages do not take account of other forms of security that may be provided, including in certain cases guarantees and cross-collateralization for multiple loans to a borrower. In accordance with the guidelines of the Federal Banking Supervisory Authority, in appraising the loan-to-value ratio of German loans, the Group bases its assessment values on the German concept of *Beleihungswert*, which generally produces a discount of approximately 10% from market value.

*International property financing.* The international property financing business of the DePfa Group operates outside Germany in 14 markets in Europe and North America. With local staff complemented by teams of industry specialists, the business concentrates on complex financing packages and advisory mandates. Products include classic senior and subordinated real estate loans; structured transactions such as equity and acquisition financing and financing linked to performance-related remuneration; cash-flow based loans on the senior, mezzanine and junior levels; and financing for equity investments in property companies.

The international property business comprises several groups specializing in key sectors. The International Retail Financing department caters for the specific needs of shopping center owners and developers throughout Europe, providing loan facilities for investment in, and development of, shopping

centers, retail chains, factory outlet centers and leisure centers. The International Hotel Financing team has handled the financing of some of the most prestigious hotels in the world and provides advice on all aspects of hotel investment. To respond to the increasing complexity of transport logistics, the Bank has created an International Logistics unit to develop creative financing solutions for clients in this business. Finally, the Global Client Group has primary responsibility for relationships with investors participating in cross border transactions, other than those covered by the special industry teams, and endeavors to ensure a consistency of service as clients enter new markets and achieve an integrated approach in demonstrating the Bank's abilities and knowledge in each of its geographic markets.

Utilizing its European network, the Group's international loan portfolio has been increasing, with loans outstanding to businesses in 14 countries outside Germany totaling € 7.9 billion at December 31, 2000, or 34.2% of the Group's total property loans, an increase of 23.1% over the amount outstanding at December 31, 1999. United Kingdom borrowers represented 31.1% of the international loan portfolio (as compared to 46.0% at the prior year-end), with France, Italy and the Netherlands accounting for 10.7%, 10.6% and 10.2%, respectively. Although new international commercial loan commitments were flat in 2000 after increasing 81% in 1999, they accounted for 60.5% of new property loan commitments as new commitments in Germany declined 18.3% in 2000. The Group occasionally buys existing loans when the terms are attractive, and in 1999 acquired a portfolio aggregating approximately € 800 million from two Belgian institutions.

The Group's international loans at December 31, 2000 covered the following categories: office buildings (44.5%), hotels (20.9%), shopping centers (14.5%), logistics and other specialized properties (13.6%), residential properties (6.0%) and social properties and undeveloped land (0.5%). Of the international office property loans approximately 42% were in the United Kingdom, 15% were in the Benelux countries and 13% in the Scandinavian countries.

International lending has been very profitable for the Group, which currently has no non-performing loans in this sector. The Bank sees excellent opportunities for growth in the international property business, believing its financial strength, expertise and European network make it an ideal partner for institutional property investors throughout Europe.

The Bank commenced lending business in the United States in 1999 with the aim of eventually matching the international business volume in Europe and providing even more substantial geographic diversification. At December 31, 2000 loans on U.S. properties represented € 705 million, or 9% of the Group's international portfolio, with a particular focus on the hotel sector. Loans on U.S. hotel properties represented approximately 63% of the outstanding U.S. loans at December 31, 2000, or 22% of the Group's total hotel loan portfolio. All of these hotel loans, except for small residual amounts, were included in a major securitization transaction closed in June 2001. See "– Funding, Syndication and Securitization". In August 2001 the Bank received approval from the Board of Governors of the Federal Reserve System to open a representative office in New York to service clients in North America.

In the first nine months of 2001, the emphasis on growth in international lending continued. International lending volume (after allowing for the hotel loan securitization transaction) rose 7.1% to € 8.4 billion during the period while lending volume in Germany increased 4.3%.

*Commercial property finance and development in Germany.* Total commercial property lending in Germany at December 31, 2000 (before loan loss provisions) was € 4.83 billion, represented by office buildings (48.6%), retail properties (20.6%), specialized properties (12.2%), social properties (11.2%) and hotels (7.5%). Loans on properties in Berlin and the new states of eastern Germany totaled € 1.695 billion, or 35.5% of the total, with Berlin and Saxony accounting for € 642 million and € 550 million, respectively. Loans in western Germany were primarily for properties in North Rhine-Westphalia, Bavaria, Hessen and Baden-Württemberg. Lending in North Rhine-Westphalia, which accounted for € 850 million at December 31, 2000, was spread relatively evenly among retail space,

office buildings and specialized properties, while in the other states lending for office buildings predominated.

The DePfa Group has encountered problem loans extended primarily for project development in eastern Germany during the years immediately following German reunification. At December 31, 2000, the problem loans in the DePfa Group's German commercial lending portfolio were predominantly in the office building sector, with the heaviest geographical concentration in Berlin and the new eastern states. Although substantial provisions were recorded in 1998 and earlier years to address these risks, in 2000 the Bank concluded that the recovery in this sector would be even slower than previously envisioned. Accordingly, the DePfa Group increased provisions significantly in 2000 and created a pool of problem loans and repossessed properties to be separately administered and prepared for sale. The separately administered pool (the "asset pool") also encompasses other properties where the Bank has determined that retaining ownership is not an efficient use of capital, including all of the Bank's premises other than the Head Office in Wiesbaden. The asset pool was carried on the balance sheet of the DePfa Group at December 31, 2000 in an amount of € 643 million.

In the course of developing a strategy for future commercial property lending in Germany, the Bank intends to apply in Germany the practices that have worked successfully in its international property financing. The Bank has reviewed its target groups and organizational structure and is emphasizing new products, higher transaction sizes and stricter risk parameters. In the future, the Bank will operate its German commercial property business through four processing centers and seven regional business units operating in different business lines assigned to these centers. The Head Office will also assume more responsibility, especially for larger structured transactions, financing packages for entire portfolios, development financing and long-term financing. Target clients will be limited to institutional investors and international and regional property companies of the highest quality.

*Residential property development business in Germany.* Financing residential property development is a traditional core business of the Bank's offices in Germany, which have many years of experience, as well as specialist IT support, in overseeing construction and sale. The Bank believes on the basis of its experience that, while this is a local administratively-intensive business, it can be very profitable when the appropriate risk management mechanisms are in place. The Bank's strategy for this line of business provides for expansion coupled with considerable risk minimization, with particular specialization in financing solutions for specific construction phases. The operating model being developed includes three measures designed to keep risks at an acceptable level: the concentration of resources on the better and larger construction clients, the application of a minimum loan size of € 2.5 million for each individual exposure, and the use of improved qualitative and organizational measures for risk management and prevention. The Bank's clients in this business area are primarily housing associations.

*Institutional housing business.* The Bank has a leading position in the institutional housing industry in Germany. The Bank acts as principal banker for its clients in this sector, serving as a contact for all financing needs and taking deposits. The average volume of deposits from these clients during the year ended December 31, 2000 was € 987.8 million. In recent years, the Bank has also expanded its investment banking and advisory services in this area. There are also good cross-selling opportunities for products of DePfa IT Services AG. The traditional clients in this area, many of which have evolved from public sector or non-profit entities, are under increasing pressure for more efficient performance, and the Bank believes their need for more sophisticated advisory services, together with the Bank's long-term relationships and knowledge in this sector, offer attractive opportunities for additional growth. The Bank aims to consolidate and further develop its market position in this business by means of greater centralized management combined with the appropriate regional presence.

An important and growing part of this business area comprises investment banking services to the institutional housing sector. Several years ago the DePfa Group won an important consultancy mandate

in the privatization of housing assets owned by the German Federal Railways. Building on this mandate, the Bank has established a group that advises German companies on the valuation, sale, restructuring and privatization of residential property portfolios, in which it sometimes takes equity positions on a temporary basis. The Bank expanded this service to Italy in 2000 with the establishment of a consultancy subsidiary in Rome and plans further expansion to attract a pan-European client base in this field.

*Private client business.* In recent years, the private client business has been characterized by low volume growth. The lack of critical mass and the absence of cross-selling opportunities, combined with high production costs in branches, have led to low levels of profitability. In addition, there has been a sharp deterioration in market conditions, particularly reflected in margins for standardized products. The Bank will gradually withdraw from the private client business in its traditional form, disposing of its private client portfolio where possible through securitization, and will concentrate instead on sales techniques intended to produce commission income without impact on the balance sheet.

The Bank's subsidiary, Hypotheken-Discount Vermittlungs GmbH, is one of the leading German discount brokers for private client property financing. It uses call centers and the Internet to generate new business with low production costs and serves both the DePfa Group and other companies. In 1999 the Bank established DePfa Hypotheken-Management GmbH, which supplies complete processing and administrative services for retail property lending to the DePfa Group and has begun marketing these services to third party clients such as banks, insurance companies and securitization conduits. Hypotheken-Management will gradually assume the processing for the Bank's remaining private client portfolio.

Total residential property lending in Germany for the DePfa Group at December 31, 2000 (before loan loss provisions) was approximately € 10.7 billion. Loans for owner occupied residential properties, including buildings under construction due to be sold, totalled € 5.5 billion, a level that has remained nearly constant over the last five years. The predominant regions for this lending were the States of Hesse and North Rhine-Westphalia, each of which accounted for € 1.06 billion of loans outstanding. Loans on properties in Berlin and the new eastern states were € 1.3 billion. Outstanding loans for tenanted residential properties were € 5.2 billion at December 31, 2000, an increase from € 4.1 billion at December 31, 1996 and € 5.1 billion at December 31, 1998 and 1999. The greatest number of problem loans in the residential lending portfolios were in Berlin and the new eastern states and in North Rhine-Westphalia.

*Property Asset Management.* The Bank believes this sector offers strong growth potential. The Bank has built up expertise in closed-end property funds in Germany over many years and with the establishment of the euro-zone and the liberalization of investment restrictions and growing performance pressures, insurance companies, mutual funds and other institutional investors are increasingly looking at investing directly or indirectly in properties outside their traditional markets. To service this market, the DePfa Group has established a property investment management company, DePfa Property Services B.V., which will target institutional investors and, to a lesser extent, high net-worth private clients. The Bank believes its European network is especially attractive to institutional investors that are not large enough to establish their own pan-European investment infrastructure.

In 1999 the DePfa Group launched its first European property fund, a € 500 million offering, which focused on various types of property in Italy, France and Spain and was placed with German institutional investors. A second fund in an amount of € 500 – 600 million investing in Italian office buildings and shopping centers is in final preparation. The Group plans to offer further funds with different investment strategies and target other opportunities for fee income in its property business, including syndication, mergers and acquisitions and consulting. In November 2000, in order to enhance its structured finance and placement capabilities, the Bank acquired Deutsche Structured Finance GmbH. Deutsche Structured Finance has an experienced structuring and marketing team and currently manages assets in excess of € 750 million and serves more than 5,000 clients.



Another key subsidiary of the Bank in the property asset management business is DePfa Immobilien Management AG, which is a major project development adviser and manager of closed-end property funds in Germany. Finally, 50%-owned Deutsche Bau- und Grundstücks AG manages property assets of the Federal government in western Germany and has advised public sector entities and mixed public-private sector consortiums in the development of urban projects.

### **Information Technology and Corporate Consulting**

The Bank's subsidiary DePfa IT Services AG is a major provider of software and information technology for the property management industry, serving approximately 4,000 institutional clients in Germany and several other European countries. It operates in four segments:

- The IT solutions area develops and markets ERP (Enterprise Resource Planning) systems for companies involved in the administration of residential and commercial real estate. In some cases the customer acquires the system and operates it independently; in other cases DePfa IT Services also acts as applications service provider. IT solutions accounted for 43% of total revenues in 2000.
- The IT services business area provides support and implementation services in connection with software for the real estate industry. This segment contributed 15% of total revenues in 2000.
- The Consulting area offers, through the regional BauConsult subsidiaries, specialized consulting services for the introduction and individual adaptation of DePfa IT Services standard software as well as general corporate consulting for companies in the real estate industry. Consulting accounted for 16% of total revenues in 2000.
- The E-business segment focuses primarily on the integrated accounting and payment transaction systems which DePfa IT Services offers in cooperation with the Bank and also provides on-line insurance brokerage and billing services for heating and ancillary costs. This E-business segment contributed 26% of total revenues in 2000.

DePfa IT Services furnishes clients with a fully integrated range of software and IT infrastructure so that they can provide a complete property administration and management service using its products. It is particularly beneficial that IT products can be combined with banking products from the Bank. Clients are offered wide ranging services, such as rent collection and automated funds transfers. Contracts with clients of the division generally have terms between five and seven years, representing a stable revenue base. These clients also provide a source of demand and term deposits.

Target customers for DePfa IT Services are companies in the real estate business which manage more than 500 housing or commercial real estate units. The most important customer groups are (1) companies managing housing for low-income tenants ("social housing"), (2) independent housing companies and (3) other, particularly commercial, real estate companies. In its most important market, the German market for standard software and IT services for the social housing sector, DePfa IT Services believes it holds a market share of about 60%. It also intends to strengthen its efforts to attract companies managing schools, hospitals and other community facilities.

DePfa IT Services is headquartered in Mainz and with its subsidiaries maintains offices in major cities throughout Germany, including Berlin, Hamburg, Hannover and Stuttgart.

The Group is expanding its offering of IT and funds transfer products in other European countries through direct sales and acquisitions. In 1999 and 2000 DePfa IT Services established or acquired majority holdings in companies in Italy, Poland, Switzerland, France and the United Kingdom. Revenues from outside Germany accounted for 7% of the total revenues of DePfa IT Services in 2000, compared to 0.4% in 1999.

## Public Sector Business Activities

There are subsidiaries of the Bank that engage in activities included in the public sector finance segment of the DePfa Group. In most cases, they have been organized as subsidiaries of the Bank because of restrictions on the activities of subsidiaries of Pfandbriefbank imposed by the Mortgage Bank Act. The Bank intends to sell these subsidiaries, most significantly DePfa Investment Bank Ltd., to entities in the new public sector finance group to be established pursuant to the restructuring plans of the DePfa Group. See "The Restructuring". Public sector activities contributed € 2.1 million and € 2.5 million of the Bank's pretax income in 2000 and 1999, respectively.

## Funding, Syndication and Securitization

Traditionally, the Bank has funded the assets on its books through customer deposits, interbank deposits and securities issued in the German domestic and Eurobond markets. Certain assets originated by the Bank were funded by Pfandbriefbank through the issue of mortgage Pfandbriefe. In connection with the Restructuring, the Bank will need to fund a significantly increased loan portfolio. The Bank is examining the relative costs and benefits of forming or acquiring a mortgage bank subsidiary as a financing vehicle. However, the Bank does not expect the Pfandbrief market, a source of longer-term funding, to be as important to its funding as previously since it has adopted a new "buy and sell" strategy in a departure from the traditional approach of holding most property financing instruments on its books until maturity.

The Bank intends to continue to employ a diversified funding strategy after the Restructuring by accessing the various segments of the domestic and international capital and money markets. The Bank has issued approximately € 8 billion of the Bank's medium and long-term obligations in the capital markets of which € 2.025 billion are outstanding under the DePfa Group's debt issuance program, and the Bank plans to establish its own programs for medium-term notes and commercial paper. In addition, the Bank expects to increase its use of *Schuldscheine*, which carry the benefit of the German deposit insurance system. The Bank's investor base includes institutional investors, asset managers, financial institutions and housing sector and real estate clients as well as retail customers in targeted issues. To maintain and expand that base, the Bank has established a relationship management and sales team for institutional investors and asset managers, enlarged its international money market sales force, created an issue team in the Treasury department and emphasized the importance of investor relations at the senior management level.

While the Bank has long experience in syndicating loans, it increased the level of syndication in 2000 and intends to continue to do so, especially in its international business. In addition, the Bank is increasingly using loan sales and securitizations, including credit derivatives, to maximize its efficient use of capital and increase commission income as a percentage of total income while retaining relationships with its clients. The Bank has established a unit dedicated to these areas. In June 2001, the Bank arranged a € 1 billion synthetic mortgage-backed securities offering with a loan portfolio covering 36 hotels located in seven European countries and the United States. In particular, the Bank intends to securitize in the capital markets a large portion of its existing low-margin private client loans to free up capital for use in higher margin businesses and, subject to market conditions, plans two such offerings in the fourth quarter of 2001 with a volume totalling about € 2 billion. Securitization allows the Bank to employ capital previously supporting the assets securitized in the generation of additional income-generating business and thus permits an incentive for the Bank's personnel to continue to seek attractive new business.

## Capital Ratios

At December 31, 2000 and 1999 DePfa Bank's unconsolidated Tier I and total capital ratios, calculated on the basis of the Principle I solvency ratio pursuant to the German Banking Act were as follows:

	December 31,	
	2000	1999
Tier I . . . . .	7.2%	6.9%
Total . . . . .	10.3%	9.6%

The Bank does not compute its Tier I capital ratio at any date other than at year-end. At September 30, 2001 its total capital ratio was 9.3%. The decline in the capital ratio in 2001 reflects the fact that since the Restructuring was announced in November 2000 all new property loans have been recorded in full on the books of the Bank (and no part on the books of Pfandbriefbank) and some loans on the books of Pfandbriefbank already have been transferred to the Bank.

## Competition

The Bank competes in the various markets where its international property business is active with local banks and financial institutions and, to a lesser extent, with international banking groups that participate in cross-border real estate financing. In Germany, the Bank competes in commercial and residential property development lending with other private sector commercial banks and with savings and cooperative banks and their central institutions. Some of these competitors have significantly greater resources than the Bank or access to certain inexpensive sources of funding not available to the Bank.

In the IT consultancy area, DePfa IT Services competes with a variety of software solution providers ranging from SAP AG, which like DePfa IT Services provides enterprise standard solutions for the real estate business, to medium-sized providers of business-specific applications and specialized niche software suppliers. DePfa IT Services believes that in the future the competition for IT products for the real estate sector will intensify and become concentrated among a few European-wide providers.

## Litigation or Arbitration Proceedings

No judicial or arbitration proceedings which could have a significant effect on the financial condition of the Bank, or had such an effect in the last two years, have been pending, nor is the Bank aware, to the best of its knowledge, of any such proceedings now pending or threatened

## MANAGEMENT

Like all German stock corporations, the Bank has a two-tier board system. The Management Board (*Vorstand*) is responsible for the management of the Bank and the representation of the Bank with respect to third parties, while the Supervisory Board (*Aufsichtsrat*) appoints and removes the members of the Management Board and supervises its activities.

### Management Board

At present the members of the Management Board are:

Karl-Heinz Glauner (Speaker of the Management Board)  
Hans Jochen Erlebach  
Dr. Thomas M. Kolbeck  
Michael A. Kremer  
Dr. Ralph Hill (deputy member)  
Hermann Merkens (deputy member)  
Christof Schoernig (deputy member)

Mr. Glauner is co-speaker, and Mr. Kremer is a member, of the Management Board of Pfandbriefbank. They will cease being members of the Management Board of Pfandbriefbank, and will not become members of the Board of Directors of the Irish Parent Company, after the Restructuring. Dr. Kolbeck, who is a member of the Management Board of Pfandbriefbank and will become Vice Chairman of the Board of Directors of the Irish Parent Company, will resign from the Management Board of the Bank after the Restructuring.

The business address of each of the members of the Management Board is Paulinenstrasse 15, D-65189 Wiesbaden.

### Supervisory Board

Under the Articles of Incorporation, the Supervisory Board consists of 21 members. 14 members are elected by the shareholders at the General Meeting and 7 members are elected by employees of the Bank under the Industrial Constitution Law of 1952. At present the members of the Supervisory Board are:

Dr. Jürgen Westphal, Hamburg  
Chairman  
Minister (retired), attorney-at-law, Judge at the Hamburg Constitutional Court  
Christian Graf von Bassewitz, Düsseldorf  
Deputy Chairman  
General Partner and Management Spokesman of Bankhaus Lampe KG  
Lutz Briegel\*, Frankfurt  
Deputy Chairman  
DePfa Bank AG  
Georg Berres\*, Essenheim  
DePfa Systems GmbH  
Dr. Richard Brantner, Schramberg  
Spokesman of the Board of Kreditanstalt für Wiederaufbau (retired)  
Prof. Dr. Johan Eekhoff, Bonn  
State Secretary (retired)  
Wolfgang Fauter, Hamburg  
Chairman of the Management Board of Deutsche Ring Versicherungen

Erwin Flieger, Geretsried  
Chairman of the Management Boards of Bayerische Beamten-Lebensversicherung a.G. and  
BBV Holding AG

Lutz Freitag,  
President of GDW Bundesverband deutscher Wohnungsunternehmen e.V.

Dr. Friedrich Adolf Jahn, Münster  
President of the Zentralverband der Deutschen Haus-, Wohnungs- und Grundeigentümer

Dr. Thilo Köpfler, Wiesbaden  
Chairman of the Management Boards of DePfa Deutsche Pfandbriefbank AG and DePfa Bank AG  
(retired)

Ralf Kupka\*, Starnberg  
DePfa Bank AG

Jacques Lebhar, Paris  
Président Directeur Général du Comptoir des Entrepreneurs

Kurt Pfeiffelmann\*, Mainz  
DePfa Bank AG

Rolf Pfeil\*, Frankfurt  
DePfa Bank AG

Dr. Rolf Schmid, Ettlingen  
President of the Federal and state pensions office

Klaus-Peter Sell\*, Burkardroth  
DePfa Bank AG

Jürgen Steinert, Berlin  
Senator (retired), President of the Gesamtverband der Wohnungswirtschaft e.V.

Jürgen Strauss, Munich  
General Manager and Principal Agent for Germany of the  
Schweizerische Lebensversicherungs- und Rentenanstalt a.G.

Prof. Dr. Dr. h.c. mult. Hans Tietmeyer, Königstein  
President of Deutsche Bundesbank (retired)

Helmut Wagner\*, Hahnheim  
DePfa Bank AG

Dr. Georg Freiherr von Waldenfels, Munich  
Member of the Board of VIAG TELECOM AG

(\*) elected by the employees

**Remuneration**

In 2000 the aggregate remuneration paid by the Bank was € 1.389 million to members of the Management Board and € 309,000 to members of the Supervisory Board. In addition, an aggregate of € 457,000 was paid to, and pension provisions of € 3.454 million were set aside for, former members of the Management Board and their surviving dependants.

At December 31, 2000 the Bank had outstanding loans of € 1.548 million to members of the Supervisory Board and of € 1,127 to members of the Management Board.

**Employees**

The average number of employees of the Bank and of DePfa IT Services and its subsidiaries during 2000 was 909 and 926, respectively. The current level of employees at DePfa IT Services is approximately 1,060.

## RISK MANAGEMENT

The principal types of risk inherent in the Bank's business include counterparty, market, liquidity and operational risks. Counterparty risk is the possibility of default on obligations in connection with a decline in the credit-worthiness of a business counterparty. Market risk, primarily interest rate risk, is the risk to which the Bank's future earnings and financial position are exposed as a result of potential changes in the financial markets affecting the Bank. Liquidity risk arises in connection with the Bank's need to repay liabilities as they mature and to raise funds at appropriate maturities and rates as part of the Bank's financing, trading and investment activities. Operational risk is the risk to which the Bank's future earnings and financial position are exposed as a result of potential disruptions to the Bank's business operations caused by inadequate systems or controls, individual errors, external physical events or regulatory or legal developments.

Managing risk is an integral part of the Bank's business and central to an optimum use of its capital. The Bank has comprehensive risk assessment and management systems, which are under continual development for assessing and identifying risk at an early stage. This involves considerable expenditure in terms of personnel and technology.

### **Counterparty Risks: Property Finance**

Counterparty risk in property finance relates to credit risk and collateralization risk. Credit risk arises from the possibility of the business partner failing to meet his obligations on payments of interest and principal based on a long-term view of his economic and financial situation. Collateralization risk results from the possibility of a deterioration in the value of the underlying collateral (normally the property being financed), due to specific factors relating to the property or the market situation.

Since the Bank has handled financings traditionally on balance sheet, the lending business contributes considerably to the Bank's overall risk. As a result, assessing the risk involved in the financing transactions is the core area of competence. The Bank has extensive guidelines as well as a structure of competence for awarding and examining ratings as well as sophisticated systems to manage these risks. These are supplemented by a Credit Risk Controlling unit, which is responsible for measuring and monitoring the Bank's overall risk position. Reviews are also conducted by the internal audit department.

*Credit approval process.* The Bank uses an internal rating process in its commercial property finance business that is intended to achieve objective and uniform loan decisions, and facilitates a systematic identification of risk for regular loan monitoring and portfolio analysis. Using a rating system, it is possible to assess credit risk, property risk, and property-related completion risk and/or marketing risk. As a result of its early introduction of a rating system tailored towards the property finance business, the Bank has created the conditions necessary for implementing Basel II requirements, particularly in terms of historic data. The rating assigned will be continuously reviewed and adjusted to reflect changes in the market and business conditions.

The creditworthiness rating is supported by an evaluation process that automatically calculates a number of key financial ratios. The assessment of these ratios, together with qualitative factors, form the basis of credit risk evaluation. Also included in the evaluation are sector ratios calculated by recognized institutions. In the case of borrowers belonging to a group, the credit-worthiness of the group, the quality of the overall loan commitment extended to this group as a whole, and, on the basis of these factors, the appropriateness of the entire transaction volume are taken into account. Credit limits for restricting exposure are established accordingly. In the case of larger leased properties, the examination of credit-worthiness also includes the main tenants of the property, whose long term financial situation has a considerable influence on the property.

The property rating is based on the loan-to-value ratio and the return achieved through renting the property. The current and future value of the property provided as collateral is calculated according to region and type of property by experts who operate independently of the loan decision making process.

For property financing activities outside Germany, local external surveyors are charged to carry out the valuation. At December 31, 2000, the volume-weighted loan-to-value ratio for performing loans in the German property financing portfolio was approximately 79% of the assessment value that is on average approximately 10% below the open market value. The volume-weighted loan-to-value risk ratio for non-German property financing is approximately 68%. This does not include contractual additional collateral that serves to reduce risk.

A computer-based system regularly monitors completion risks and/or marketing risks relating to property, from disbursements, work-in-progress, success in marketing the property and the resulting repayment ratio as well as changes in the value of the property.

Client accounts are organized by country as well as by type of commercial property where in the latter case highly qualified teams with relevant experience in the respective sector of the property market operate on a cross-border basis.

*Pricing.* The pricing of loans stands in direct correlation to its level of riskiness. In this respect, the cost of equity is included in the calculation of financings, alongside standard risk costs based on client and property classification.

*Risk sharing.* The Bank actively syndicates loans as a means of risk sharing, primarily for large-scale commercial property finance. In addition to its syndication business, the Bank uses securitization to put a cap on volumes for sub-portfolios according to property types. Securitization allows the Bank to transfer the risk inherent in a property financing portfolio or sub-portfolio, while at the same time maintaining its relationship with the clients and keeping open its access to the market. See "Business of the Bank – Funding, Syndication and Securitization".

*Monitoring.* The lending portfolio is reviewed on a regular basis with the help of early warning methods and, in particular, forms part of a computerized monitoring process. In this process, which includes loan and property monitoring, financings which meet certain criteria in terms of volume and risk are analyzed regularly using a large number of credit-worthiness and property-related indicators. Alternatively, senior management may also ask for individual loans to become subject to regular monitoring. As part of the monitoring process, deviations over time between the actual and planned course of a financing project are identified and evaluated. Depending on the outcome of this analysis the rating of an loan may have to be adjusted. Monitoring accounts remain subject to the usual approval procedure. If certain risk criteria result in a downgrading of a loan, the case is transferred to a task force of experienced lending professionals. The task force will discuss possible recovery measures and decide on the future processing of such loans. In the case of a markedly negative deviation, the loans are handed over to recovery experts for appropriate action.

*Reporting.* The Management Board is informed regularly about the development of the property finance portfolio and its risk content in a management report. The management report is supplemented by regular reports to the Supervisory Board. The management report analyses the distribution of the portfolio according to countries, regions, property types, client groups, volume and risk categories, and shows the formation of cluster risks. It therefore serves as a basis for managing the entire portfolio and repositioning sub-portfolios in terms of risk diversification and risk limiting. Over the last five years, the Bank has achieved an increasingly broad geographical distribution in all its commercial sub-portfolios due to a risk conscious expansion of its non-German property financing business.

*Loan loss provisions.* Once full repayment on a loan is estimated to be highly unlikely based on a regular review of the creditworthiness of the borrower and the security for the loan, the level of provision is calculated according to a formula which takes into account the remaining balance, expected payments and discounted proceeds from realization of security. The Bank does not cease accruing interest on such loans. Accruing interest is reflected in the provisioning.



## Counterparty Risks: Treasury Activities

The Treasury activities of the Bank relate to securities transactions, money market transactions and derivatives which are carried out almost exclusively with bank counterparties. The level of credit risk associated with Treasury activities depends on the structure of the particular transaction. While credit exposure for on-balance sheet instruments is expressed by their current market value, credit risk for derivative financial instruments is estimated on the basis of the potential replacement cost, resulting from the substitution of an equivalent position in the event of potential counterparty default.

A group-wide system is in place throughout the DePfa Group for monitoring counterparty risks in Treasury transactions, including derivatives. Internal rating categories are incorporated into this limit system. The maximum limit granted is calculated according to rating categories, and is determined according to the particular counterparty's grading in a rating category. The scoring of counterparty risks in internal rating categories is carried out on the basis of our own reports, balance sheet data and external rating agency information as well as expert analyses. The Correspondent Banking unit is responsible for monitoring compliance of the limit.

Derivatives are contracts or agreements whose values are derived from changes in interest rates, foreign exchange rates, prices of securities, or financial and commodity indices. The timing of cash receipts and payments for derivatives is generally determined by contractual agreement. Derivatives are either standardised contracts executed on an exchange or negotiated over-the-counter (OTC) contracts. Futures and certain options are examples of standard exchange-traded derivatives. Forwards, swaps, and other options contracts are examples of OTC derivatives. OTC derivatives are not freely negotiable.

Derivatives may be used for trading purposes or for risk management. The Bank uses derivative financial instruments primarily as a means of hedging the risk associated with asset/liability management for interest bearing transactions. However, certain of the Bank's derivatives used for risk management do not qualify for hedge accounting and are therefore classified under "trading" in the DePfa Group accounts under US GAAP.

Derivatives used by the Bank include:

- Interest rate and currency swaps
- Interest rate futures, forward rate agreements, and interest rate options
- Foreign exchange forward contracts

Interest rate swaps involve the exchange of fixed and variable rate interest payments between two parties at specified times based on a common nominal amount and maturity date. The nominal amounts are not exchanged; they are used solely to calculate the interest payments. Currency swaps have nominal amounts in two different currencies. The interest is also paid in these currencies accordingly. Furthermore, an exchange of the nominal amount often takes place at the beginning and the end.

Interest rate options are contracts that allow the purchaser to receive service, conclude contracts for financial instruments or buy and sell, at a specified price within a specified period of time. The option writer is obligated to pay cash, buy, sell or enter into a financial instrument, if the purchaser chooses to exercise the option. Option contracts purchased or written by the Bank include caps and floors, which are interest rate hedging instruments as the agreement payment covers the difference in interest between the agreed interest rates and the ability of the counterparties to meet the terms of the contracts represent the primary risk associated with interest rate options.

Futures are standardised exchange-traded agreements to receive or sell a specific financial instrument at a specific future date and price. Forward rate agreements provide for the payment or receipt of the difference between a specified interest rate and reference rate at a future settlement date. Interest rate risks represent the primary risks associated with such contracts. Where these are OTC

transactions, there is the risk associated with the ability of the counterparties are in a position to meet the terms of the contracts.

Forward foreign exchange contracts involve an agreement to swap two currencies at a price and settlement date agreed in advance. Exposure to changes in foreign currency exchange rates and the ability of the counterparties to meet the terms of the contract represent the primary risks associated with forward contracts with a foreign exchange settlement.

The Bank's derivatives exposure is almost exclusively to financial institutions in OECD countries. To reduce credit risks in the derivatives business, the Bank has entered into various master netting agreements giving it the right to set off its liabilities to a counterparty in the event of a default on payments or the counterparty's bankruptcy.

### **Counterparty Risk: Country Risks**

Country risk is essentially defined as the combination of all economic and political events that can affect the ability of the counterparty to meet commitments in cross-border transactions.

The Group's Country Limit Committee has divided the countries where the Bank is prepared to do business into six creditworthiness categories, ranging from "first rate" to "severely restricted" and has given each country a country limit denominated in euros. In addition to individual limits, group limits (by creditworthiness group) have been established, which restrict the combined risk of several countries that have the same level of creditworthiness. The breakdown of individual countries according to their creditworthiness is based on economic information about the country, in-house research as well as reports of international rating agencies.

All country evaluations and individual limits are approved by the entire Management Board. Group Risk Control is responsible for continually monitoring the utilization of country limits.

### **Loan Loss Provisions**

*Provisioning Policy.* Loans by the Bank are recorded on the DePfa Group's consolidated balance sheet net of provisions for possible loan losses. The establishment of a provision, or an increase in its amount, is reflected in the Group's consolidated statement of income by a provision. The reversal of a provision is reflected by a credit to income.

The Bank classifies a loan as "impaired" or "non-performing" if it can no longer be assumed that all contractually agreed upon payments will be made. Once so identified, the Bank's policy is to establish an appropriate loan loss provision promptly. The amount of the provision in respect of a particular loan is determined based on the degree of risk of loss, taking all circumstances into account but primarily the nature of the loan, the creditworthiness of the borrower and the value of any guarantee or other security held to cover the loan. The provisions are reviewed regularly to determine whether they should be increased or reduced in light of existing circumstances.

The level of provision is normally calculated according to the following formula:

$$\begin{aligned} \text{Amount of the Provision} &= \text{Remaining balance including arrears;} \\ &\quad \text{less Repayments still expected based on borrower} \\ &\quad \text{creditworthiness;} \\ &\quad \text{less Discounted proceeds from realization on security} \\ &\quad \text{(including payments by guarantors).} \end{aligned}$$

Interest on a problem loan normally continues to be recorded as accruing, and is included in interest income, until such loan is written down or off, but a provision is taken for the full amount of each unpaid interest payment. Payments collected on impaired loans are applied first to fee or interest income for any such unpaid amounts and thereafter against the loan principal outstanding. Specific loan provisions are released when the grounds for the impairment no longer exist.

In addition to specific loan loss provisions, the Bank maintains general provisions to cover inherent risks in the portfolio that have not yet been specifically identified. A regular evaluation of the adequacy of the general provisions for loan losses is made, based on the Bank's past loan loss experience. This evaluation includes an analysis of both the development of the loan portfolio as well as the general financial position of borrowers and overall economic factors.

The Bank may also establish provisions for specific country risks. There are, however, currently no country risk provisions.

A loan is charged off when it appears reasonably certain the loan will not be repaid.

*Recent levels of problem loans and loan loss provisions.* At December 31, 2000, the Bank reported total impaired, or non-performing, loans of € 1.924 billion, in respect of which provisions had been established in all cases except loans totaling € 14 million. This compared to € 1.43 billion of impaired loans at December 31, 1999, of which € 113 million were not the subject of provisions.

In addition, at December 31, 2000 there were loans in the amount of € 149 million which, due to financial difficulties of the borrower, had been rescheduled to better ensure ultimate repayment.

At December 31, 2000, total loan loss provisions for property loans in the DePfa Group were € 733 million, of which € 663 million covered specific risks and € 70 million general risks. This compares to a total of € 603 million in loan loss provisions at December 31, 1999, consisting of specific provisions of € 525 million and general provisions of € 78 million. At September 30, 2001, total loan loss provisions for the DePfa Group's property loans were € 804 million. (All the foregoing loan loss provisions are calculated in accordance with U.S. GAAP).

## **Market Risk**

Given the nature of its operations, the Bank attaches varying degrees of significance to the different market risks. Interest rate risks in property finance are the most significant.

To quantify and manage market price risks, the Bank has since May 2000 calculated a value-at-risk on a daily basis using the variance/covariance approach. This generally accepted statistical method measures the potential loss in value of financial instruments which may occur during a pre-defined period given a 99.0% probability level. The prescribed holding period of 20 days was deliberately extended over BIS parameters (10 days). This conservative approach in terms of the possible balancing of items, also takes into account the specific nature of activities of a mortgage bank or institution without a trading book.

As a further element in this approach, all of DePfa Bank's activities are included in the value-at-risk calculations giving a complete picture of the risk position for the Bank as a whole, so that in addition to

straight forward interest-related operations all other items on the balance sheet are also taken into account.

The Bank also uses a particular approach for establishing limits to restrict market price risks that is present value-oriented and therefore dynamic. This limit is calculated as follows:

$$\frac{\text{Present value of interest-related business} + \text{book value of non interest-related business}}{\begin{array}{l} =\text{Present value of company} \\ \text{. /. equity} \\ \text{. /. planned minimum profit of the next 4 years} \end{array}} = \text{Risk present value}$$

Value-at-risk-limit: 25% of risk present value

The present value of interest-related business calculated on a daily basis reflects favorable earnings from new business as well as valuation changes in all the Bank's assets resulting from fluctuations in market parameters (e.g., interest rate changes, volatility changes, exchange rate shifts). Through constant adjustment of the risk cash value, the risk capability, and therefore the risk limit, are adapted automatically to new economic conditions, whereby only a fraction of the risk present value is finally released by the full Management Board under the value-at-risk limit. This system has been used by the Bank to limit risk since May 2000.

To maintain the highest standards in value-at-risk calculations the Market Risk Control unit itself is responsible for assessing the volatility and correlations on the basis of market data. Statistical parameters of the different markets used in the calculation are only implemented after detailed examination. The validity of methods of calculating value-at-risk is examined by means of regular back testing, whereby profit and loss resulting from actual market changes are compared with the values forecast using the value-at-risk procedure (500 day basis). For the year 2000, the value-at-risk calculations performed by the Bank did not underestimate the market risks. In addition, extreme market fluctuations are simulated through worst case scenarios. These calculations also produced satisfactory results.

The month-end values-at-risk during 2000 under the new system were as follows (in millions):

May . . . . .	€ 87	September . . .	€ 92
June . . . . .	€ 89	October . . . . .	€ 82
July . . . . .	€ 95	November . . .	€ 82
August . . . . .	€ 95	December . . .	€ 86

During this period the bank's value-at-risk ranged from a low of € 82 million to a high of € 98 million.

The Management Board is notified on the level and utilization of the limits for the DePfa Group and the individual banks, as well as for the change in cash values on a daily basis. In addition to risk factors (currency, interest rate per currency and term), the basis point value serves to illustrate the sensitivity of the items according to individual terms. Furthermore, the fixed interest rate schedule provides information on a monthly basis on the net asset position and net liability position over the next 15 years.

These analyses are used in performing different simulation calculations for determining risk or earnings where necessary. By means of forecasts, possible losses resulting from extreme or possible market fluctuations, for example those caused by variable changes in yield curves or scheduled new business, can be quantified in advance. This is not possible with the value-at-risk-method, and therefore scenario analyses form an important part of monitoring market risks by the Bank.

Group Market Risk Control is responsible for designing and continually verifying the measuring procedures to be applied, and for monitoring compliance with the limits set by senior management. In

this process, great importance is attached to meticulous and extensive risk monitoring in the Bank, as the successful execution of this task is also an important condition for achieving the Bank's ambitious targets for earnings and growth.

### **Liquidity Risk**

It is the task of liquidity management to manage the origination and investment of funds in order to achieve the most efficient and best possible results in terms of earnings. For this purpose, DePfa Group operates a Group-wide liquidity management system, which integrates all the relevant units. To ensure the ability of the Group to cover all payment obligations of the Group and its units at all times, and to monitor the relationship between assets and liabilities at various maturities, the Group's Treasury prepares liquidity balance sheets and cash flow forecasts. Extensive liquid security portfolios are maintained to ensure liquidity in local currencies. At September 30, 2001, the Bank had assets of € 5.2 billion eligible for discounting with the European Central Bank.

The liquidity ratio of the Bank under the revised Principle II has been kept within the statutory limits and at September 30, 2001 was 1.23. See "Supervision and Regulation and Capital Adequacy – Liquidity Requirements".

### **Operational Risk**

Operational risk encompasses all potential direct or indirect risks caused by inadequate or faulty procedures, systems and controls, lack of knowledge and mistakes by individuals, by external events, such as earthquakes, accidents and criminal attacks, and by changes in regulations or legal risks to which the Bank is exposed.

To respond to the increasing importance of operational risks in the banking business, and in the view of the expected supervisory regulations on capital backing of operational risks, the Bank has begun developing a system for identifying and quantifying operational risks as a supplement to existing control, procedural and organizational measures. The essential components of this system are the definition and observation of qualitative indicators for early identification of problems and weak spots in the Bank's procedures, and the recording of information on losses caused by operational weaknesses. This measurement and monitoring system provides the responsible staff with an instrument for risk efficient and cost efficient management of their procedures. The Bank will also use this information to expand its management information system to include an operational risk monitor for independent and continuous controlling of these risks.

In terms of organization, the management of operational risks is the responsibility of the Chief Operating Office, which is also responsible for cross-divisional co-ordination and quality assurance of procedures and data, and the operational areas themselves. Following completion, the operational risk monitor will come under the responsibility of Risk Controlling. The audit department will provide further control mechanisms.

The Bank also pays attention to emergency planning. To exclude possible IT emergencies or even breakdowns, we use duplicated and networked systems and databases located in our offices in Wiesbaden. If one element in this data network or computer systems fails, the other elements of the system take over its function allowing uninterrupted operation 24 hours a day throughout the year. These technical measures are supplemented by emergency planning for the individual operational areas. An ongoing process will develop, review and improve methods for dealing with various possible emergency scenarios with a view to ensuring uninterrupted business activities.

## SUPERVISION AND REGULATION AND CAPITAL ADEQUACY

### Distinctive Features of the German Banking System

The German banking system consists of a variety of public sector and private sector banks of two general types: universal banks (also known as full-service or multi-purpose banks) and specialized banks. Universal banks (including DePfa Bank) may engage not only in deposit and lending business, but also in investment banking, underwriting and securities trading for their own account and for their customers. Specialized banks, such as mortgage banks (including Pfandbriefbank), concentrate on certain types of credit business or have other special functions. In addition, financial services institutions exist which primarily engage in the securities business (brokerage, trading, portfolio management).

As a general rule, universal banks are permitted to engage in all the banking activities performed by specialized banks, such as mortgage lending and public sector lending, whereas specialized banks are limited to banking activities related to their special functions. However, with the exception of two universal banks with rights to operate as mixed mortgage banks, private sector universal banks are not permitted to refinance mortgage loans and public sector loans through the issuance of mortgage bonds (*Pfandbriefe*).

Universal banks can be divided into three broad types: private sector commercial banks (*private Geschäftsbanken*) such as the Bank, public sector savings banks (*Sparkassen*) and their central institutions (*Landesbanken-Girozentralen*), and co-operative banks (*Genossenschaftsbanken*) and their central institutions.

### Principal Laws and Regulators

The Bank is subject to comprehensive supervision and regulation by German supervisory authorities and is authorized to carry on its general banking business under, and subject to the requirements of, the Banking Act. If the Bank creates a mortgage banking subsidiary, it will carry out its business under and subject to the requirements of the Mortgage Bank Act. The Bank is supervised and regulated by the German Banking Supervisory Authority (*Bundesaufsichtsamt für das Kreditwesen*), the Federal Securities Trading Supervisory Authority (*Bundesaufsichtsamt für den Wertpapierhandel*) and the Bundesbank.

The Banking Act contains the principal rules for German bank supervision, including the requirements for a banking license, and regulates the general business activities and capital adequacy of German banks. The Mortgage Bank Act sets forth specific requirements for the extension of loans secured by mortgages and public sector loans that are to serve as cover for the issuance of mortgage and public sector *Pfandbriefe*. Securities trading in Germany is supervised by the Federal Securities Trading Supervisory Authority.

### Regulation by the German Banking Supervisory Authority

The German Banking Supervisory Authority, an independent federal regulatory authority (under the supervision of the Federal Minister of Finance), is authorized to issue regulations and guidelines implementing the provisions of the German banking laws and other laws affecting German banks. The main purpose of the German banking laws is to protect the soundness of the German banking system. The Banking Act implements certain recommendations on banking supervision issued by the Basle Committee on Banking Regulations and Supervisory Practices at the Bank for International Settlements (the "Basle Committee") and certain European Council Directives relating to banks. Such directives relate to accounting, regulatory capital, risk-based capital adequacy, the creation of a single EU-wide banking market with no internal barriers to the provision of cross-border banking services, the establishment of branches within the European Union, consolidated supervision, and monitoring and control of large exposures. The Mortgage Bank Act was amended in 1990 to permit mortgage banks to

grant mortgage loans with respect to real estate located in other EU member states, to grant public sector loans to central and regional governments of, and municipalities in, other EU member states and to issue *Pfandbriefe* based on such loans. The German legislation implementing the revised European Council Directive on consolidated supervision and the directive on monitoring and control of large exposures took effect as of December 31, 1995. The European Council Directive of March 15, 1993 on the capital adequacy of investment firms and credit institutions, dealing with the capital adequacy for market risks resulting from transactions in securities, derivative products and foreign exchange, and the European Council Directive of May 10, 1993 on services in the securities field were incorporated into German law through the Act on the Implementation of EC Directives Regarding the Harmonization of Banking and Securities Trading Regulations (*Gesetz zur Umsetzung von EG-Richtlinien zur Harmonisierung bank- und wertpapieraufsichts-rechtlicher Vorschriften*), including the sixth amendment to the Banking Act, which entered into effect on January 1, 1998 (except for certain provisions which became effective, following the publication of the sixth amendment to the Banking Act in the Federal Gazette (*Bundesgesetzblatt*), on October 29, 1997).

Under the Banking Act, each enterprise that is engaged in one or more of the financial activities defined therein as “banking business” is a banking institution (*Kreditinstitut*) and is subject to the licensing requirements and other provisions of the Banking Act. The German Banking Supervisory Authority supervises the operations of German banks to ensure that they conduct their business in accordance with the provisions of the Banking Act and other applicable German laws and regulations. Particular emphasis is placed on compliance with capital adequacy and liquidity requirements, large exposure limits and restrictions on certain activities imposed by the Banking Act and the regulations issued thereunder.

The German Banking Supervisory Authority is also responsible for supervising the compliance of mortgage banks with the provisions of the Mortgage Bank Act, in particular for the approval of valuation guidelines for mortgaged property, the approval of the principal characteristics of the terms of the loans, the enforcement of the limitation on an issuer’s aggregate amount of outstanding mortgage and public sector *Pfandbriefe* to 48 times (in the case of mixed mortgage banks) or 60 times (in the case of other private mortgage banks) such issuer’s Regulatory Banking Capital (as defined below) and the resolution of disputes between the mortgage bank and the independent trustee. In addition, the German Banking Supervisory Authority conducts audits of the assets utilized as security for the outstanding *Pfandbriefe* and entered into the coverage register (*Deckungsregister*), typically every two to three years.

### **Regulation by the Bundesbank**

The German Banking Supervisory Authority carries out its supervisory role in close cooperation with the Bundesbank in its capacity as the German central bank. Although the German Banking Supervisory Authority and the Bundesbank work closely together, the functions of the German Banking Supervisory Authority and the Bundesbank are distinct. While the authority to issue administrative orders (*Verwaltungsakte*) binding on banks is vested solely with the German Banking Supervisory Authority, the German Banking Supervisory Authority must consult with the Bundesbank before it issues general regulations (*Verordnungen*) and must obtain the consent of the Bundesbank if the regulations affect the functions of the Bundesbank, as, for example, in the case of regulations affecting capital adequacy and liquidity requirements. The Bundesbank is responsible for organizing the collection and analysis of statistics and other reports from the banks (as described in more detail below). These statistics and other reports are analyzed by the regional office (*Landeszentralbank*) of the Bundesbank responsible for the state in which the bank has its corporate seat. The Bank reports to the *Landeszentralbank* for the State of Hesse, which is based in Frankfurt am Main.

Since the commencement of stage three of the European Economic and Monetary Union (“EMU”) on January 1, 1999, the responsibility for monetary policy and control, including minimum reserve

requirements, in those states which participate in the EMU, such as Germany, lies with the European Central Bank which began its operations on June 1, 1998.

The European Central Bank sets the minimum reserves for the institutions active in the deposit and lending business with customers. Such minimum reserves must equal a percentage of the liabilities resulting from certain deposits taken, as well as bonds and money market instruments issued. Liabilities vis-à-vis credit institutions which are located in the territory of the EMU and which themselves are subject to minimum reserve requirements and liabilities vis-à-vis the European Central Bank and the national central banks within the European System of Central Banks are exempt from the minimum reserve requirements. Since January 1, 1999 the minimum reserve rate set by the European Central Bank amounts to 2%. The minimum reserves must be deposited with the respective national central bank.

### **Capital Adequacy Requirements**

The German capital adequacy principles based on the principle of risk adjustment. In particular, "Principle I" (*Grundsatz I*) provides for capital adequacy requirements dealing with counterparty risk (*Adressenausfallrisiko*) and market risk (*Marktrisiko*). The counterparty risk must be covered by Regulatory Banking Capital, whereas the market risk must be covered by Own Funds, comprising Regulatory Banking Capital and Tier III Capital. The capital adequacy requirements dealing with market risk were introduced in Germany by the sixth amendment to the Banking Act and revised Principle I. The sixth amendment to the Banking Act came into effect on January 1, 1998. Since October 1, 1998 amended Principle I, which was completely revised by the German Banking Supervisory Authority to reflect the necessary amendments resulting from the sixth amendment to the Banking Act and the implementation of the Capital Adequacy Directive, applies. The sixth amendment to the Banking Act and revised Principle I did not fundamentally change the capital adequacy requirements dealing with counterparty risk. Pursuant thereto, each bank must maintain a ratio (the "Solvency Ratio") of Regulatory Banking Capital to risk-adjusted assets (including financial swaps, financial forward transactions, options and other off-balance sheet items) of at least eight percent. These rules implement the corresponding provisions of the EC Own Funds Directive and the EC Solvency Ratio Directive, which in turn are based on the recommendations of the Basle Committee.

Pursuant to the Banking Act, for a bank that is organized as a stock corporation (such as the Bank), "Regulatory Banking Capital" (the numerator of the solvency ratio), consists principally of (i) paid-in subscribed capital, (ii) capital reserves, (iii) earnings (revenue) reserves, (iv) the fund for general banking risks (an item which a bank may create on the liability side of its balance sheet in its reasonable commercial judgment in the light of the special risks inherent in the banking business), (v) reserves for general banking risks (a bank may record on its balance sheet certain receivables, including loans and securities, which are neither investment securities nor part of the trading portfolio, at a lower value than that permitted for industrial and other non-banking entities if the use of a lower value is in its reasonable commercial judgment advisable to safeguard against the special risks inherent in the banking business), provided that such reserves do not exceed 4% of the book value of such receivables and securities, (vi) capital paid in consideration of silent partnership interests (*stille Beteiligungen*) or profit-participation rights (*Genußrechte*) meeting certain conditions set out in the Banking Act, including a minimum term of five years and the requirement that the capital paid in consideration thereof participates in the bank's losses and the rights of the holders thereof be subordinated to the rights of all other creditors in the event of insolvency or liquidation, (vii) longer-term subordinated debt meeting certain conditions set out in the Banking Act, including a minimum term of five years and the requirement that the rights of the holders thereof be subordinated to the rights of all other creditors in the event of insolvency or liquidation, (viii) certain unrealized reserves (described below), and (ix) reserves pursuant to Section 6b of the German Income Tax Law (*Einkommensteuergesetz*) (such reserves being included in Regulatory Banking Capital in the amount of 45% thereof, to the extent that they were created from the proceeds of the sale of real property, property rights equivalent to real property and buildings). The Banking Act



requires that losses, certain intangible assets (including goodwill) and certain participations in banks, financial services institutions or other financial enterprises be deducted in computing Regulatory Banking Capital.

Unrealized reserves which may be counted as Regulatory Banking Capital are essentially composed of the following components: (x) up to 45% of the difference between the book value and the lending value of land and buildings, and (y) up to 35% of the difference between the book value plus provisioning reserves and (a) the market value of securities listed on a stock exchange, and (b) the published redemption price of shares issued by certain securities or real estate funds. Unrealized reserves can be included in Regulatory Banking Capital only if the Core Capital (as defined below) of the bank amounts to at least 4.4% of the risk-adjusted assets, and only up to a maximum amount equal to 1.4% of such risk-adjusted assets. For the purposes of such calculation, the trading book positions may be included in the investment book positions.

The Banking Act further divides those items qualifying as Regulatory Banking Capital into Core Capital (*Kernkapital*) and Supplementary Capital (*Ergänzungskapital*). Core Capital, as this term applies to banks that are organized as stock corporations, such as the Bank, consists of (i) paid-in subscribed capital, (ii) capital reserves, (iii) earnings (revenue) reserves, (iv) the fund for general banking risks and (v) capital paid in consideration of silent partnership interests meeting certain conditions set out in the Banking Act, including a minimum term of five years and the requirement that the capital paid in consideration thereof participates in the bank's losses and the rights of the holders thereof be subordinated to the rights of all other creditors in the event of insolvency or liquidation, less own shares, preferred shares with cumulative dividend rights, losses and certain intangible assets (which include goodwill). The distinction between Core Capital and Supplementary Capital reflects the different degrees of loss or insolvency protection provided by the individual Regulatory Banking Capital items. The Banking Act provides that Supplementary Capital may be taken into account only up to the amount of the Core Capital. In addition, longer-term subordinated debt is recognized as Regulatory Banking Capital only up to 50% of the amount of Core Capital.

Under revised Principle I, the risk-adjusted value of assets of a bank (the sum of which is the denominator of the Solvency Ratio) is computed as follows: assets are assigned to one of five basic categories of relative credit risk (0%, 10%, 20%, 50% and 100%) depending on the debtor or the type of collateral, if any, securing the respective assets. The balance sheet value of each asset item is multiplied by the percentage weight applicable to its risk category to arrive at the risk-adjusted value. Mortgage loans that (i) are secured by mortgages on residential property which is or will be occupied or rented out by the borrower, (ii) meet the loan-to-value ratio of 60% and (iii) meet the valuation principles set out in the Mortgage Bank Act are assigned a risk weighting of 50%, unless the borrower constitutes a better credit risk. Until January 1, 2006 this 50% risk weighting also applies to mortgage loans secured by mortgages on commercial property, such as office buildings and other multi-functional commercial property, up to an amount of 50% of its market value or 60% of its loan collateral value (*Beleihungswert*), whichever is lower, provided that such property (i) is located in Germany or an other member state of the European Union which assigns a 50% risk weighting to such loans and applies strict valuation criteria and (ii) is occupied or rented out by the owner. The off-balance sheet items, such as financial guarantees, letters of credit, swaps and other financial derivatives, are subject to a two-tier adjustment. First, their value (in the case of guarantees and letters of credit, their amount, and in the case of swaps and other derivatives, the value computed on a market or time basis) is adjusted according to their risk classification (20%, 50% and 100%) depending on the type of instrument. Then the off-balance sheet items are assigned, like balance sheet assets, to the credit risk categories depending on the type of the counterparty or the debtor or the type of collateral, if any, securing the respective assets and multiplied by the applicable percentage weight.

As a member of the DePfa Group, the Bank currently computes its Regulatory Banking Capital solely on an unconsolidated basis. After the Restructuring, the Bank will also compute Regulatory Banking Capital on a consolidated basis with its subsidiaries.

In addition to the capital adequacy requirements dealing with counterparty risk, revised Principle I also lays down principles relating to capital adequacy requirements covering the market risk, which are different from those applicable to counterparty risk. The market risk positions of a bank are comprised of (i) its foreign exchange positions, (ii) its commodities positions, (iii) certain of its trading book positions, including those involving counterparty risk, as well as interest rate and share market risk and (iv) its options transactions positions. The market risk positions are net positions, risk-adjusted in accordance with detailed rules set forth in Principle I. Special rules exist for the capital adequacy of market risk positions. As of the close of each business day, the sum of the net risk-adjusted market risk positions of a bank must not exceed the sum of (i) the difference between its Regulatory Banking Capital and 8% of its aggregate amount of risk-adjusted risk assets and (ii) its Tier III Capital. Thus, the market risk positions must be covered by Own Funds that are not required to cover counterparty risk. "Tier III Capital" ("*Dritttrangmittel*"), the new category of capital which was introduced by the sixth amendment to the Banking Act, consists of (i) net profits, i.e., the proportionate profit of a bank which would result from closing all trading book positions at the end of a given day, less (A) all foreseeable expenses and distributions and (B) losses resulting from the investment book which would likely arise upon a liquidation of the bank, and (ii) short-term subordinated debt meeting certain conditions set out in the Banking Act, including a minimum term of two years and the requirement that the rights of the holder thereof be subordinated to the rights of all other creditors in the event of insolvency or liquidation. Net profits and short-term subordinated debt qualify as Tier III Capital up to an amount which, together with the Supplementary Capital not required to cover risks arising from the investment book, does not exceed 250% of the Core Capital not required to cover risks arising from the investment book. The "trading book" of a bank consists primarily of (i) financial instruments which a bank holds in its portfolio for the purpose of resale or which a bank acquires for utilizing existing or expected spreads between the purchase and sale price or utilizing price and interest rate movements, (ii) positions and transactions for the purpose of hedging market risks arising from the trading book as well as related refinancing transactions, (iii) transactions subject to the designation of the counterparty (*Aufgabegeschäfte*), (iv) payment claims in the form of fees, commissions, interest, dividends and margins directly linked to trading book positions and (v) repurchase, lending and similar transactions with respect to trading book positions. The "investment book" of a bank consists of all positions and transactions which are not part of the trading book. The Own Funds requirements must be met by each group of institutions taken as a whole, as well as by each institution within the group separately.

Under the Banking Act's provisions on consolidated supervision, each group of institutions (*Institutgruppe*) taken as a whole, as well as each bank within the group taken separately, must meet the Regulatory Banking Capital requirements. A group of institutions exists if (i) another bank, financial services institution, financial enterprise or bank service enterprise is a subsidiary (*nachgeordnetes Unternehmen*) of a bank or financial services institution (subsidiary being defined in terms of voting majority or controlling influence of the parent bank or financial services institutions) or (ii) a member of the group of institutions (A) owns, directly or indirectly, at least 20% of the shares of such other bank, financial services institution, financial enterprise or bank service enterprise, (B) manages such bank, institution or enterprise jointly with other enterprises and (C) is liable for the obligations of such bank, institution or enterprise in proportion to its capital investment in such bank, institution or enterprise.

After the Restructuring, the Bank expects that in addition to calculating and reporting Regulatory Banking Capital under the German Banking Act, it will calculate and report its consolidated capital adequacy ratios in direct application of the recommendations of the Basle Committee. The Basle Committee guidelines provide that banks shall maintain on a consolidated basis a risk-based core capital ratio of 4% and a risk-based regulatory banking capital ratio of at least 8%. In some respects (for

example, in the treatment of goodwill and commercial real estate loans), the calculation of these ratios is different from the calculation pursuant to Principle I under the German Banking Act.

### **Proposed Changes to the BIS Capital Standards**

On January 16, 2001, the Basle Committee issued for public comment a proposed new capital adequacy framework, which modifies and expands a prior proposal issued for comment by the Committee in June 1999. The proposed new capital framework would consist of three “pillars”: minimum capital requirements, supervisory review, and market discipline. With respect to minimum capital requirements, the proposal would revise the existing BIS accord to reflect new approaches to measure credit risk, including the “standardized approach” and the “internal ratings-based approach”. The standardized approach is an updated, more risk-sensitive version of the approach described in the existing BIS accord providing, in particular, for refined and additional risk-based capital weights (some of the new risk weights would exceed 100% for low quality exposures), with new risk weights based on credit ratings from external sources (such as credit rating agencies) and for a wider recognition of credit risk mitigation techniques, such as the use of collateral, guarantees and credit derivatives. Under the internal ratings based approach, banks, if they meet certain standards, would be allowed to use their own internal credit rating processes to estimate the amount of capital necessary to support their risks. The proposal would also create a capital charge for operational risk (defined as the risk of direct or indirect loss resulting from inadequate or failed internal processes, employees and systems or from external events) that the Committee expects would represent, on average, 20% of the minimum regulatory capital charge.

The second pillar of the proposed capital framework emphasizes the importance of supervisory review to ensure that a bank’s capital position is consistent with its overall risk profile and strategy. The proposal also would encourage early supervisory intervention when a bank’s capital position deteriorates. The third pillar of the new framework, market discipline, would call for enhanced public disclosure of banks’ capital adequacy, accounting policies, risk exposures and risk management strategies.

The Basle Committee received public comments on these proposals through May 31, 2001 and intends to release a revised proposal for an additional round of consultation in early 2002, and to finalize the new accord during 2002. The Committee has proposed that implementation of the new framework begin in 2004. Participating countries and jurisdictions would then modify their own capital standards as necessary to implement the framework. The Bank cannot predict at this time whether the new capital adequacy framework will be adopted or in what form, or the effect it would have on the regulatory capital ratios, financial condition or results of operations of the Bank.

### **Liquidity Requirements**

Each bank must invest its funds in a manner designed to provide adequate liquidity at all times. Principles II and III, which prescribe specific liquidity requirements, are applicable to universal banks. Under Principle II, the aggregate amount of long-term loans (loans having an original term of four years or more) and certain other assets of an illiquid nature must not exceed the aggregate amount of a bank’s capital and reserves, long-term liabilities (liabilities having an original term of four years or more) and specified percentages of certain other liabilities. Under Principle III, the aggregate amount of a bank’s short- and medium-term loans and investments must not exceed the aggregate amount of its short- and medium-term liabilities and specified percentages of certain other liabilities.

### **Monitoring of Borrowers; Limitations on Large Exposures**

The Banking Act requires banks to monitor the creditworthiness of borrowers continuously if the aggregate amount of loans issued to them exceeds DM 500,000. In particular, banks are obligated to

have such borrowers provide their annual financial statements, if any, or any other documents relevant for the evaluation of their financial condition. Banks may refrain from requesting the borrower to disclose financial information if such request for disclosure obviously is unjustified in light of the provided collateral or of the co-debtor, if any. In the case of loans secured by first-priority mortgages on owner-occupied residential property, banks may decide in their own discretion whether or not to conduct on-going monitoring of the borrower's creditworthiness, if certain other requirements are met. Certain other loans, such as mortgage loans not exceeding 60% of the value (determined in accordance with the Mortgage Bank Act) of the mortgaged property, are exempted from such on-going monitoring.

The Banking Act, together with a regulation on large exposures adopted thereunder by the German Banking Supervisory Authority (*Großkredit- und Millionenkreditverordnung*, "Large Exposure Regulation"), also limits the concentration of credit risks through restrictions on large exposures (*Großkredite*, "Large Exposures") of banks and groups of institutions. The Large Exposure rules and the Large Exposure Regulation distinguish between (i) banks and groups of institutions with minor trading book positions (see "– Capital Adequacy Requirements") which are not subject to the rules relating to the trading book and (ii) banks and groups of institutions which are subject to the rules relating to the trading book ("Trading Book Institutions").

For Trading Book Institutions, the Large Exposure rules contain different restrictions for Large Exposures related to the investment book ("Investment Book Large Exposures") and aggregate large exposures ("Aggregate Book Large Exposures") of the bank or group of institutions. Investment Book Large Exposures are situations in which the risk-adjusted assets attributable to a single client or connected group of clients equal or exceed 10% of the relevant bank's or group of institutions' Regulatory Banking Capital. Aggregate Large Exposures are situations in which the aggregate of the Investment Book Large Exposures and the exposures incurred in the trading book (including the net amount of all long and short positions in debt instruments and shares of an individual issuer, the counterparty risk of certain derivatives, the counterparty risk after the agreed date of settlement, and repurchase and securities lending transactions) attributable to a single client or connected group of clients (the "Trading Book Large Exposures") equal or exceed 10% of the relevant bank's or group of institutions' Own Funds.

Trading Book Institutions are subject to the following limitations on Large Exposures: (i) the Aggregate Book Large Exposures must not exceed in the aggregate eight times such bank's or group's Own Funds; (ii) the Investment Book Large Exposures must not exceed in the aggregate eight times such bank's or group's Regulatory Banking Capital; (iii) the Investment Book Large Exposures to a single client or group of clients must not exceed 25% of the bank's or group of institutions' Regulatory Banking Capital; (iv) Investment Book Large Exposures to an affiliated enterprise of the bank or group of institutions outside the group of institutions must not exceed 20% of the bank's or group of institutions' Regulatory Banking Capital; (v) the aggregate amount of Trading Book Large Exposures and Investment Book Large Exposures to a client or group of clients must not exceed 25% of the bank's or group of institutions' Own Funds; and (vi) the aggregate amount of Trading Book Large Exposures and Investment Book Large Exposures must not exceed 20% of the bank's or group of institutions' Own Funds. With the approval of the German Banking Supervisory Authority, a bank or group of institutions may exceed these ceilings. A bank or group of institutions must, however, notify the German Banking Supervisory Authority and the Bundesbank without delay if it exceeds one or more of these ceilings, and the amount of any Large Exposure in excess of the relevant ceiling must be subtracted from the Regulatory Banking Capital of the bank or of the group of institutions in the case of (ii), (iii) and (iv) above or from the Own Funds of the bank or of the group of institutions in the case of (i), (v) and (vi) above for purposes of determining compliance with the capital adequacy requirements discussed above. See "– Capital Adequacy Requirements". In addition, the Trading Book Exposures to a single client or group of clients must not exceed five times the bank's or group of institutions' Own Funds, to the extent such Own Funds are not required to meet the capital adequacy requirements with respect to the investment

book. Aggregate Trading Book Exposures to a single client or group of clients in excess of the aforementioned limit are impermissible.

For banks and groups of institutions that are not Trading Bank Institutions, Large Exposures are comparable to the Investment Book Large Exposures of a Trading Book Institution and are subject to the following limitations: (i) Large Exposures of a bank or group may not exceed in the aggregate eight times the bank's or group's Regulatory Banking Capital; (ii) no Large Exposure to a single client or group of clients may exceed 25% of the bank's or group's Regulatory Banking Capital; and (iii) no single Large Exposure to an unconsolidated affiliate of the bank or group may exceed 20% of the bank's or group's Regulatory Banking Capital. With the approval of the German Banking Supervisory Authority, a bank or group may exceed one or both of the first two of these ceilings. A bank or banking group must, however, notify the German Banking Supervisory Authority and the Bundesbank without delay if it exceeds one or both of these ceilings, and the amount of any outstanding Large Exposure in excess of the relevant ceiling (the larger of the excess amounts under the two respective clauses, if both ceilings are exceeded) must be subtracted from the bank's or the banking group's Regulatory Banking Capital for purposes of determining compliance with the risk-based capital adequacy rules discussed above. See "– Capital Adequacy Requirements".

The Bank is currently not a Trading Book Institution but expects that not later than the first quarter of 2002 it will compute its Large Exposure limitations as a Trading Book Institution.

The term "group of institutions" for purposes of the Large Exposure limitations is defined in the same manner as for capital adequacy purposes (see "– Capital Adequacy Requirements").

#### **Limitations on Significant Participations**

The nominal value (as opposed to the book value or price paid) of the Significant Participations of a deposit credit institution (such as the Bank) (as defined below) in an enterprise (other than an institution, financial enterprise, insurance company or a bank service enterprise) must not exceed 15% of the Regulatory Banking Capital of the bank, and the aggregate nominal value of all Significant Participations of a deposit taking bank must not exceed 60% of such bank's Regulatory Banking Capital. A bank may exceed the 15% and 60% limitations on Participations if it covers the Significant Participations in excess of these limits by Regulatory Banking Capital and does not include such portion of its Regulatory Banking Capital in the calculations to determine compliance with the capital adequacy rules. "Significant Participation" is defined in the Banking Act as a participation (i) that directly or indirectly constitutes at least 10% of the capital or the voting rights of an enterprise or (ii) that affords the possibility of exercising a significant influence over the management of the enterprise in which the participation exists. This does not apply to Significant Participations which are not intended to serve the business operations of the bank by the establishment of a permanent relationship. All the participations in an enterprise which the bank owns indirectly through one or more subsidiaries are fully attributed to the bank. The limitations on participations also apply on a consolidated basis. Mortgage banks are subject to the more stringent limitations on permissible investments set forth in the Mortgage Bank Act.

#### **Policies on Trading Activities**

On October 23, 1995, the German Banking Supervisory Authority issued a release concerning certain minimum requirements that German banks must observe with respect to transactions relating to money market activities, securities, foreign exchange, precious metals and derivatives. The release stresses the responsibility of senior management for the proper organization and monitoring of trading and sales activities, requires that banks adopt written policies regarding such activities, imposes specific requirements with respect to activities in new products and deals with the qualifications and remuneration of trading and sales staff, record retention, risk controlling and management and the internal organization of trading, sales, settlement and accounting.

## Financial Statements and Audits

The financial statements determining compliance with the capital adequacy requirements are prepared in accordance with the German Commercial Code (*Handelsgesetzbuch*) and the Regulation on Accounting by Credit Institutions (*Verordnung über die Rechnungslegung der Kreditinstitute*). The Regulation on Accounting by Credit Institutions, which mandates a uniform format for the presentation of financial statements for all banks, reflects the EC Council Directive of December 8, 1986 on annual accounts and consolidated accounts of banks and other financial institutions. Pursuant to an amendment to the German Commercial Code which became effective on April 23, 1998, exchange-listed companies such as the Pfandbriefbank are permitted to prepare their consolidated financial statements in accordance with internationally recognized accounting principles meeting certain requirements, including US GAAP. Although after the Restructuring the Bank intends to prepare its consolidated annual financial statements in accordance with US GAAP, compliance with the capital adequacy requirements on a consolidated basis will continue to be determined on the basis of consolidated financial statements prepared in accordance with German GAAP.

Under German law, the Bank must be audited annually by a certified public accountant (*Wirtschaftsprüfer*) who is appointed by the shareholders' general meeting and mandated by the Supervisory Board. The German Banking Supervisory Authority must be informed of and may reject such appointment. Under the Banking Act, a bank's certified public accountant is required to inform the German Banking Supervisory Authority of any facts coming to the accountant's attention which give reason to deny or qualify the certifications of the bank's annual financial statements or adversely affect the financial position of the bank, as well as of any material breach by the bank's management of the law or the bank's articles of association. The certified public accountant is required to prepare annually a detailed and comprehensive audit report (*Prüfungsbericht*), which is submitted to the Supervisory Board of the bank, the German Banking Supervisory Authority and the Bundesbank. The contents of the report are prescribed in a regulation issued by the German Banking Supervisory Authority. In particular, the certified public accountant must confirm that the bank has complied with: (i) the regulatory reporting requirements; (ii) the Large Exposures limitations; (iii) the limitations on extension of credit to borrowers forming a unit of borrowers; (iv) the principles as to capital adequacy and liquidity; and (v) regulations concerning the prudential granting of credit. The audit report must also discuss in detail certain large loans or loans important for other reasons and confirm compliance with certain provisions of the Banking Act, match assets and liabilities bearing interest at fixed rates according to maturity and assets and liabilities bearing interest at floating rates according to interest periods, and explain the effect of a change in interest rates on the unmatched portion of such assets and liabilities, respectively.

Furthermore, the auditors of the bank report to the Federal Securities Trading Supervisory Authority on the bank's internal compliance organization for preventing the misuse of insider information and the bank's compliance with the rules of conduct for securities firms under the German Securities Trading Act (*Wertpapierhandelsgesetz*).

## Reporting Requirements

In order to enable the German Banking Supervisory Authority and the Bundesbank to monitor compliance with the Banking Act and other applicable legal requirements and to obtain information on the financial condition of banks, the German Banking Supervisory Authority and the Bundesbank require the filing of comprehensive information.

Each bank must provide the German Banking Supervisory Authority or the Bundesbank or both with, inter alia, the following information:

- (i) immediate notice of certain organizational changes (including certain proposed changes); the acquisition or sale of more than 10% of the equity of another company or changes in the amount of

such equity share; loss of 25% of the Regulatory Banking Capital, the commencement or termination of certain non-banking activities; the acquisition or termination of a Significant Participation in the bank giving notice; the bank's status as subsidiary; the existence, change in or termination of any "close relationship" with another company (i.e., ownership of at least 20% of the capital or voting rights); and

(ii) on an annual basis, audited unconsolidated and consolidated financial statements for the bank.

Further reports must, inter alia, be submitted to the Bundesbank (which will convey copies thereof to the German Banking Supervisory Authority):

(i) on a monthly basis, balance sheet and statistical information;

(ii) on a monthly basis, compliance statements with regard to the capital adequacy rules and the requirements on liquidity and statements on foreign lending if loans to borrowers who are not residents of countries which are members of the OECD or of countries which have entered into certain agreements with the International Monetary Fund exceed DM 50,000,000 in the aggregate; and

(iii) on a quarterly basis, a list of the borrowers to whom the reporting bank has granted loans of DM 3,000,000 or more and certain information about the amount and the type of loan, including syndicated loans exceeding this amount even if the reporting bank's share does not exceed DM 3,000,000.

If several banks report to the Bundesbank loans of DM 3,000,000 or more to the same borrower, the Bundesbank must inform the reporting banks of the total reported indebtedness and of the type of such indebtedness of such borrower and of the number of reporting lending banks.

If a bank is the parent bank of a group of institutions (as defined under "– Capital Adequacy Requirements"), such bank must have access to information as to the capital and the Large Exposures of the other companies belonging to the group of institutions in order to comply with the requirements of the Banking Act (and regulations issued thereunder) with respect to capital adequacy requirements and limitations on Large Exposures, including the duty to report on a consolidated basis. The Banking Act obliges German companies that are part of a group of institutions to provide such information to the German parent bank and obliges the German parent bank to agree with foreign companies that are part of its group of institutions on the supply of appropriate information. If it is not possible for the parent bank to obtain the information necessary for the consolidation procedure from a group company, the book value of the participation in such company must be deducted when computing the Own Funds of the parent bank.

### **Enforcement of Banking Regulations; Investigative Powers**

To ensure that German banks fully comply with all applicable regulatory and reporting requirements, the German Banking Supervisory Authority requires the maintenance of an effective internal auditing department adequate in size and quality and procedures for monitoring and controlling their own activities. Further, a bank must establish a written plan of organization which must set forth the responsibilities of the employees and operating procedures and the internal audit department must examine compliance with this plan and these responsibilities and procedures. The German Banking Supervisory Authority conducts audits of banks on a random basis as well as for particular reasons.

In order to secure compliance with the Banking Act and the regulations issued thereunder, the German Banking Supervisory Authority and the Bundesbank may require information and documents from a bank and the German Banking Supervisory Authority may conduct investigations of a bank

without having to give any particular reason. Investigations may also be conducted at a foreign subsidiary that forms a group of institutions with a bank, if necessary to verify the correctness of data relevant for consolidation, Large Exposure limitations and reports relating thereto, to the extent permitted under the law of the country where such subsidiary has its registered office. In addition, the German Banking Supervisory Authority may attend meetings of the bank's supervisory board and of the bank's shareholders (and require such meetings to be convened).

In the event that the German Banking Supervisory Authority discovers irregularities, it has a wide range of enforcement powers. The German Banking Supervisory Authority can remove the bank's managers from office or prohibit their further activity. If the Own Funds of a bank are not adequate, or if the liquidity requirements are not met, and if the bank has failed to remedy the deficiency within a period determined by the German Banking Supervisory Authority, the German Banking Supervisory Authority may prohibit or restrict the distribution of profits or the extension of credit. These prohibitions also apply to the parent bank of a group of institutions if the Own Funds of the bank's group enterprises do not meet the legal requirements. If the liquidity requirements are not met, the German Banking Supervisory Authority may also prohibit further investments in illiquid assets.

If a bank is in danger of defaulting on its obligations to creditors, the German Banking Supervisory Authority may take emergency measures to avert default. In this context it may, inter alia: (i) issue instructions relating to the management of the bank, (ii) prohibit the acceptance of deposits and the extension of credit, (iii) prohibit or restrict the managers of the bank from carrying on their functions, and (iv) appoint supervisors. If these measures are inadequate, the German Banking Supervisory Authority may revoke the bank's license and, if appropriate, order that the bank be closed. To avoid the insolvency of a bank, the German Banking Supervisory Authority has the authority to prohibit payments and disposals of assets, to close customer services, and to prohibit the acceptance of payments other than in payment of debt owed to the bank. Violations of the Banking Act may result in criminal and administrative penalties.

## **Deposit Protection**

The Law on Deposit Insurance and Investor Compensation (*Einlagensicherungs- und Anlegerentschädigungsgesetz*, the "Deposit Guarantee Act"), which is part of the Law on the Implementation of the EU Directive on Deposit Guarantee Schemes and the EU Directive on Investor Compensation Schemes (*Gesetz zur Umsetzung der EG-Einlagensicherungsrichtlinie und der EG-Anlegerentschädigungsrichtlinie*) and became effective on August 1, 1998, for the first time introduced a mandatory deposit insurance system in Germany. Under the Deposit Guarantee Act, each bank must belong to one of the licensed government-controlled investor compensation institutions (*Entschädigungseinrichtungen*). The investor compensation institutions are supervised by the German Banking Supervisory Authority. Private sector banks, such as the Bank, have been assigned to the *Entschädigungseinrichtung deutscher Banken GmbH* as the competent investor compensation institution. The investor compensation institutions are responsible for the collection and administration of the contributions of the member banks and the settlement of investor compensation claims in accordance with the Deposit Guarantee Act. Under the Deposit Guarantee Act, creditors (except banks and financial institutions, insurance companies, investment funds, Germany, the German Federal States, municipalities, medium-sized and large corporations and other groups of creditors) of a bank which, due to its financial condition, is permanently unable to repay deposits or perform its obligations under securities transactions have a claim against the respective investor compensation institution.

The liability of the investor compensation institution is limited to the payment of obligations resulting from deposits and securities transactions of customers which are denominated in the legal tender of a state that is a contract party to the Treaty on the European Economic Area (EEA) or in Euro and are not represented by a debt instrument in bearer form or to order. In addition, the liability of the investor compensation institution to a creditor of a failed bank is limited in amount, respectively, to 90% of the



aggregate value of the deposits of the creditor with such bank and to 90% of the aggregate value of the obligations arising from securities transactions, in each case limited to a maximum of Euro 20,000 (or the equivalent in any other currency). Members of an investor compensation institution are required to file their annual financial statements and auditing report with, and give all necessary information to, the relevant institution. The investor compensation institutions conduct inspections of banks in order to reduce the risk of failures.

In addition to the mandatory deposit insurance system, liabilities to creditors which are not covered under the Deposit Guarantee Act may be covered by one of the various protection funds set up by the banking industry on a voluntary basis. The Bank takes part in the Deposit Protection Fund of the Association of German Banks (*Einlagensicherungsfonds des Bundesverbandes Deutscher Banken*). The Deposit Protection Fund covers liabilities to customers (liabilities to other banks are specifically excluded) up to an amount equal to 30% of the Core Capital and the Supplementary Capital (to the extent that the Supplementary Capital does not exceed 25% of the Core Capital). The obligations of banks represented by bearer instruments are not covered by the Deposit Protection Fund.

Furthermore, depositors and other creditors of German banks are protected by the arrangements with *Liquiditäts-Konsortialbank GmbH* ("LIKO"), a bank founded by the German government in 1974 in order to provide funding for any German bank that experiences liquidity problems. The Bundesbank owns 30% of the shares of LIKO, the remaining shares are held by all other German banks and banking associations. The Bank's participation is € 1 million, with an obligation to make additional payments of € 6 million. In addition, the Bank is severally liable, together with the other members of the association, for an additional capital contribution in the amount of € 56 million.

## DEPFA BANK CAPITAL FUNDING TRUST

The Trust is a statutory business trust formed under the Delaware Business Trust Act, as amended (the "Trust Act"), pursuant to the trust agreement executed by the Company, as sponsor, Bankers Trust Company, as trustee (the "Property Trustee") and Bankers Trust (Delaware), as Delaware trustee (the "Delaware Trustee"), and the filing of a certificate of trust with the Secretary of State of the State of Delaware on November 1, 2001. Such trust agreement will be amended and restated in its entirety prior to the issuance of the Trust Preferred Securities to reflect the terms of the Trust Preferred Securities (as so amended and restated, the "Trust Agreement"). The Bank or a majority-owned subsidiary will own the Trust Common Security representing a capital contribution in respect thereof equal to € 25. The Trust Common Security will rank *pari passu*, and payments thereon will be made *pro rata*, with the Trust Preferred Securities, except that in liquidation and in certain circumstances described under "Description of the Trust Securities – Subordination of the Trust Common Security," the rights of the holder of the Trust Common Security to periodic distributions and to payments upon liquidation, redemption and otherwise will be subordinated to the rights of the holders of the Trust Preferred Securities.

The Trust will use all the proceeds derived from the issuance of the Trust Securities to purchase the Class B Preferred Securities from the Company, and, accordingly, the assets of the Trust will consist solely of the Class B Preferred Securities. The Trust exists for the sole purposes of:

- (i) issuing the Trust Securities representing undivided beneficial ownership interests in the assets of the Trust,
- (ii) investing the proceeds from the issuance of the Trust Securities in the Class B Preferred Securities, and
- (iii) engaging in those other activities necessary or incidental thereto.

The Trust may also in the future issue, in one or more transactions, up to an additional 920,000 Trust Preferred Securities in consideration of the receipt of an equal number of additional Class B Preferred Securities.

Pursuant to the Trust Agreement, there will be four trustees (the "Trustees") of the Trust. Two of the Trustees will be individuals who are employees or officers of, or who are affiliated with, the Bank or one of its affiliates (the "Regular Trustees"). The third Trustee, the Property Trustee, will be a financial institution that is unaffiliated with the Bank. The fourth Trustee will be the "Delaware Trustee." Initially, Bankers Trust Company will act as Property Trustee, and Bankers Trust (Delaware), a Delaware banking corporation, will act as Delaware Trustee, until, in each case, removed or replaced by the holder of the Trust Common Security.

The Property Trustee will hold title to the Class B Preferred Securities for the benefit of the holders of the Trust Securities, and the Property Trustee will have the power to exercise all rights, powers and privileges with respect to the Class B Preferred Securities under the LLC Agreement. In addition, the Property Trustee will maintain exclusive control of a segregated non-interest bearing trust account (the "Property Account") to hold all payments made in respect of the Class B Preferred Securities for the benefit of the holders of the Trust Securities. The Bank or a majority-owned subsidiary, as the holder of the Trust Common Security, will have the right to appoint, remove or replace any of the Trustees and to increase or decrease the number of Trustees, *provided* that at least one Trustee will be the Delaware Trustee, at least one Trustee will be the Property Trustee and at least one Trustee will be a Regular Trustee.

For so long as the Trust Preferred Securities remain outstanding, the Bank will covenant:

- (i) that the Trust Common Security will be held by the Bank or by a majority-owned subsidiary of the Bank,
- (ii) to cause the Trust to remain a statutory business trust and not to voluntarily dissolve, wind up, liquidate or be terminated, except as permitted by the Trust Agreement, and
- (iii) to use its commercially reasonable efforts to ensure that the Trust will not be classified as other than a grantor trust for United States federal income tax purposes.

The rights of the holders of the Trust Preferred Securities, including economic rights, rights to information and voting rights, are as set forth in the Trust Agreement and the Trust Act. See “Description of the Trust Securities.”

Under the services agreement among the Trust, the Company and the Servicer (the “Services Agreement”), the Servicer will be obligated, among other things, to provide legal, accounting, tax and other general support services to the Trust and the Company, to maintain compliance with all applicable U.S. and German local, state and federal laws, and to provide administrative, recordkeeping and secretarial services for the Company and the Trust. The fees and expenses of the Company and the Trust, including any taxes, duties, assessments or governmental charges of whatsoever nature (other than Withholding Taxes) imposed by any taxing authority upon the Company or the Trust, and all other obligations of the Company and the Trust (other than with respect to the Trust Securities or the Company Securities) will be paid by the Bank.

The location of the principal executive office of the Trust in New York is 410 Park Avenue, New York, New York 10022.

The following table sets forth the capitalization of the Trust as of November 1, 2001 and as adjusted to reflect the consummation of the Offering of 9,200,000 Trust Preferred Securities and the use of the net proceeds therefrom as described under “Use of Proceeds”.

	<u>November 1, 2001</u>	
	<u>Actual</u>	<u>As Adjusted</u>
	(€ in thousands)	
<b>Debt</b>		
Total debt . . . . .	0	0
<b>Securityholders’ Interests</b>		
Trust Preferred Securities: none issued and outstanding, actual; and securities authorized, 9,200,000 securities issued and outstanding, as adjusted . . . . .	0	230,000.0
Trust Common Security: none issued and outstanding, actual; and 1 Trust Common Security authorized, 1 Trust Common Security issued and outstanding, as adjusted . . . . .	0	.1
Total securityholders’ interests . . . . .	0	230,000.1
Total Capitalization . . . . .	0	230,000.1

## DEPFA BANK CAPITAL FUNDING LLC

The Company is a limited liability company that was formed under the Delaware Limited Liability Company Act, as amended (the "LLC Act") pursuant to the filing of a certificate of formation of the Company with the Secretary of State of the State of Delaware on November 1, 2001. Such limited liability company agreement of the Company will be amended and restated in its entirety (as so amended and restated, the "LLC Agreement") prior to the issuance of the Trust Preferred Securities. Pursuant to the LLC Agreement, the Company will issue two classes of non-voting preferred securities representing limited liability company interests in the Company, the Class A Preferred Security and the Class B Preferred Securities, and one class of common security representing limited liability company interests in the Company, the Company Common Security. The Property Trustee will initially hold 100% of the issued and outstanding Class B Preferred Securities. The Bank or a majority-owned subsidiary will initially hold the issued and outstanding Company Common Security. The Bank or a wholly-owned subsidiary will hold the issued and outstanding Class A Preferred Security.

The sole purposes of the Company are:

- (i) to issue the Class A Preferred Security, the Class B Preferred Securities and the Company Common Security,
- (ii) to invest the proceeds thereof in the Initial Debt Obligations,
- (iii) upon any redemption of the Initial Debt Obligations prior to the Maturity Date which does not involve a redemption of the Class B Preferred Securities, to reinvest the proceeds in Substitute Debt Obligations issued by the Bank or a Qualified Issuer with identical terms to those of the Initial Debt Obligations, so long as any such reinvestment does not result in a Company Special Redemption Event, and the Bank unconditionally guarantees, on a subordinated basis, the obligations of the new obligor, if not the Bank itself or a branch of the Bank.
- (iv) in the event of any default on the Debt Obligations, to enforce its rights for payment of any overdue amounts,
- (v) after the Maturity Date, if the Class B Preferred Securities have not been redeemed on the Maturity Date, to invest in Permitted Investments of Qualified Issuers (not including the Bank),
- (vi) to enter into and, in certain circumstances, to enforce the Support Undertaking for the sole benefit of the holders of the Class B Preferred Securities, and
- (vii) to engage in those other activities necessary or incidental thereto.

The Company may also in the future issue, in one or more transactions, up to an additional 920,000 Class B Preferred Securities in consideration of receipt of Debt Obligations in a principal amount equal to the aggregate Liquidation Preference Amount of such additional Class B Preferred Securities.

For so long as the Class B Preferred Securities remain outstanding, the LLC Agreement provides that:

- (i) the Company will remain a limited liability company and, to the fullest extent permitted by law, will not voluntarily or involuntarily liquidate, dissolve, wind up or be terminated, except as permitted by the LLC Agreement;

- (ii) the Bank and the Company will use their commercially reasonable efforts to ensure that the Company will not be an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes;
- (iii) the Bank undertakes that the Bank or a majority-owned subsidiary of the Bank will maintain sole ownership of the Company Common Security and that the Bank or a wholly-owned subsidiary will maintain sole ownership of the Class A Preferred Security; and
- (iv) the Bank or a majority-owned subsidiary (each, a “Potential Common Securityholder”) may transfer the Company Common Security to the other Potential Common Securityholder, and the Bank or a wholly-owned subsidiary (each a “Potential Class A Securityholder”) may transfer the Class A Preferred Security to the other Potential Class A Securityholder, *provided* that prior to such transfer it has received an opinion of a nationally recognized law firm in the United States experienced in such matters to the effect that:
  - (A) the Company will continue to be treated as a partnership, and not as an association or publicly traded partnership taxable as a corporation, for United States federal income tax purposes,
  - (B) such transfer will not cause the Company to be required to register under the 1940 Act, and
  - (C) such transfer will not adversely affect the limited liability of the holders of the Class B Preferred Securities.

The rights of the holders of the Class B Preferred Securities, including economic rights, rights to information and voting rights, are set forth in the LLC Agreement and the LLC Act. See “Description of the Company Securities – Class B Preferred Securities”.

The Company’s business and affairs will be conducted by its Board of Directors, which initially will consist of three members, elected by the Bank or a majority-owned subsidiary as the holder of the Company Common Security. However, in the event that:

- the Company fails to pay Capital Payments (including Additional Amounts thereon) on the Class B Preferred Securities at the Stated Rate in full for four consecutive Payment Periods or
- a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking and such failure continues for 60 days after such notice is given,

then the holders of the Class B Preferred Securities will have the right to appoint the Independent Enforcement Director. The Independent Enforcement Director’s term will end if, in such Independent Enforcement Director’s sole determination Capital Payments have been made on the Class B Preferred Securities at the Stated Rate in full for at least four consecutive Payment Periods and the Bank is in compliance with its obligations under the Support Undertaking.

So long as any Class B Preferred Securities are outstanding, the Company will not, without the vote of at least 66<sup>2</sup>/<sub>3</sub>% in aggregate liquidation preference amount of the Class B Preferred Securities, voting separately as a class (excluding any Class B Preferred Securities held by the Bank or any of its affiliates),

- (i) amend, alter, repeal or change any provision of the LLC Agreement (including the terms of the Class B Preferred Securities) if such amendment, alteration, repeal or change would materially adversely affect the rights, preferences, powers or privileges of the Class B Preferred Securities, or
- (ii) effect any merger, consolidation, or business combination involving the Company, or any sale of all or substantially all of the assets of the Company, *provided*, that any such merger, consolidation, or

business combination involving the Company, or any sale of all or substantially all of the assets of the Company, also must comply with the requirements set forth under “Description of the Company Securities – Mergers, Consolidations and Sales”.

The Company will not, without the consent of all the holders of the Class B Preferred Securities (excluding any Class B Preferred Securities held by the Bank or any of its affiliates), issue any additional equity securities of the Company ranking prior to or *pari passu* with the Class B Preferred Securities as to periodic distribution rights or rights on liquidation or dissolution of the Company.

After the Maturity Date, if the Class B Preferred Securities have not been redeemed on the Maturity Date, the Company will invest in Permitted Investments. The Company will select for purchase Permitted Investments in the following order of priority and within each category on terms that are the best available in relation to providing funds for the payment of Capital Payments, any Additional Amounts and the Redemption Price of the Class B Preferred Securities:

- first, debt obligations of a Qualified Issuer, not including the Bank, unconditionally guaranteed by the Bank on a subordinated basis that ranks at least *pari passu* with the Debt Obligations, or
- second, in the event such an investment is not available, in U.S. Treasury securities.

The Company will also enter into the Services Agreement with the Trust and the Servicer, under which the Servicer will be obligated, among other things, to provide legal, accounting, tax and other general support services to the Company and the Trust, to maintain compliance with all applicable U.S. and German local, state and federal laws, and to provide administrative, recordkeeping and secretarial services for the Company and the Trust. The fees and expenses of the Trust and the Company, including any taxes, duties, assessments or governmental charges of whatever nature (other than Withholding Taxes) imposed by any taxing authority upon the Company or the Trust, and all other obligations of the Company and the Trust (other than with respect to the Trust Securities or the Company Securities) will be paid by the Bank.

The holders of the Class B Preferred Securities are third-party beneficiaries of the Support Undertaking between the Bank and the Company. See “Description of the Support Undertaking”.

The location of the principal executive offices of the Company in New York is 410 Park Avenue, New York, New York 10022.

The following table sets forth the capitalization of the Company as of November 1, 2001 and as adjusted to reflect the consummation of the Offering of 9,200,000 Trust Preferred Securities and the use of the net proceeds therefrom as described under “Use of Proceeds”.

	November 1, 2001	
	Actual	As Adjusted
	(€ in thousands)	
<b>Debt</b>		
Total long-term debt . . . . .	0	0
<b>Securityholders’ Equity</b>		
Class B Preferred Securities: none issued and outstanding, actual; and 9,200,004 Class B Preferred Securities authorized, issued and outstanding, as adjusted . . . . .	0	230,000.1
Class A Preferred Securities: none issued and outstanding, actual; and 1 Class A Preferred Security authorized, issued and outstanding, as adjusted . . . . .	0	.1
Company Common Security: none issued and outstanding, actual; and 1 Company Common Security authorized, issued and outstanding, as adjusted	0	.1
Total securityholders’ interests . . . . .	0	230,000.3
<b>Total Capitalization</b> . . . . .	0	230,000.3

## DESCRIPTION OF THE TRUST SECURITIES

The Trust Securities will be issued pursuant to the terms of the Trust Agreement. The following describes the material terms and provisions of the Trust Securities. This description does not purport to be complete and is subject to, and qualified in its entirety by reference to, the terms and provisions of the Trust Agreement and the Trust Act.

### General

The Trust Securities will be issued in fully registered form without coupons. The Trust Securities will not be issued in bearer form.

The Trust Agreement authorizes the Regular Trustees of the Trust to issue the Trust Securities, which represent undivided beneficial ownership interests in the assets of the Trust. Title to the Class B Preferred Securities will be held by the Property Trustee for the benefit of the holders of the Trust Securities. The Trust Agreement does not permit the Trust to acquire any assets other than the Class B Preferred Securities, issue any securities other than the Trust Securities or incur any indebtedness.

### Capital Payments

Capital Payments will accrue on the Liquidation Preference Amount of the Trust Securities (or capital contribution in respect thereof) at a rate per annum equal to 7.125% payable on each Payment Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Payment Date (or the issue date with respect to Capital Payments payable on December 31, 2001) to but excluding the relevant Payment Date.

If any Payment Date or Redemption Date during such period falls on a day that is not a Business Day, the relevant payment will be payable on the next succeeding Business Day unless that day falls in the next calendar month, in which case such payment will be due on the immediately preceding Business Day, without any adjustment, interest or further payment as a result thereof.

Capital Payments on the Trust Securities are expected to be paid out of Capital Payments received by the Trust from the Company on the Class B Preferred Securities. Capital Payments on the Class B Preferred Securities are expected to be paid by the Company out of its Operating Profits. See "Description of the Company Securities – Class B Preferred Securities – Capital Payments." If the Company does not declare (and is not deemed to have declared) a Capital Payment on the Class B Preferred Securities in respect of any Payment Period, the holders of the Class B Preferred Securities will have no right to receive a Capital Payment on the Class B Preferred Securities in respect of such Payment Period, and the Company will have no obligation to pay a Capital Payment on the Class B Preferred Securities in respect of such Payment Period, whether or not Capital Payments are declared and paid on the Class B Preferred Securities in respect of any future Payment Period. In such a case, no Capital Payments will be made on the Trust Securities in respect of such Payment Period.

Each declared Capital Payment will be payable to the holders of record of the Trust Securities as they appear on the books and records of the Trust at the close of business on the corresponding record date. The record dates for the Trust Securities will be

- (i) so long as the Trust Securities remain in book-entry form, one Business Day prior to the relevant Payment Date, and
- (ii) in all other cases, the 15th day of the month in which the relevant Payment Date occurs.

Such Capital Payments will be paid through the Property Trustee who will hold amounts received in respect of the Class B Preferred Securities in the Property Account for the benefit of the holders of the

Trust Securities, subject to any applicable laws and regulations and the provisions of the Trust Agreement.

The right of the holders of the Trust Securities to receive Capital Payments is noncumulative. Accordingly, if the Trust does not have funds available for payment of a Capital Payment in respect of any Payment Period, the holders will have no right to receive a Capital Payment in respect of such Payment Period, and the Trust will have no obligation to pay a Capital Payment in respect of such Payment Period, whether or not Capital Payments are paid in respect of any future Payment Period.

Except as described under “– Subordination of Trust Common Securities” below, all Capital Payments and other payments to holders of the Trust Securities will be distributed among holders of record *pro rata*, based on the proportion that the aggregate Liquidation Preference Amount of the Trust Securities held by each holder bears to the aggregate Liquidation Preference Amount of all Trust Securities.

### **Payments of Additional Amounts**

All payments on the Trust Securities by the Trust, and any repayment upon redemption thereof, will be made without withholding or deduction for or on account of Withholding Taxes unless the Trust is required by law to make such deduction or withholding. In such event, the Trust will pay, as additional Capital Payments, such Additional Amounts as may be necessary in order that the net amounts received by the holders of the Trust Preferred Securities will equal the amounts that would have been received had no such deduction or withholding been required. However, no such Additional Amounts will be payable in respect of the Trust Securities:

- if and to the extent that the Company is unable to pay corresponding amounts in respect of the Class B Preferred Securities because such payment would exceed the Distributable Profits of the Bank for the preceding fiscal year (after subtracting from such Distributable Profits the amount of the Capital Payments on the Class B Preferred Securities and dividends or other distributions or payments on Parity Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable);
- with respect to any Withholding Taxes that are payable by reason of a holder or beneficial owner of the Trust Securities having some connection with any Relevant Jurisdiction other than by reason only of the mere holding of the Trust Securities;
- where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of November 26-27, 2000 or the Proposed EU Savings Tax Directive, or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- where such deduction or withholding can be avoided if the holder or beneficial owner of the Trust Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority.



## Trust Enforcement Events

The occurrence, at any time, of:

- (i) non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Trust Preferred Securities or the Class B Preferred Securities at the Stated Rate in full, for four consecutive Payment Periods or

- (ii) a failure by the Bank to perform any of its obligations under the Support Undertaking

will constitute an enforcement event under the Trust Agreement with respect to the Trust Securities (a "Trust Enforcement Event"); *provided*, that, pursuant to the Trust Agreement, the holder of the Trust Common Security will be deemed to have waived any Trust Enforcement Event with respect to the Trust Common Security until all Trust Enforcement Events with respect to the Trust Preferred Securities have been cured, waived or otherwise eliminated. Until such Trust Enforcement Events with respect to the Trust Preferred Securities have been so cured, waived or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the holders of the Trust Preferred Securities and only the holders of the Trust Preferred Securities will have the right to direct the Property Trustee with respect to certain matters under the Trust Agreement. In the case of non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Class B Preferred Securities referred to in clause (i) above or the continuation of a failure by the Bank to perform any obligation under the Support Undertaking for a period of 60 days after notice thereof has been given to the Company by the Property Trustee or any holder of the Class B Preferred Securities, holders of the Trust Preferred Securities will have the right to appoint the Independent Enforcement Director. See "Description of the Company Securities – Class B Preferred Securities – Voting Rights."

Upon the occurrence of a Trust Enforcement Event, the Property Trustee will have the right to enforce the rights of the holders of the Class B Preferred Securities, including:

- (i) claims to receive Capital Payments (only if and to the extent declared or deemed to have been declared) on the Class B Preferred Securities;
- (ii) appointment of the Independent Enforcement Director (to the extent that such Trust Enforcement Event results from non-payment of Capital Payments on the Class B Preferred Securities for four consecutive Payment Periods or the continuation of a failure by the Bank to perform any obligation under the Support Undertaking for a period of 60 days after notice thereof has been given to the Company by the Property Trustee or any holder of the Class B Preferred Securities); and
- (iii) assertion of the rights under the Support Undertaking as it relates thereto.

If the Property Trustee fails to enforce its rights under the Class B Preferred Securities after a holder of the Trust Preferred Securities has made a written request, such holder of record of the Trust Preferred Securities may directly institute a legal proceeding against the Company to enforce the Property Trustee's rights under the Class B Preferred Securities without first instituting any legal proceeding against the Property Trustee, the Trust or any other person or entity.

## Redemption

Upon redemption of the Class B Preferred Securities, the Trust must apply the redemption price received in connection therewith to redeem a corresponding number of the Trust Securities. The Class B Preferred Securities are redeemable at the option of the Company, in whole but not in part, on any Payment Date falling on or after the Initial Redemption Date. The Company will also have a right to redeem the Class B Preferred Securities at any time prior to the Initial Redemption Date upon at least

30 days' prior notice, in whole but not in part, upon the occurrence of a Company Special Redemption Event. A "Company Special Redemption Event" means (i) a Regulatory Event, (ii) a Tax Event or (iii) an Investment Company Act Event with respect to the Company.

Any redemption, whether upon the occurrence of a Company Special Redemption Event or after the Initial Redemption Date, will be made at a redemption price per Class B Preferred Security equal to the liquidation preference amount thereof, plus accrued and unpaid Capital Payments on the Class B Preferred Securities for the then current Payment Period to but excluding the Redemption Date, and Additional Amounts, if any. The Company may exercise its right to redeem the Class B Preferred Securities only if it has:

- (i) given at least 30 days' prior notice (or such longer period as required by the relevant regulatory authorities) to the holders of the Class B Preferred Securities of its intention to redeem the Class B Preferred Securities on the Redemption Date, and
- (ii) obtained any required regulatory approvals.

The Trust Agreement will provide that the Property Trustee will promptly give notice to the holders of the Trust Securities of the Company's intention to redeem the Class B Preferred Securities on the Redemption Date.

The Class B Preferred Securities and the Trust Preferred Securities will not have any scheduled maturity date and will not be redeemable at any time at the option of the holders thereof. Upon any redemption of the Class B Preferred Securities, the proceeds of such redemption will simultaneously be applied to redeem a corresponding amount of the Trust Securities. Any Class B Preferred Securities or Trust Securities that are redeemed will be canceled, and not reissued, following their redemption.

Upon the occurrence of a Trust Special Redemption Event or in the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Trust, holders of the Trust Preferred Securities will be entitled to receive a corresponding number of the Class B Preferred Securities.

If, at any time, a Trust Special Redemption Event occurs and is continuing, the Regular Trustees will, within 90 days following the occurrence of such Trust Special Redemption Event, dissolve the Trust upon not less than 30 nor more than 60 days' notice to the holders of the Trust Securities and upon not less than 30 nor more than 60 days' notice to, and consultation with Clearstream and Euroclear, with the result that, after satisfaction of the claims of creditors of the Trust, if any, Class B Preferred Securities would be distributed on a *pro rata* basis to the holders of the Trust Preferred Securities and the holder of the Trust Common Security in liquidation of such holders' interest in the Trust, *provided, however*, that, if, at such time, the Trust has the opportunity to eliminate, within such 90-day period, the Trust Special Redemption Event by taking some ministerial action (a ministerial act is an administrative action such as filing a form or making an election), or some other similar reasonable measures, which in the sole judgment of the Bank will cause no adverse effect on the Company, the Trust, the Bank or the holders of the Trust Securities and will involve no material costs, then the Trust will pursue any such measure in lieu of dissolution.

A "Trust Special Redemption Event" means

- (i) a Tax Event solely with respect to the Trust, but not with respect to the Company, or
- (ii) an Investment Company Act Event solely with respect to the Trust, but not with respect to the Company.

A “Tax Event” means the receipt by the Bank of an opinion of a nationally recognized law firm or other tax adviser in a Relevant Jurisdiction, experienced in such matters, to the effect that, as a result of:

- (i) any amendment to, or clarification of, or change (including any change that has been adopted but has not yet become effective) in, the laws or treaties (or any regulations promulgated thereunder) of the Relevant Jurisdiction or any political subdivision or taxing authority thereof or therein affecting taxation,
- (ii) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (an “Administrative Action”) or
- (iii) any amendment to, clarification of, or change in the official position or the interpretation of such Administrative Action or any interpretation or pronouncement that provides for a position with respect to such Administrative Action that differs from the theretofore generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification or change is made known, which amendment, clarification or change is effective, or which pronouncement or decision is announced, after the date of issuance of the Company Securities and the Trust Securities,

there is more than an insubstantial risk that

- (a) the Trust or the Company is or will be subject to more than a *de minimis* amount of taxes, duties or other governmental charges, or
- (b) the Trust, the Company or an obligor on the Debt Obligations would be obligated to pay Additional Amounts or Additional Interest Amounts;

provided, however, that none of the foregoing will constitute a Tax Event if it may be avoided by the Bank, the Trust or the Company taking reasonable measures under the circumstances.

“Regulatory Event” means that the Bank is notified by a relevant regulatory authority that, as a result of the occurrence of any amendment to or change (including any change that has been adopted but not yet become effective) in, the applicable banking laws of Germany (or any rules, regulations or interpretations thereunder, including rulings of the relevant banking authorities) or the guidelines of the Basle Committee for Banking Supervision, the Bank is not, or will not be, allowed to treat the Class B Preferred Securities as core capital or Tier I regulatory capital for capital adequacy purposes on a consolidated basis.

An “Investment Company Act Event” means that the Bank will have requested and received an opinion of a nationally recognized U.S. law firm experienced in such matters to the effect that there is more than an insubstantial risk that the Company or the Trust is or will be considered an “investment company” within the meaning of the 1940 Act as a result of any judicial decision, pronouncement or interpretation (irrespective of the manner made known), the adoption or amendment of any law, rule or regulation, or any notice or announcement (including any notice or announcement of intent to adopt such law, rule or regulation) by any U.S. legislative body, court, governmental agency, or regulatory authority, in each case after the date of the issuance of the Company Securities and the Trust Securities.

On the date fixed for any distribution of the Class B Preferred Securities, upon dissolution of the Trust:

- (i) the Trust Securities will no longer be deemed to be outstanding, and

- (ii) certificates representing Trust Securities will be deemed to represent the Class B Preferred Securities having a liquidation preference amount equal to the Liquidation Preference Amount of the Trust Preferred Securities and the liquidation preference amount of the Trust Common Security until such certificates are presented to the Company or its agent for transfer or reissuance.

If the Class B Preferred Securities are distributed to the holders of the Trust Preferred Securities, the Bank will use its commercially reasonable efforts to cause the Class B Preferred Securities to be eligible for clearing and settlement through Euroclear or Clearstream or a successor clearing agent.

### **Redemption Procedures**

If the Trust gives a notice of redemption in respect of the Trust Securities (which notice will be irrevocable), and if the Company has paid to the Property Trustee a sufficient amount of cash in connection with the related redemption of the Class B Preferred Securities, then, by 9:00 a.m., Central European time, on the Redemption Date, the Trust will irrevocably deposit with Euroclear or Clearstream funds sufficient to pay the amount payable on redemption of book-entry certificates and will give Euroclear or Clearstream irrevocable instructions and authority to pay such amount to holders of the Trust Preferred Securities. If notice of redemption will have been given and funds are deposited as required, then upon the date of such deposit, all rights of holders of such Trust Securities so called for redemption will cease, except the right of the holders of such Trust Preferred Securities to receive the redemption price, but without interest on such redemption price. In the event that any date fixed for redemption of the Trust Securities is not a Business Day, then payment of the amount payable on such date will be made on the next succeeding day which is a Business Day (without any interest or other payment in respect of the amount payable due to such delay), except that, if such Business Day falls in the next calendar month, such payment will be made on the immediately preceding Business Day.

### **Purchases of the Trust Preferred Securities**

Subject to the foregoing redemption provisions and procedures and applicable law (including, without limitation, U.S. federal securities laws), the Bank or its subsidiaries may at any time and from time to time purchase outstanding Trust Preferred Securities by tender, in the secondary market or by private agreement.

### **Subordination of the Trust Common Security**

Payment of Capital Payments and other distributions on, and amounts on redemption of, the Trust Securities will generally be made *pro rata* based on the Liquidation Preference Amount of the Trust Preferred Securities and the capital contribution in respect of the Trust Common Security. However, upon the liquidation of the Trust and during the continuance of a default under the Debt Obligations or a failure by the Bank to perform any obligation under the Support Undertaking, holders of the Trust Preferred Securities will effectively have a preference over the holder of the Trust Common Security with respect to payments of Capital Payments and other distributions and amounts upon redemption or liquidation of the Trust.

In the case of any Trust Enforcement Event, the holder of the Trust Common Security will be deemed to have waived any such Trust Enforcement Event until all such Trust Enforcement Events with respect to the Trust Preferred Securities have been cured, waived or otherwise eliminated. Until all Trust Enforcement Events with respect to the Trust Preferred Securities have been so cured, waived or otherwise eliminated, the Property Trustee will act solely on behalf of the holders of the Trust Preferred Securities and not on behalf of the holder of the Trust Common Security, and only the holders of the Trust Preferred Securities will have the right to direct the Property Trustee to act on their behalf.

### **Liquidation Distribution Procedure upon Dissolution**

Pursuant to the Trust Agreement, the Trust will dissolve:

- (i) upon the bankruptcy, insolvency or dissolution of the Bank,
- (ii) upon the filing of a certificate of cancellation with respect to the Company or upon the vote of at least a majority of the outstanding Trust Securities, voting together as a single class, to file a certificate of cancellation and dissolve the Trust,
- (iii) upon the distribution of all of the Class B Preferred Securities upon the occurrence of a Trust Special Redemption Event,
- (iv) upon the entry of a decree of a judicial dissolution of the Company or the Trust, or
- (v) upon the redemption of all of the Trust Securities.

In the event of any voluntary or involuntary liquidation, dissolution, winding up or termination of the Trust, the holders of the Trust Securities will be entitled to receive, after payment of Trust liabilities, a corresponding amount of the Class B Preferred Securities. The holders of the Trust Preferred Securities will effectively have a preference over the holder of the Trust Common Security with respect to distributions upon liquidation of the Trust.

### **Voting Rights**

Except as expressly required by applicable law, or except as provided for in the Trust Agreement, the holders of the Trust Preferred Securities will not be entitled to vote on the affairs of the Trust or the Company. So long as the Trust holds any Class B Preferred Securities, the holders of the Trust Preferred Securities will have the right to direct the Property Trustee to enforce the voting rights attributable to such Class B Preferred Securities. These voting rights may be waived by the holders of the Trust Preferred Securities by written notice to the Property Trustee and in accordance with applicable laws.

Subject to the requirement of the Property Trustee obtaining a tax opinion as set forth in the last sentence of this paragraph, the holders of a majority of the outstanding Trust Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, and to direct the exercise of any trust or power conferred upon the Property Trustee under the Trust Agreement, including the right to direct the Property Trustee, as holder of the Class B Preferred Securities, to:

- (i) exercise the remedies available to it under the LLC Agreement as a holder of the Class B Preferred Securities, and
- (ii) consent to any amendment, modification or termination of the LLC Agreement or the Class B Preferred Securities where such consent will be required;

*provided, however*, that, where a consent or action under the LLC Agreement would require the consent or act of the holders of more than a majority of the Class B Preferred Securities affected thereby, only the holders of the percentage of the aggregate number of the Trust Securities outstanding which is at least equal to the percentage of the Class B Preferred Securities required to so consent or act under the LLC Agreement, may direct the Property Trustee to give such consent or take such action on behalf of the Trust. See “Description of the Company Securities – Class B Preferred Securities – Voting Rights.” Except with respect to directing the time, method and place of conducting a proceeding for a remedy as described above, the Property Trustee will be under no obligation to take any of the actions described in

clause (i) or (ii) above unless the Property Trustee has obtained an opinion of independent tax counsel to the effect that as a result of such action, the Trust will not fail to be classified as a grantor trust for U.S. federal income tax purposes and that after such action each holder of the Trust Securities will continue to be treated as owning an undivided beneficial ownership interest in the Class B Preferred Securities.

Any required approval or direction of holders of the Trust Preferred Securities may be given at a separate meeting of holders of the Trust Preferred Securities convened for such purpose, at a meeting of all of the holders of the Trust Securities or pursuant to a written consent. The Regular Trustees will cause a notice of any meeting at which holders of the Trust Preferred Securities are entitled to vote, or of any matter upon which action by written consent of such holders is to be taken, to be made in the manner described below under “– Notices.” Each such notice will include a statement setting forth the following information:

- (i) the date of such meeting or the date by which such action is to be taken;
- (ii) a description of any resolution proposed for adoption at such meeting on which such holders are entitled to vote or of such matter upon which written consent is sought; and
- (iii) instructions for the delivery of proxies or consents. No vote or consent of the holders of the Trust Preferred Securities will be required for the Trust to redeem and cancel Trust Preferred Securities or distribute Class B Preferred Securities in accordance with the Trust Agreement.

Notwithstanding that holders of the Trust Preferred Securities are entitled to vote or consent under any of the circumstances described above, any of the Trust Preferred Securities that are beneficially owned at such time by the Bank or any entity directly or indirectly controlled by, or under direct or indirect common control with, the Bank, will not be entitled to vote or consent and will, for purposes of such vote or consent, be treated as if such Trust Preferred Securities were not outstanding, except for the Trust Preferred Securities purchased or acquired by the Bank or its affiliates in connection with transactions effected by or for the account of customers of the Bank or any of its affiliates or in connection with distribution or trading or market-making activities in connection with such Trust Preferred Securities in the ordinary course of business; *provided, however*, that persons (other than affiliates of the Bank) to whom the Bank or any of its affiliates have pledged Trust Preferred Securities may vote or consent with respect to such pledged Trust Preferred Securities pursuant to the terms of such pledge.

Holders of the Trust Preferred Securities will have no rights to appoint or remove the Regular Trustees, who may be appointed, removed or replaced solely by the holder of the Trust Common Security, which will be the Bank or a majority-owned subsidiary.

### **Merger, Consolidation or Amalgamation of the Trust**

The Trust may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to, any corporation or other entity, except as described below. The Trust may, with the consent of a majority of the Regular Trustees and without the consent of the holders of the Trust Securities, the Property Trustee or the Delaware Trustee, consolidate, amalgamate, merge with or into, or be replaced by a trust organized as such under the laws of any State of the United States; *provided*, that:

- (i) if the Trust is not the survivor, such successor entity either
  - (x) expressly assumes all of the obligations of the Trust to the holders of the Trust Securities or

- (y) substitutes for the Trust Securities other securities having substantially the same terms as the Trust Securities (the "Successor Securities"), so long as the Successor Securities rank the same as the Trust Securities rank with respect to Capital Payments, distributions and rights upon liquidation, redemption or otherwise,
- (ii) the Company expressly acknowledges a trustee of such successor entity possessing the same powers and duties as the Property Trustee as the holder of the Class B Preferred Securities,
- (iii) such merger, consolidation, amalgamation or replacement does not cause the Trust Preferred Securities (including the Successor Securities) to be downgraded by any statistical rating organization nationally recognized in the United States,
- (iv) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the holders of the Trust Preferred Securities (including any Successor Securities) in any material respect,
- (v) such successor entity has purposes substantially identical to that of the Trust,
- (vi) the obligations of the Bank pursuant to the Support Undertaking will continue in full force and effect, and
- (vii) prior to such merger, consolidation, amalgamation or replacement, the Bank has received an opinion of a nationally recognized law firm in the United States experienced in such matters to the effect that:
  - (A) such merger, consolidation, amalgamation or replacement will not adversely affect the rights, preferences and privileges of the holders of the Trust Preferred Securities (including the Successor Securities) in any material respect,
  - (B) following such merger, consolidation, amalgamation or replacement, neither the Trust nor such successor entity will be required to register under the 1940 Act,
  - (C) following such merger, consolidation, amalgamation or replacement, the Trust (or such successor trust) will be classified as a grantor trust for U.S. federal income tax purposes, and
  - (D) following such merger, consolidation, amalgamation or replacement, the Company will not be classified as an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes.

Notwithstanding the foregoing, the Trust will not, except with the consent of holders of 100% of the outstanding Trust Preferred Securities (excluding Trust Preferred Securities held by the Bank and its affiliates), consolidate, amalgamate, merge with or into, or be replaced by any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it, if such consolidation, amalgamation, merger or replacement would cause the Trust or the successor entity not to be classified as a grantor trust for United States federal income tax purposes.

## **Modification of the Trust Agreement**

The Trust Agreement may be modified and amended if approved by a majority of the Regular Trustees (and in certain circumstances the Property Trustee and the Delaware Trustee), *provided*, that, if any proposed amendment provides for, or the Regular Trustees otherwise propose to effect:

- (i) any action that would materially adversely affect the powers, preferences or special rights of the Trust Securities, whether by way of amendment to the Trust Agreement or otherwise, or
- (ii) the dissolution, winding up or termination of the Trust other than pursuant to the terms of the Trust Agreement,

then the holders of the Trust Securities voting together as a single class will be entitled to vote on such amendment or proposal and such amendment or proposal will not be effective except with the approval of at least a majority of the outstanding Trust Securities affected thereby; *provided, further* that, if any amendment or proposal referred to in clause (i) above would adversely affect only the Trust Preferred Securities or the Trust Common Security, then only the affected class will be entitled to vote on such amendment or proposal and such amendment or proposal will not be effective except with the approval of a majority of such class of the Trust Securities outstanding.

The Trust Agreement may be amended without the consent of the holders of the Trust Securities to:

- (i) cure any ambiguity,
- (ii) correct or supplement any provision in the Trust Agreement that may be defective or inconsistent with any other provision of the Trust Agreement,
- (iii) add to the covenants, restrictions or obligations of the Bank,
- (iv) conform to any change in the 1940 Act or the rules or regulations thereunder, or
- (v) modify, eliminate and add to any provision of the Trust Agreement to such extent as may be necessary or desirable; *provided*, that, no such amendment will have a material adverse effect on the rights, preferences or privileges of the holders of the Trust Securities.

Notwithstanding the foregoing, no amendment or modification may be made to the Trust Agreement if such amendment or modification would:

- (i) cause the Trust to fail to be classified as a grantor trust for United States federal income tax purposes,
- (ii) cause the Company to be classified as an association or publicly traded partnership taxable as a corporation for such purposes,
- (iii) reduce or otherwise adversely affect the powers of the Property Trustee, or
- (iv) cause the Trust or the Company to be required to register under the 1940 Act.

## **Form, Clearing and Settlement**

Trust Preferred Securities will be issued initially in the form of a temporary global certificate (the "Temporary Global Certificate"). Beneficial interests in the Temporary Global Certificate will be exchanged for beneficial interests in a permanent global certificates (the "Permanent Global Certificate")



and, together with the Temporary Global Certificate, the “Global Certificates”) not earlier than the 40th day after the later of the closing date and the completion of the distribution of the Trust Preferred Securities (the “Restricted Period”).

The Global Certificates will be deposited upon issuance with, and registered in the name of the Common Depositary for Euroclear or Clearstream for credit to accountholders in Euroclear and Clearstream. Beneficial interests in the Global Certificates may not be exchanged for Trust Preferred Securities in certificated form.

#### **Payments; Certifications by Holders of the Temporary Global Certificate**

On or after the expiration of the Restricted Period, a certificate must be provided by or on behalf of a holder of a beneficial interest in the Temporary Global Certificate to the Paying Agent, certifying that the beneficial owner of the interest in the Temporary Global Certificate is not a U.S. Person. Unless such certificate is provided:

- (i) the holder of such beneficial interest will not receive any payments of dividends, redemption price or any other payment with respect to such holder’s beneficial interest in the Temporary Global Certificate,
- (ii) such beneficial interest may not be exchanged for a beneficial interest in the Permanent Global Certificate, and
- (iii) settlement of trades with respect to such beneficial interest will be suspended.

In the event that any holder of a beneficial interest in the Temporary Global Certificate fails to provide such certification, exchanges of interests in the Temporary Global Certificate for interests in the Permanent Global Certificate and settlements of trades of all beneficial interests in the Temporary Global Certificate may be temporarily suspended.

#### **Paying Agent, Transfer Agent and Netherlands Paying Agent**

Deutsche Bank AG London will act as Paying Agent and Transfer Agent for the Trust Preferred Securities and Rabobank will act as Netherlands Paying Agent for the Trust Preferred Securities. Registration of transfers of the Trust Preferred Securities will be effected without charge by or on behalf of the Company, but upon payment (with the giving of such indemnity as the Property Trustee may require) in respect of any tax or other governmental charges that may be imposed in relation to it; provided, that no transfer or exchange of the Trust Preferred Securities (other than a transfer of the Trust Preferred Securities as a whole by the Common Depositary to a nominee of the Common Depositary or by a nominee of the Common Depositary to the Common Depositary or another nominee of the Common Depositary) may be registered except in limited circumstances. The Property Trustee will not be required to register or cause to be registered the transfer of the Trust Preferred Securities after such Trust Preferred Securities have been called for redemption.

#### **Information Concerning the Property Trustee**

The Property Trustee, prior to the occurrence of a Trust Enforcement Event, undertakes to perform only such duties as are specifically set forth in the Trust Agreement and, after such default, will exercise the same degree of care as a prudent person would exercise in the conduct of his or her own affairs. Subject to such provisions, the Property Trustee is under no obligation to exercise any of the powers vested in it by the Trust Agreement at the request of any holder of the Trust Preferred Securities, unless offered reasonable indemnity by such holder against the costs, expenses and liabilities which might be incurred thereby. The holders of the Trust Preferred Securities will not be required to offer such indemnity

in the event such holders, by exercising their rights, direct the Property Trustee to take any action following a Trust Enforcement Event.

### **Notices**

Notices to holders of the Company Preferred Securities will be mailed by first-class mail, postage prepaid, to the holders' addresses appearing in the Company's records. Notices to holders of the Trust Preferred Securities shall be deemed to have been given upon: (i) publication in one English language daily newspaper of general circulation in Europe; and (ii) as long as the Trust Preferred Securities are listed on Euronext Amsterdam and the rules of such exchange so require, publication in a daily newspaper of general circulation in the Netherlands (which is expected to be the *Het Financieele Dagblad*), notice thereof given to Euronext Amsterdam N.V., and in the Euronext Official Daily List.

### **Governing Law**

The Trust Agreement and the Trust Securities will be governed by, and construed in accordance with, the laws of the State of Delaware.

### **Miscellaneous**

The Regular Trustees are authorized and directed to conduct the affairs of and to operate the Trust in such a way that the Trust will not be required to register under the 1940 Act and will not be characterized as other than a grantor trust for United States federal income tax purposes.

## DESCRIPTION OF THE COMPANY SECURITIES

The following describes the material terms and provisions of the limited liability company interests of the Company, including the Class B Preferred Securities. This description is qualified in its entirety by reference to the terms and provisions of the LLC Agreement.

Upon the execution of the LLC Agreement, the Company will issue limited liability company interests consisting of the Company Common Security, the Class A Preferred Security and Class B Preferred Securities. For so long as any Class B Preferred Securities remain outstanding, the Company Common Security will be owned directly by the Bank or a majority-owned subsidiary and the Class A Preferred Security will be owned by the Bank or a wholly-owned subsidiary. All of the Class B Preferred Securities will be owned by the Trust.

### Company Common Security

Subject to the rights of the holders of the Class B Preferred Securities to appoint the Independent Enforcement Director, all voting rights are vested in the Company Common Security. The Company Common Security is entitled to one vote per security. The Company Common Security is currently, and upon consummation of the Offering will be, held by the Bank or a majority-owned subsidiary.

Capital Payments may be declared and paid on the Company Common Security only if all Capital Payments on the Class B Preferred Securities, if any, in respect of the relevant Payment Period have been declared and paid. The Company does not expect to pay dividends on the Company Common Security.

In the event of the voluntary or involuntary liquidation, dissolution, termination or winding up of the Company, after the payment of all debts and liabilities and after there have been paid or set aside for the holders of all the Company Preferred Securities the full preferential amounts to which such holders are entitled, the holder of the Company Common Security will be entitled to share equally and *pro rata* in any remaining assets.

### Class A Preferred Security

The Class A Preferred Security of the Company is non-voting. Capital Payments on the Class A Preferred Security will be payable when, as and if declared by the Board of Directors; such a declaration will occur only to the extent the Board of Directors does not declare Capital Payments on the Class B Preferred Securities at the Stated Rate in full on any Payment Date.

It is expected that the holder of the Class A Preferred Security will receive capital payments only to the extent that:

- (i) Capital Payments are not permitted to be declared on the Class B Preferred Securities on any Payment Date at the Stated Rate in full due to insufficient Distributable Profits of the Bank for the most recent fiscal year preceding such Payment Period for which audited financial statements of the Bank are available or an order of the BAKred (or any other relevant regulatory authority) prohibiting the Bank from making any distribution of its profits (including to the holders of the Parity Securities), and
- (ii) the Company has sufficient Operating Profits. The Company currently does not intend to pay capital payments on the Class A Preferred Security.

The payment of capital payments on the Class A Preferred Security is not a condition to the payment of Capital Payments on the Class B Preferred Securities.

In the event of any voluntary or involuntary liquidation, dissolution or winding up or termination of the Company, the Class B Preferred Securities will rank junior to the Class A Preferred Security, and the Class B Preferred Securities will rank senior to the Company Common Security; *provided* that any payments made by the Bank pursuant to the Support Undertaking will be payable by the Company solely to the holders of the Class B Preferred Securities. Accordingly, upon any liquidation, the holder of the Class A Preferred Security will be entitled to receive a liquidation distribution of the Debt Obligations or Permitted Investments (including accrued and unpaid interest thereon). In the event of the liquidation of the Company, the Independent Enforcement Director will enforce the Support Undertaking solely for the benefit of the holders of the Class B Preferred Securities. With respect to the Company's rights under the Support Undertaking, the Class B Preferred Securities will rank senior to the Class A Preferred Security and payments thereunder will be distributed by the Company solely to the holders of the Class B Preferred Securities. For a description of the circumstances under which an Independent Enforcement Director may be elected, see "Description of the Company Securities – Class B Preferred Securities – Voting Rights".

## **Class B Preferred Securities**

### **General**

The Company will observe all limited liability company formalities necessary to issue the Class B Preferred Securities under the laws of the State of Delaware and the Class B Preferred Securities will be validly issued, fully paid and non-assessable when they are issued. The holders of the Class B Preferred Securities will have no pre-emptive rights with respect to any other securities of the Company (*i.e.*, will have no rights to acquire any additional securities issued by the Company on a preferential basis). The Class B Preferred Securities will not have any scheduled maturity date, will not be redeemable at any time at the option of the holders thereof, will not be convertible into any other securities of the Company and will not be subject to any sinking fund or other obligation of the Company for their repurchase or redemption. The LLC Agreement prohibits the Company, without the consent of all holders of the Class B Preferred Securities (excluding any Class B Preferred Securities held by the Bank or any of its affiliates), from issuing any debt obligations or any further class or series of equity securities ranking prior to or *pari passu* with the Class B Preferred Securities as to periodic distribution rights or rights upon liquidation or dissolution of the Company.

### **Capital Payments**

Capital Payments on the Class B Preferred Securities will accrue on the liquidation preference amount of the Class B Preferred Securities at a rate per annum equal to 7.125% payable in arrears on March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001. Capital Payments on the Class B Preferred Securities payable on each Payment Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Payment Date (or the issue date with respect to the Capital Payment payable December 31, 2001) to but excluding the relevant Payment Date.

If any Payment Date or Redemption Date falls on a day that is not a Business Day, the relevant payment will be payable on the next succeeding Business Day unless that day falls in the next calendar month, in which case such payment will be made on the immediately preceding Business Day, without adjustment, interest or further payment as a result thereof.

Capital Payments on the Class B Preferred Securities are expected to be paid by the Company out of its Operating Profits. If the Company does not declare (and is not deemed to have declared) a Capital Payment on the Class B Preferred Securities in respect of any Payment Period, the holders of the Class B Preferred Securities will have no right to receive a Capital Payment on the Class B Preferred Securities in respect of such Payment Period, and the Company will have no obligation to pay a Capital Payment on

the Class B Preferred Securities in respect of such Payment Period, whether or not Capital Payments are declared (or deemed to have been declared) and paid on the Class B Preferred Securities in respect of any future Payment Period.

Capital Payments on the Class B Preferred Securities are authorized to be declared and paid on any Payment Date to the extent that:

- (i) the Company has an amount of Operating Profits for the Payment Period ending on the day immediately preceding such Payment Date at least equal to the amount of such Capital Payments, and
- (ii) the Bank has an amount of Distributable Profits (as defined herein) for the most recent preceding fiscal year of the Bank for which audited financial statements are available at least equal to the aggregate amount of such Capital Payments on the Class B Preferred Securities and capital payments or dividends on Parity Securities, if any, pro rata on the basis of Distributable Profits for such preceding fiscal year.

Notwithstanding the foregoing, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities if the Bank or any of its subsidiaries declares or pays any dividends or makes any other payment or other distribution on any Parity Securities. The Capital Payments to be made as a result of such a deemed declaration will be payable on the first Payment Date falling contemporaneously with or immediately after the date on which the Bank, or the Bank's subsidiary, as the case may be, declared the related dividend or made the related payment. If the dividend or other payment or distribution on Parity Securities was in the full stated amount payable on such Parity Securities in the then current fiscal year through the Payment Date, Capital Payments will be deemed declared at the Stated Rate in full for the then current fiscal year through such Payment Date. If the dividend or other payment or distribution on Parity Securities was only a partial payment of the amount so owing, the amount of the Capital Payment deemed declared on the Class B Preferred Securities will be adjusted proportionally.

Further, notwithstanding the foregoing, if the Bank or any of its subsidiaries declares or pays any dividend or makes any other payment or distribution on its Junior Securities, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities at the Stated Rate in full for a number of Payment Dates that varies according to how often the relevant Junior Securities pay dividends.

- If such Junior Securities pay dividends annually, Capital Payments will be deemed to have been declared for payment on the first four Payment Dates falling contemporaneously with and/or immediately following the date on which such dividend was declared or other payment made.
- If such Junior Securities pay dividends semiannually, Capital Payments will be deemed to have been declared for payment on the first two Payment Dates falling contemporaneously with and/or immediately following the date on which such dividend was declared or other payment made.
- If such Junior Securities pay dividends quarterly, Capital Payments will be deemed to have been declared for payment on the first Payment Date falling contemporaneously with or immediately following the date on which such dividend was declared or other payment made.

If the Bank or any of its Subsidiaries redeems, repurchases or otherwise acquires any Parity Securities or Junior Securities for any consideration except by conversion into or exchange for shares of common stock of the Bank, the Company will be deemed to have declared Capital Payments on the Class B Preferred Securities at the Stated Rate in full for payment on the first four Payment Dates falling contemporaneously with and/or immediately following the date on which such redemption, repurchase

or other acquisition occurred. Notwithstanding the previous sentence, no Capital Payment will be deemed to have been declared for any redemption, repurchase or acquisition:

- (i) in connection with transactions effected by or for the account of customers of the Bank or any of its subsidiaries or in connection with the distribution, trading or market-making in respect of such securities,
- (ii) in connection with the satisfaction by the Bank or any of its subsidiaries of its obligations under any employee benefit plans or similar arrangements with or for the benefit of employees, officers, directors or consultants,
- (iii) occurring as a result of a reclassification of the capital stock of the Bank or any of its subsidiaries or the exchange or conversion of one class or series of such capital stock for another class or series of such capital stock, or
- (iv) constituting the purchase of fractional interests in shares of the capital stock of the Bank or any of its majority-owned subsidiaries pursuant to the provisions of any security being converted into or exchanged for such capital stock).

Despite sufficient Operating Profits of the Company and sufficient Distributable Profits of the Bank, the Company will not be permitted to make Capital Payments on the Class B Preferred Securities on any Payment Date (or a date set for redemption or liquidation) if on such date there is in effect an order of the BAKred pursuant to the KWG (or any other relevant regulatory authority) prohibiting the Bank from making any distribution of its profits (including to the holders of the Parity Securities). The Company will have no obligation to make up, at any time, any Capital Payments not paid in full by the Company as a result of insufficient Operating Profits of the Company, insufficient Distributable Profits or an order of the BAKred.

In determining the availability of sufficient Distributable Profits of the Bank related to any fiscal year to permit Capital Payments to be declared with respect to the Class B Preferred Securities, any Capital Payments already paid on the Class B Preferred Securities on the basis of Distributable Profits for such fiscal year and any capital payments or dividends already paid on the Parity Securities, if any, on the basis of Distributable Profits for such fiscal year, will be deducted from such Distributable Profits. Each declared Capital Payment will be payable to the holders of record as they appear on the securities register of the Company at the close of business on the corresponding record date. The record dates for the Class B Preferred Securities will be:

- for those Class B Preferred Securities held by the Property Trustee, so long as the Trust Preferred Securities remain in book-entry form, and for Class B Preferred Securities held in book-entry form, one Business Day prior to the relevant Payment Date, and
- in all other cases, the 15th day of the month in which the relevant Payment Date occurs.

### ***Terms Relating to Capital Payments***

“Operating Profits” of the Company for any Payment Period is the excess of the amounts payable (whether or not paid) on the Debt Obligations or, after the Maturity Date, on the Permitted Investments that the Company may then hold in accordance with the LLC Agreement during such Payment Period, over any operating expenses of the Company not paid or reimbursed by the Bank or one of its branches or affiliates during such Payment Period. For a discussion of the calculation of Distributable Profits by the Bank, see “Distributable Profits of the Bank.”

“Parity Securities” means each class of the most senior ranking preference shares of the Bank, if any, and Parity Subsidiary Securities.

“Parity Subsidiary Securities” means each class of the most senior ranking preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking *pari passu* with the obligations of the Bank under the Support Undertaking.

“Junior Securities” means:

- (i) common stock of the Bank,
- (ii) each class of preference shares of the Bank ranking junior to Parity Securities of the Bank, if any, and any other instrument of the Bank ranking *pari passu* therewith or junior thereto, and
- (iii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking junior to the obligations of the Bank under the Support Undertaking.

#### **Payment of Additional Amounts**

All payments on the Class B Preferred Securities, and any repayment upon redemption thereof, will be made without any deduction or withholding for or on account of Withholding Taxes, unless the Company is required by law to make such deduction or withholding. The Company will pay, as additional Capital Payments, such Additional Amounts as may be necessary in order that the net amounts received by the holders of the Class B Preferred Securities and the Trust Preferred Securities, after any deduction or withholding for or on account of Withholding Taxes, will equal the amounts that would otherwise have been received in respect of the Class B Preferred Securities and the Trust Preferred Securities, respectively, in the absence of such withholding or deduction.

No such Additional Amounts, however, will be payable in respect of the Class B Preferred Securities and the Trust Preferred Securities:

- (i) if and to the extent that the Company is unable to pay such Additional Amounts because such payment would exceed the Distributable Profits of the Bank for the most recent fiscal year for which audited financial statements are available (after subtracting from such Distributable Profits the amount of Capital Payments on the Class B Preferred Securities and any dividends or other distributions or payments on Parity Securities, if any, already paid on the basis of such Distributable Profits on or prior to the date on which such Additional Amounts will be payable);
- (ii) with respect to any Withholding Taxes that are payable by reason of a holder or beneficial owner of the Class B Preferred Securities (other than the Trust) or Trust Preferred Securities having some connection with any Relevant Jurisdiction; or
- (iii) where such deduction or withholding can be avoided if the holder or beneficial owner of the Class B Preferred Securities (other than the Trust) or the Trust Preferred Securities makes a declaration of non-residence or other similar claim for exemption to the relevant tax authority or complies with any reasonable certification, documentation, information or other reporting requirement imposed by the relevant tax authority; or
- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of November 26-27, 2000 or the Proposed EU Savings

Tax Directive or any law implementing or complying with, or introduced in order to conform to, such Directive.

### ***Voting and Enforcement Rights***

The Class B Preferred Securities will have no voting rights except as expressly required by applicable law or except as indicated below. In the event the holders of the Class B Preferred Securities are entitled to vote as indicated below, each Class B Preferred Security shall be entitled to one vote on matters on which holders of the Class B Preferred Securities are entitled to vote. In the event that:

- (i) the Company fails to pay Capital Payments (plus Additional Amounts thereon, if any) on the Class B Preferred Securities at the Stated Rate in full for four consecutive Payment Periods or
- (ii) a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking and such failure continues for 60 days after such notice is given,

then the holders of the Class B Preferred Securities will have the right to appoint the Independent Enforcement Director.

The Independent Enforcement Director will be appointed by resolution passed by a majority of the holders of the Class B Preferred Securities entitled to vote thereon, as described in the LLC Agreement, present in person or by proxy at a separate general meeting of the holders of the Class B Preferred Securities convened for that purpose (which will be called at the request of any holder of a Class B Preferred Security entitled to vote thereon) or by a consent in writing adopted by a majority of the holders of the Class B Preferred Securities entitled to vote thereon. Any Independent Enforcement Director so appointed will vacate office if, in such Independent Enforcement Director's sole determination:

- (i) the Capital Payments (plus Additional Amounts thereon, if any) on the Class B Preferred Securities have been made on the Class B Preferred Securities at the Stated Rate in full by the Company for at least four consecutive Payment Periods and
- (ii) the Bank is in compliance with its obligations under the Support Undertaking.

Any such Independent Enforcement Director may be removed at any time, with or without cause by (and will not be removed except by) the vote of a majority of the holders of the outstanding Class B Preferred Securities entitled to vote, at a meeting of the Company's securityholders, or of holders of the Class B Preferred Securities entitled to vote thereon, called for that purpose. If the office of Independent Enforcement Director will become vacant at any time during which the holders of the Class B Preferred Securities are entitled to appoint an Independent Enforcement Director, the holders of the Class B Preferred Securities will appoint an Independent Enforcement Director as provided above.

The Independent Enforcement Director will be an additional member of the Board of Directors referred to above and will have the sole authority, right and power to enforce and settle any claim of the Company under the Support Undertaking. However, the Independent Enforcement Director will have no right, power or authority to participate in the management of the business and affairs of the Company by the Board of Directors except for:

- actions related to the enforcement of the Support Undertaking on behalf of the holders of the Class B Preferred Securities, and
- the distribution of amounts paid pursuant to the Support Undertaking to the holders of the Class B Preferred Securities.



No director, including the Independent Enforcement Director, will be a resident of the Federal Republic of Germany.

So long as any Class B Preferred Securities are outstanding, the Company will not, without the affirmative vote of at least 66⅔% in aggregate liquidation preference amount of the Class B Preferred Securities, voting separately as a class (excluding any Class B Preferred Securities held by the Bank or any of its affiliates):

- (i) amend, alter, repeal or change any provision of the LLC Agreement (including the terms of the Class B Preferred Securities) if such amendment, alteration, repeal or change would materially adversely affect the rights, preferences, powers or privileges of the Class B Preferred Securities, or
- (ii) effect any merger, consolidation, or business combination involving the Company, or any sale of all or substantially all of the assets of the Company, *provided*, that any such merger, consolidation, or business combination involving the Company, or any sale of all or substantially all of the assets of the Company also must comply with the requirements set forth under “– Mergers, Consolidations and Sales”.

The Company will not, without the unanimous consent of all the holders of the Class B Preferred Securities (excluding any Class B Preferred Securities held by the Bank or any of its affiliates), issue any additional equity securities of the Company ranking prior to or *pari passu* with the Class B Preferred Securities as to periodic distribution rights or rights on liquidation or dissolution of the Company.

Notwithstanding that holders of the Class A Preferred Security or Class B Preferred Securities may become entitled to vote or consent under any of the circumstances described in the LLC Agreement or in the by-laws of the Company (the “Bylaws”), any Class A Preferred Security or any of the Class B Preferred Securities that are owned by the Bank, the Company or any of their respective affiliates or subsidiaries (other than the Trust), either directly or indirectly, will in such case not be entitled to vote or consent and will, for the purposes of such vote or consent, be treated as if they were not outstanding, except for a Class A Preferred Security or Class B Preferred Securities purchased or acquired by the Bank or its subsidiaries or affiliates in connection with transactions effected by or for the account of customers of the Bank or any of its subsidiaries or affiliates or in connection with the distribution or trading of or market-making in connection with such Class A Preferred Security or Class B Preferred Securities in the ordinary course of business. However, certain persons (other than subsidiaries or affiliates of the Bank), excluding the Trust, to whom the Bank or any of its subsidiaries or affiliates have pledged a Class A Preferred Security or Class B Preferred Securities may vote or consent with respect to such pledged Class A Preferred Security or Class B Preferred Securities pursuant to the terms of such pledge.

#### **Redemption of the Class B Preferred Securities**

The Class B Preferred Securities are redeemable at the option of the Company, in whole but not in part, on any Payment Date falling on or after the Initial Redemption Date, at a redemption price per Class B Preferred Security equal to the liquidation preference amount thereof, plus any accrued and unpaid Capital Payments for the then current Payment Period to but excluding the Redemption Date, plus Additional Amounts, if any.

The Company will also have a right prior to the Initial Redemption Date, to redeem the Class B Preferred Securities at any time, in whole but not in part, upon the occurrence of a Company Special Redemption Event at a redemption price per Class B Preferred Security equal to the liquidation preference amount plus accrued and unpaid Capital Payments for the then current Payment Period to but excluding the Redemption Date and Additional Amounts, if any.

The Company may exercise its right to redeem the Class B Preferred Securities only if it has:

- (i) given at least 30 days' prior notice (or such longer period as required by the relevant regulatory authorities) to the holders of the Class B Preferred Securities (and the Trust Preferred Securities) of its intention to redeem the Class B Preferred Securities on the Redemption Date, and
- (ii) obtained any required regulatory approvals.

No redemption of the Class B Preferred Securities for any reason may take place unless on the Redemption Date:

- (i) the Company has sufficient funds (by reason of the Debt Obligations, Permitted Investments or the Support Undertaking) to pay the redemption price and to pay in full an amount corresponding to the Capital Payments accrued and unpaid as of the Redemption Date, plus Additional Amounts, if any;
- (ii) the Bank has an amount of Distributable Profits in respect of the most recent fiscal year for which audited financial statements are available at least equal to the Capital Payments on the Class B Preferred Securities accrued and unpaid as of the Redemption Date, plus Additional Amounts, if any, and;
- (iii) no order of the BAKred pursuant to the KWG (or any other relevant regulatory authority) is in effect prohibiting the Bank from making any distributions of its profits (including to the holders of the Parity Securities).

In the event that payment of the redemption price, in respect of any Class B Preferred Securities, is improperly withheld or refused and not paid, Capital Payments on such Class B Preferred Securities will continue to accrue from the Redemption Date to the date of actual payment of such Redemption Price.

Any redemption of the Class B Preferred Securities, whether on a Payment Date on or after the Initial Redemption Date or upon the occurrence of a Company Special Redemption Event, will not require the vote or consent of any of the holders of the Class B Preferred Securities.

### ***Redemption Procedures***

Notice of any redemption of the Class B Preferred Securities (a "Redemption Notice") will be given by the Board of Directors on behalf of the Company by mail to the record holder of each Class B Preferred Security to be redeemed not fewer than 30 days before the date fixed for redemption, or such other time period as may be required by the relevant regulatory authorities. For purposes of the calculation of the Redemption Date and the dates on which notices are given pursuant to the LLC Agreement, a Redemption Notice will be deemed to be given on the day such notice is first mailed, by first-class mail, postage prepaid, to holders of the Class B Preferred Securities. Each Redemption Notice will be addressed to the holders of the Class B Preferred Securities at the address of each such holder appearing in the books and records of the Company. No defect in the Redemption Notice or in the mailing thereof with respect to any holder will affect the validity of the redemption proceedings with respect to any other holder.

If the Company has given a Redemption Notice (which notice will be irrevocable), by 9:00 a.m., Central European time, on the Redemption Date, the Company, if the Class B Preferred Securities are in book-entry only form with Euroclear or Clearstream, will deposit irrevocably with Euroclear or Clearstream funds sufficient to pay the Redemption Price and will give Euroclear or Clearstream irrevocable instructions and authority to pay the Redemption Price in respect of the Class B Preferred Securities held through Euroclear or Clearstream in global form, or if the Class B Preferred Securities are held in certificated form, will deposit with the paying agent funds sufficient to pay the applicable

Redemption Price of the amount of any such Class B Preferred Securities and will give to the paying agent irrevocable instructions and authority to pay such amounts to the holders of the Class B Preferred Securities, upon surrender of their certificates, by check, mailed to the address of the relevant holder of the Class B Preferred Securities appearing on the books and records of the Company on the Redemption Date.

However, for so long as the Property Trustee holds the Class B Preferred Securities, payment will be made by wire in same day funds to the holder of the Class B Preferred Securities by 9:00 a.m., Central European time, on the Redemption Date. Upon satisfaction of the foregoing conditions, then immediately prior to the close of business on the date of payment, all rights of the holders of the Class B Preferred Securities so called for redemption will cease, except the right of the holders to receive the Redemption Price, but without interest on the Redemption Price, and from and after the date fixed for redemption, such Class B Preferred Securities will not accrue Capital Payments or bear interest.

In the event that any date fixed for redemption of the Class B Preferred Securities is not a Business Day, payment of the Redemption Price will be made on the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day.

### **Liquidation Distribution**

Upon liquidation of the Company, the holder of the Class A Preferred Security has a claim senior to that of the holders of the Class B Preferred Securities, and the holders of the Class B Preferred Securities have a claim senior to that of the holder of the Company Common Security; *provided* that any payments made by the Bank pursuant to the Support Undertaking will be payable by the Company solely to the holders of the Class B Preferred Securities. The holder of the Class A Preferred Security will be entitled to receive the Debt Obligations (including accrued and unpaid interest thereon) as its liquidation distribution.

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, holders of the Class B Preferred Securities will, subject to the limitations described below, be entitled to receive the liquidation preference amount of such Class B Preferred Securities, plus, in each case, accrued and unpaid Capital Payments in respect of the current Payment Period and Additional Amounts, if any. The Company expects that the liquidation distribution to the holders of the Class B Preferred Securities will be paid out of funds received from the Support Undertaking. The holders of the Class B Preferred Securities will be entitled to receive their liquidation distribution before any distribution of assets is made to the holder of the Company Common Security. Under the terms of the LLC Agreement and to the fullest extent permitted by law, the Company will not be dissolved until all obligations under the Support Undertaking have been paid in full pursuant to its terms.

### **Mergers, Consolidations and Sales**

The Company may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to, any corporation or other body, except as described below. The Company may, with the consent of the holders of the Class B Preferred Securities, consolidate, amalgamate, merge with or into, or be replaced by a limited partnership, limited liability company or trust organized as such under the laws of any State of the United States of America, *provided*, that:

- such successor entity either expressly assumes all of the obligations of the Company under the Class B Preferred Securities or substitutes for the Class B Preferred Securities other securities having substantially the same terms as the Class B Preferred Securities (the “Company Successor Securities”) so long as the Company Successor Securities are not junior to any equity securities of

the successor entity, with respect to participation in the profits, distributions and assets of the successor entity, except that they may rank junior to the Class A Preferred Security or any successor Class A Preferred Security to the same extent that the Class B Preferred Securities rank junior to the Class A Preferred Security;

- the Bank expressly acknowledges such successor entity as the holder of the Debt Obligations and holds, directly or indirectly, all of the voting securities (within the meaning of Rule 3a-5 under the 1940 Act) of such successor entity;
- such consolidation, amalgamation, merger or replacement does not cause the Trust Preferred Securities (or, in the event that the Trust is liquidated, the Class B Preferred Securities (including any Company Successor Securities)) to be downgraded by any statistical rating organization nationally recognized in the United States;
- such consolidation, amalgamation, merger or replacement does not adversely affect the powers, preferences and other special rights of the holders of the Trust Preferred Securities or Class B Preferred Securities (including any Company Successor Securities) in any material respect;
- such successor entity has a purpose substantially identical to that of the Company;
- prior to such consolidation, amalgamation, merger or replacement, the Company has received an opinion of a nationally recognized law firm in the United States experienced in such matters to the effect that:
- such successor entity will be treated as a partnership, and will not be classified as an association or a publicly traded partnership taxable as a corporation, for United States federal income tax purposes,
- such consolidation, amalgamation, merger or replacement would not cause the Trust to be classified as other than a grantor trust for United States federal income tax purposes,
- following such consolidation, amalgamation, merger or replacement, such successor entity will not be required to register under the 1940 Act, and
- such consolidation, amalgamation, merger or replacement will not adversely affect the limited liability of the holders of the Class B Preferred Securities; and
- the Bank provides an undertaking to the successor entity under the Company Successor Securities equivalent to that provided by the Support Undertaking with respect to the Class B Preferred Securities.

### **Book-Entry and Settlement**

If the Class B Preferred Securities are distributed to holders of the Trust Preferred Securities in connection with the involuntary or voluntary liquidation, dissolution, winding up or termination of the Trust, the Company will use reasonable efforts to arrange for the Class B Preferred Securities to be issued in the form of one or more global certificates (each a "Global Security") registered in the name of Euroclear or Clearstream as the depository or its nominee. As of the date of this Circular, the description herein of Euroclear and Clearstream's book-entry system and Euroclear and Clearstream's practices as they relate to purchases, transfers, notices and payments with respect to the Trust Preferred Securities

will apply in all material respects to any Class B Preferred Securities represented by one or more Global Securities.

### **Paying Agent and Transfer Agent**

Bankers Trust Company will act as Paying Agent and Transfer Agent for the Class B Preferred Securities. Registration of transfers of the Class B Preferred Securities will be effected without charge by or on behalf of the Company, but upon payment (with the giving of such indemnity as the Company may require) in respect of any tax or other governmental charges that may be imposed in relation to it. The Company will not be required to register or cause to be registered the transfer of the Class B Preferred Securities after such Class B Preferred Securities have been called for redemption.

### **Miscellaneous**

The Board of Directors is authorized and directed to conduct the affairs of the Company in such a way that:

- (i) the Company will not be deemed to be required to register under the 1940 Act and
- (ii) the Company will not be treated as an association or as a “publicly traded partnership” (within the meaning of Section 7704 of the Code) taxable as a corporation for United States federal income tax purposes.

In this connection, the Board of Directors is authorized to take any action, not inconsistent with applicable law or the LLC Agreement, that the Board of Directors determines in its discretion to be necessary or desirable for such purposes, so long as such action does not adversely affect the interests of the holders of the Class B Preferred Securities.

## DESCRIPTION OF THE SUPPORT UNDERTAKING

The following describes the material terms and provisions of the Support Undertaking. This description is qualified in its entirety by reference to the terms and provisions of such agreement, which is attached hereto as Appendix A.

The Bank and the Company will enter into the Support Undertaking prior to the issuance of the Class B Preferred Securities, pursuant to which the Bank will undertake that:

- (i) the Company will at all times be in a position to meet its obligations if and when such obligations are due and payable, including Capital Payments declared (or deemed declared) on, and payments due upon redemption of, the Class B Preferred Securities (plus Additional Amounts thereon, if any), and
- (ii) in liquidation, the Company will have sufficient funds to pay the liquidation preference amounts of the Class B Preferred Securities, plus any accrued and unpaid Capital Payments for the then current Payment Period to but excluding the date of liquidation and Additional Amounts, if any.

The Bank will also undertake not to give any guarantee or similar undertaking with respect to, or enter into any other agreement relating to the support of, any other preference shares or similar securities of any other affiliated entity that would rank senior in any regard to the Support Undertaking, unless the Support Undertaking is amended so that it ranks at least *pari passu* with and contains substantially equivalent rights of priority as to payment as any such other guarantee or other support agreement. So long as any Class B Preferred Securities remain outstanding, the Support Undertaking may not be modified or terminated without the consent of the holders of the Class B Preferred Securities except for such modifications that are not adverse to the interests of the holders of the Class B Preferred Securities. The Support Undertaking is not a guarantee of any kind that the Company will at any time have sufficient assets to declare a Capital Payment or other distribution.

The Bank's obligations under the Support Undertaking will be subordinated to all senior and subordinated debt obligations of the Bank, will rank *pari passu* with the most senior ranking preference shares of the Bank, if any, and will rank senior to any other preference shares and the common shares of the Bank.

The Support Undertaking provides that the Bank will not permit the Company to be dissolved until all obligations under the Support Undertaking have been performed.

The holders of the Class B Preferred Securities will be third-party beneficiaries of the Support Undertaking. As titleholder of the Class B Preferred Securities for the benefit of the holders of the Trust Securities, the Property Trustee will have the power to exercise all rights, powers and privileges with respect to the Class B Preferred Securities under the Support Undertaking. If a holder of the Class B Preferred Securities has notified the Company that the Bank has failed to perform any obligation under the Support Undertaking, and such failure continues for 60 days or more after such notice is given, the holders of the Class B Preferred Securities (and the Trust Preferred Securities representing Class B Preferred Securities) will have the right to appoint the Independent Enforcement Director, who will be required to enforce the rights of the Company under the Support Undertaking.

All payments under the Support Undertaking will be distributed by the Company *pro rata* to holders of the Class B Preferred Securities until the holders of the Class B Preferred Securities receive the full amount payable under the Support Undertaking. So long as the Trust holds Class B Preferred Securities, the Property Trustee will distribute such payments received by the Trust to the holders of the Trust Preferred Securities *pro rata*.

The Support Undertaking will be governed by, and construed in accordance with, German law.

### **DESCRIPTION OF THE SERVICES AGREEMENT**

The following describes the material terms and provisions of the Services Agreement. This description is qualified in its entirety by reference to the terms and provisions of such agreement.

Under the Services Agreement, the Servicer will be obligated, among other things, to provide tax and other administrative services to the Trust and the Company. The fees and expenses of the Company and the Trust, including any taxes, duties, assessments or governmental charges of whatsoever nature (other than Withholding Taxes) imposed by any taxing authority upon the Company or the Trust, and all other obligations of the Company and the Trust (other than with respect to the Trust Securities or the Company Securities), will be paid by the Bank under the LLC Agreement.

The Services Agreement does not prevent the Bank or any of its affiliates or employees from engaging in any other activities. The Services Agreement has an initial term of five years and is renewable for additional five year periods unless the Company delivers a notice of nonrenewal in accordance with the terms of the Services Agreement.

## DESCRIPTION OF THE TERMS OF THE INITIAL DEBT OBLIGATIONS

The following describes the material terms and provisions of the Initial Debt Obligations. This description is qualified in its entirety by reference to the terms and provisions of the Initial Debt Obligations.

### General

The Principal Amount of the Initial Debt Obligations will be € 230,000,300 and will be equal to the sum of the aggregate liquidation preference amount of the Class B Preferred Securities plus the aggregate amounts contributed for the Class A Preferred Security and the Company Common Security. All of the proceeds from the issuance of the Class B Preferred Securities, together with the funds contributed for the Class A Preferred Security and the Company Common Security, will be used by the Company to purchase the Initial Debt Obligations. The aggregate Principal Amount of the purchased Initial Debt Obligations will be such that the aggregate interest income paid on the Initial Debt Obligations on any Interest Payment Date will be sufficient to make the aggregate Capital Payments on the Class B Preferred Securities on a corresponding Payment Date. The purchase of the Initial Debt Obligations will occur contemporaneously with the issuance of the Class B Preferred Securities.

The Initial Debt Obligations will consist of an issue of subordinated notes issued by DePfa Services which will mature on December 31, 2026, the Maturity Date. Interest will be payable by the Bank in euro on the outstanding Principal Amount at a rate per annum of no less than the Stated Rate.

Interest payments are payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001. Interest payments payable on each Interest Payment Date will be calculated on the basis of the actual number of days elapsed and a 365-day year, or 366 in a leap year, and will accrue from and including the immediately preceding Interest Payment Date (or from and including the issue date with respect to interest payable on December 31, 2001) to but excluding the relevant Interest Payment Date or Debt Redemption Date, as the case may be.

If any Interest Payment Date or Debt Redemption Date during such period falls on a day that is not a Business Day, the relevant payment will be due on the next succeeding Business Day unless that day falls in the next calendar month, in which case such interest payment will be due on the next preceding Business Day, without adjustment, interest or further payment as a result thereof.

Payment of interest on the Initial Debt Obligations and any repayment upon redemption thereof, will be made by DePfa Services without deduction or withholding for Withholding Taxes imposed by the Netherlands or any political subdivision thereof or any other jurisdiction from which such payment is made unless DePfa Services is required by law to make such deduction or withholding. In such event, DePfa Services or other obligor will pay as additional interest such amounts (“Additional Interest Amounts”) as may be necessary in order that the net amounts received by the Company, after such deduction or withholding, will equal the amounts that would have been received had no such withholding or deduction been required; *provided*, that the obligation of DePfa Services or such obligor to pay such Additional Interest Amounts shall not apply to:

- (i) any tax which is payable otherwise than by deduction or withholding;
- (ii) any tax imposed on the net income of the holder of the Initial Debt Obligations or that is payable by reason of the holder having some connection with the jurisdiction imposing such tax other than by reason only of the mere holding of the Initial Debt Obligations, or
- (iii) any tax to the extent the same would not have been so imposed but for the presentation of any Initial Debt Obligations for payment on a date more than 15 days after the date on which payment became



due and payable or the date on which payment thereof is duly provided for, whichever occurs later;  
or

- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of November 26-27, 2000 or the Proposed EU Savings Tax Directive or any law implementing or complying with, or introduced in order to conform to, such Directive.

The Initial Debt Obligations will not be redeemable prior to December 31, 2006, except upon the occurrence of a Company Special Redemption Event or in the event of replacement with Substitute Debt Obligations. Subject to having obtained any required regulatory approvals, DePfa Services may cause the redemption of the Initial Debt Obligations, in whole but not in part, prior to December 31, 2006, upon:

- (i) the occurrence of a Company Special Redemption Event and the election of the Company to redeem the Class B Preferred Securities, and
- (ii) at least 30 days' prior notice, at a redemption price equal to the Principal Amount plus accrued and unpaid interest and Additional Interest Amounts, if any.

DePfa Services may, at its option, redeem the Initial Debt Obligations, in whole but not (except in the event of replacement with Substitute Debt Obligations) in part, on any Interest Payment Date on or after the Initial Debt Redemption Date (each a "Debt Redemption Date"), upon at least 30 days' prior notice, subject to having obtained any required regulatory approvals. Such redemption will be at a redemption price equal to the Principal Amount to be redeemed plus accrued and unpaid interest thereon, and Additional Interest Amounts, if any. DePfa Services may not cause any redemption of the Initial Debt Obligations prior to the Maturity Date (except upon the occurrence of a Company Special Redemption Event) unless:

- (i) the Initial Debt Obligations are replaced with Substitute Debt Obligations, or
- (ii) the Company is permitted and has elected to redeem an equivalent amount of the Class B Preferred Securities as described above, in accordance with the LLC Agreement.

In the event of any default on the Initial Debt Obligations, the Company will enforce its rights for payment of any overdue amounts, but will not be able to accelerate the maturity of the Initial Debt Obligations.

The Initial Debt Obligations will be general unsecured debt obligations of DePfa Services and in the liquidation of DePfa Services will rank subordinate and junior to all senior indebtedness of DePfa Services and *pari passu* with other subordinated obligations of DePfa Services. The obligations of DePfa Services under the Initial Debt Obligations will be subordinated in right of payment upon the occurrence of any events of default set forth in the Initial Debt Obligations, all of which relate to the insolvency or liquidation of DePfa Services or the Bank, to the prior payment in full of all other liabilities of DePfa Services, except those liabilities which by their terms rank *pari passu* with or are subordinated to the Initial Debt Obligations.

The Company, as the holder of the Initial Debt Obligations, will also agree by its acceptance thereof that it waives any rights it may have to set off claims under the Initial Debt Obligations against claims DePfa Services may have against it. Pursuant to §10, subparagraph 5 of the German Banking Act, if DePfa Services or the Bank redeems or repays the Initial Debt Obligations prior to a date on which such redemption or repayment is permitted under the terms thereof, notwithstanding any agreements to the contrary, any amounts so paid to a holder of the Initial Debt Obligations must be repaid unless a statutory

exemption (including dissolution of DePfa Services or replacement of the Principal Amount with at least equivalent own funds or prior approval of the BAKred) applies.

The obligations of DePfa Services and the Bank under the Initial Debt Obligations and the Initial Guarantee may not be secured by any lien, security interest or other encumbrance on any property of DePfa Services or the Bank or any other person. Except as permitted by applicable law, neither DePfa Services nor the Bank shall, directly or indirectly, acquire for its own account, finance for the account of any other person the acquisition of, or accept as security for any obligation owed to it, any of the Initial Debt Obligations. DePfa Services is also prohibited from amending the terms of the Initial Debt Obligations to limit the subordination provisions or change the Initial Redemption Date to an earlier date.

### **Substitution; Redemption and Reinvesting of Proceeds**

At any time, the Bank will have the right to:

- (i) substitute another obligor on the Debt Obligations, which obligor shall be the Bank or a Qualified Issuer, or
- (ii) replace the Debt Obligations with Substitute Debt Obligations issued by the Bank or a Qualified Issuer with identical terms to those of the Initial Debt Obligations;

*provided*, in each case, that:

- (a) such substitution or replacement does not result in a Company Special Redemption Event and
- (b) the Bank, unless the Bank itself or a branch of the Bank is the substitute obligor, guarantees on a subordinated basis at least equal to the ranking of the Initial Guarantee, the obligations of the new substitute obligor.

After the Maturity Date, if the Class B Preferred Securities have not been redeemed on the Maturity Date, the Company will invest the proceeds from the repayment of the Debt Obligations in Permitted Investments. The Company will attempt to purchase Permitted Investments in the following order of priority, to the extent the same are available (and within each category on terms that are the best available in relation to providing funds for the payment of Capital Payments and the redemption of the Class B Preferred Securities):

- first, debt obligations issued by a Qualified Issuer (not including the Bank) and guaranteed by the Bank on a subordinated basis at least equal to the ranking of the Debt Obligations, or
- second, in the event such investments are not available, in U.S. Treasury securities.

### **Initial Guarantee**

Pursuant to the Initial Guarantee, the Bank will guarantee the principal of and interest on the Initial Debt Obligations. The obligations of the Bank under the Initial Guarantee will be subordinated in the event of liquidation of the Bank to all obligations of the Bank that are not subordinated.

All Payments by the Bank under the Initial Guarantee will be made by the Bank without deduction or withholding for Withholding Taxes imposed by Germany or any political subdivision thereof or any other jurisdiction from which such payment is made unless the Bank is required by law to make such deduction or withholding. In such event, the Bank will pay Additional Interest Amounts as may be necessary in order that the net amounts received by the Company, after such deduction or withholding, will equal the amounts that would have been received had no such withholding or deduction been

required; *provided*, that the obligation of the Bank to pay such Additional Interest Amounts shall not apply to:

- (i) any tax which is payable otherwise than by deduction or withholding;
- (ii) any tax imposed on the net income of the holder of the Initial Debt Obligations or that is payable by reason of the holder having some connection with the jurisdiction imposing such tax that is payable by reason of a holder of the Initial Debt Obligations having some connection with such jurisdiction other than by reason only of the mere holding of the Initial Debt Obligations, or
- (iii) any tax to the extent the same would not have been so imposed but for the presentation of any Initial Debt Obligations for payment on a date more than 15 days after the date on which payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later; or
- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of November 26-27, 2000 or the Proposed EU Savings Tax Directive or any law implementing or complying with, or introduced in order to confirm to, such Directive.

#### **Governing Law**

The Initial Debt Obligations and the Initial Guarantee will be governed by the laws of Germany.

## TAXATION

**PROSPECTIVE INVESTORS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS AS TO THE U.S. FEDERAL AND GERMAN INCOME TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF TRUST PREFERRED SECURITIES, AS WELL AS THE EFFECT OF ANY STATE, LOCAL OR FOREIGN TAX LAWS.**

### ***Certain U.S. Federal Income Tax Consequences***

The following is a summary of the material U.S. federal income tax consequences relating to an investment in the Trust Preferred Securities. This summary addresses the tax consequences to a person that acquires Trust Preferred Securities on their original issue at their original offering price (a "Trust Preferred Securityholder") and that is not a U.S. person (a "Non-U.S. Holder"). For this purpose, a "U.S. person" is a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States or any political subdivision thereof, an estate the income of which is subject to U.S. federal income taxation regardless of its source or a trust if (i) a U.S. court is able to exercise primary supervision over the trust's administration and (ii) one or more U.S. persons have the authority to control all of the trust's substantial decisions.

This summary does not address all tax consequences that may be applicable to a beneficial owner of the Trust Preferred Securities and does not address the tax consequences to a Non-U.S. Holder in special circumstances (for example, the summary does not address a Non-U.S. Holder subject to U.S. federal income tax on a net income basis). This summary is based upon the Internal Revenue Code of 1986, as amended (the "Code") Treasury Regulations, Internal Revenue Service rulings and pronouncements and judicial decisions as of the date hereof, all of which are subject to change (possibly with retroactive effect).

Prospective investors should note that no rulings have been or are expected to be sought from the Internal Revenue Service ("IRS") with respect to the tax treatment of the Trust Preferred Securities and no assurance can be given that the IRS will not take contrary positions. Moreover, no assurance can be given that the tax consequences described herein will not be challenged by the IRS or, if challenged, that such a challenge would not be successful.

### *Tax Treatment of the Trust*

Assuming full compliance with the terms of the Trust Agreement (and certain other transaction documents described herein), the Trust will be classified for U.S. federal income tax purposes as a grantor trust and not as an association taxable as a corporation.

### *Tax Treatment of the Company*

In purchasing the Trust Preferred Securities, each Trust Preferred Securityholder agrees with the Bank, the Company, and the Trustee that the Bank, the Company, the Trustee and the Trust Preferred Securityholders will treat Trust Preferred Securityholders for all purposes as holders of an undivided interest in Trust assets, including the Class B Preferred Securities, and not as holders of an underlying interest in the Bank or in any other person, and the following discussion is based on the assumption that such treatment will apply for U.S. federal income tax purposes. Assuming compliance with the LLC Agreement, the Company will not be taxable as a corporation and will not itself be subject to U.S. federal income tax. The Bank will treat the Company as a partnership for U.S. federal income tax purposes.

### *Income and Withholding Tax*

The Company intends to operate so that it will not be treated as engaged in the conduct of a U.S. trade or business. Moreover, the Company intends to invest in securities that will be exempt from

withholding of U.S. federal income tax when income attributable to such securities is distributed or allocated to beneficial holders of the Class B Preferred Securities.

Accordingly, a Non-U.S. Holder will not be subject to withholding of U.S. federal income tax on payments in respect of the Trust Preferred Securities. A Non-U.S. Holder also will not be subject to U.S. federal income tax on its allocable share of the Company's income unless such income is effectively connected with the conduct by the Non-U.S. Holder of a trade or business in the United States.

A Non-U.S. Holder will not be subject to U.S. federal income or withholding tax on gain realized on the sale or exchange of the Trust Preferred Securities, unless

- (i) such gain is effectively connected with the conduct by the Non-U.S. Holder of a trade or business in the United States or
- (ii) in the case of gain realized by an individual Non-U.S. Holder, the Non-U.S. Holder is present in the United States for 183 days or more in the taxable year of the sale and certain other conditions are met.

#### *Federal Estate Taxes*

Class B Preferred Securities owned or treated as being owned by a Non-U.S. Holder at the time of death will be included in such holder's gross estate for U.S. federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

#### *Information Reporting and Backup Withholding*

It is expected that income on the Trust Preferred Securities will be reported to Trust Preferred Securityholders by financial institutions that hold the Trust Preferred Securities on behalf of such Trust Preferred Securityholders on an IRS Form 1099, which form should be mailed to Trust Preferred Securityholders by January 31 following each calendar year. The amount of income paid or accrued on the Trust Preferred Securities will be reported to the IRS.

In general, a Non-U.S. Holder who holds Trust Preferred Securities through a non-U.S. Bank or other non-U.S. financial institution that is a participant in Clearstream or Euroclear will not be required to provide certification of non-U.S. status for withholding purposes. In other contexts, however, Non-U.S. Holders may be required to comply with applicable certification procedures to establish that they are not U.S. Holders in order to avoid the application of information reporting requirements and backup withholding tax.

In general, information reporting and backup withholding will not apply to payments of income on Trust Preferred Securities, or to a payment made outside the United States of the proceeds of a sale of Trust Preferred Securities through an office outside the United States of a non-U.S. broker. However, U.S. information reporting requirements (but not backup withholding) will apply to payments of income on Trust Preferred Securities that an investor holds through, or to payments made outside the United States of the proceeds of a sale of Trust Preferred Securities through an office outside of the United States of, a broker, custodian, nominee or other agent (i) that is a U.S. person, (ii) derives 50 percent or more of its gross income for certain periods from the conduct of a trade or business in the United States, (iii) that is a "controlled-foreign corporation" as to the United States, or (iv) that is a foreign partnership, if at any time during its tax year, one or more of its partners are U.S. persons who in aggregate hold more than 50 percent of the income or capital interest in the partnership or if, at any time during its tax year, such foreign partnership is engaged in a U.S. trade or business, unless the broker, custodian, nominee or other agent, as applicable, has documentary evidence in its files that the holder or beneficial owner is a non-U.S. person or the holder or beneficial owner otherwise establishes an exemption. Amounts withheld from a Trust Preferred Securityholder under the backup withholding rules will be allowed as a

refund or credit against such holder's U.S. federal income tax liability, provided the required information is furnished to the IRS.

### **German Taxation**

The following is a discussion of certain German tax considerations that may be relevant to a holder of Trust Preferred Securities that is a resident of Germany or for which income in respect of the Trust Preferred Securities is regarded as income from German sources, e.g., because such Trust Preferred Securities form part of the business property of a permanent establishment or fixed base maintained in Germany (a "German Holder"). The information contained in this summary is not to be construed as tax advice. It is based on an interpretation of the German tax laws as of the date hereof and is subject to change. Any such change may be applied retroactively and may adversely affect the tax consequences described herein. This summary does not purport to deal with all aspects of taxation that may be relevant to investors in the light of their individual circumstances. Prospective investors are advised to consult their own tax advisors with respect to the tax consequences of purchasing, holding, redeeming or disposing of Trust Preferred Securities.

#### *Income Taxation*

Capital Payments received by or, in specific cases, owed to a German Holder with respect to the Trust Preferred Securities will be subject to German personal or corporate income tax (plus a "solidarity surcharge" thereon, which is currently levied at 5.5%), and, in the case of a German Holder who is an individual, may be subject to church tax. Upon the sale or redemption of the Trust Preferred Securities, a German Holder will also be required to include in its taxable income the difference between the amount realized on such sale or redemption and the cost of acquisition (or adjusted tax base) of the Trust Preferred Securities. Income derived from the Trust Preferred Securities will also be subject to German municipal trade tax on income (*Gewerbeertragsteuer*) if the Trust Preferred Securities form part of the property of a German business establishment for trade tax purposes or are held by a German corporate investor.

A German Holder who is an individual and does not hold the Trust Preferred Securities as a business asset will be entitled to a standard deduction (*Werbungskosten-Pauschbetrag*) of DM 100 in computing his or her investment income (including income derived from the Trust Preferred Securities) if no higher expenses are evidences as well as an exemption (*Sparer-Freibetrag*) of DM 3,000 with respect to such investment income. These amounts are doubled for couples filing a joint tax return.

#### *German Withholding Tax*

If the Trust Preferred Securities are kept in a custodial account maintained by a German Holder with a German bank or a German financial services institution, each as defined in the German Banking Act (*Kreditwesengesetz*) (including a German branch of a foreign bank or a foreign financial services institution, but excluding a foreign branch of a German bank or German financial services institution) (a "German Disbursing Agent"), the German Disbursing Agent will generally be required to withhold tax (*Zinsabschlagsteuer*) at a rate of 30% (plus solidarity surcharge thereon at a rate of 5.5%, resulting in an aggregate withholding rate of 31.65%) of the gross amount paid as income with respect to the Trust Preferred Securities. Upon the sale or redemption of the Trust Preferred Securities, a German Disbursing Agent will generally be required to withhold tax at an aggregate rate of 31.65% on:

- (i) the excess of the sale or redemption proceeds of the Trust Preferred Securities over the holder's acquisition cost, if the Trust Preferred Securities have been acquired through or purchased from and have since been held in custody with such German Disbursing Agent, or

- (ii) an amount equal to 30% of the sale or redemption proceeds of the Trust Preferred Securities, if the Trust Preferred Securities have not been so held with such German Disbursing Agent.

Tax withheld by the German Disbursing Agent will be credited against the German Holder's final liability for personal or corporate income tax or refunded if in excess of such final tax liability.

#### *Gift and Inheritance Taxation*

The gratuitous transfer of the Trust Preferred Securities by a holder as a gift or by reason of death is subject to German gift or inheritance tax, based on the market value of the Trust Preferred Securities at the time of the transfer, if the holder of the Trust Preferred Securities or the recipient is a resident, or deemed to be a resident, of Germany under German gift and inheritance tax law at the time of the transfer. If neither the holder of the Trust Preferred Securities nor the recipient is a resident, or deemed to be a resident, of Germany at the time of the transfer, no German gift or inheritance tax is levied unless the Trust Preferred Securities form part of the property of a permanent establishment or a fixed base maintained by the holder of the Trust Preferred Securities in Germany.

#### *Other German Taxes*

There are no German transfer, stamp or other similar taxes which would apply to the sale or transfer of the Trust Preferred Securities. Net-worth tax (*Vermögensteuer*) ceased to be levied by Germany on January 1, 1997 and trade tax on capital (*Gewerbekapitalsteuer*) ceased to be levied by Germany on January 1, 1998.

#### **Netherlands Taxation**

The following describes the principal Netherlands tax consequences of the acquisition, holding, redemption and disposal of the Trust Preferred Securities. This section solely addresses the situation of holders of the Trust Preferred Securities resident or deemed resident of the Netherlands for Netherlands tax purposes (including the individual holder of Trust Preferred Securities who has opted to be taxed as a resident of the Netherlands for Netherlands tax purposes). This section does not purport to be a comprehensive description of all Netherlands tax considerations that may be relevant to a decision to acquire, to hold, and to dispose of the Trust Preferred Securities. Each investor should consult his or her own professional tax adviser with respect to the tax consequences of an investment in the Trust Preferred Securities. The discussion of the principal Netherlands tax consequences of the acquisition, holding and disposal of the Trust Preferred Securities set forth below is included for general information only.

This summary is based on the tax legislation, published case law, and other regulations in force as at November 15, 2001, without prejudice to any amendments introduced at a later date and implemented with or without retroactive effect.

This summary does not address the Netherlands tax consequences of an investor who holds a substantial interest (*aanmerkelijk belang*) in the Company or in DePfa Services (which term includes Substituted Debtor) within the meaning of Section 4.3 of the Income Tax Act 2001. Generally speaking, a holder of Trust Preferred Securities holds a substantial interest in the Company or in DePfa Services, if such holder, alone or together with his or her partner (a statutorily defined term) or certain other related persons, directly or indirectly, holds: (i) an interest of 5 percent or more of the total issued capital of the Bank or of 5 percent or more of the issued capital of a certain class of shares of the Bank; (ii) rights to acquire, directly or indirectly, such interest; or (iii) certain profit sharing rights in the Company or in DePfa Services.

For the purpose of the principal Netherlands tax consequences described herein, it is assumed that the Bank, the Trust and the Company are not resident nor deemed to be resident in the Netherlands for Netherlands tax purposes.

### *Withholding tax*

No Netherlands withholding tax is due upon payments on the Trust Preferred Securities.

No Netherlands withholding tax is due upon payments by DePfa Services on the Initial Debt Securities provided that none of the payments under the Initial Debt Securities will depend or will be deemed to depend on profits or the distribution of profits by DePfa Services.

### *Corporate income tax and individual income tax*

If the holder of the Trust Preferred Securities is subject to Netherlands corporate income tax and the Trust Preferred Securities are attributable to its (deemed) business assets, income derived from the Trust Preferred Securities and capital gains realized upon the redemption and disposal of the Trust Preferred Securities are subject to corporate income tax. It is thereby assumed that the holder of the Trust Preferred Securities does not hold, either alone or together with affiliated companies (*verbonden lichamen*), an interest of 25% or more in the Trust.

If the holder of the Trust Preferred Securities is an individual, resident or deemed to be resident of the Netherlands for Netherlands tax purposes (including the individual holder of Trust Preferred Securities who has opted to be taxed as a resident of the Netherlands), the income derived from the Trust Preferred Securities and the gains realized upon the redemption and disposal of the Trust Preferred Securities are taxable at the progressive rates of the Income Tax Act 2001, if:

- (i) the holder of the Trust Preferred Securities has an enterprise or an interest in an enterprise, to which enterprise the Trust Preferred Securities are attributable; or
- (ii) such income or gains qualify as income from miscellaneous activities in the Netherlands within the meaning of Section 3.4 of the Income Tax Act 2001, which include the performance of activities with respect to the Trust Preferred Securities that exceed “regular, active portfolio management” (*normaal, actief vermogensbeheer*).

If the above-mentioned conditions (i) or (ii) do not apply to the individual holder of the Trust Preferred Securities, the actual income derived from the Trust Preferred Securities and the actual gains realized with respect to the Trust Preferred Securities will not be taxable. Instead, such holder will be taxed at a flat rate of 30% on deemed income from “savings and investments” (*sparen en beleggen*) within the meaning of Section 5.1 of the Income Tax Act 2001. This deemed income amounts to 4% of the average of the individual’s “yield basis” (*rendementsgrondslag*) within the meaning of article 5.3 of the Income Tax Act 2001 at the beginning of the calendar year and the individual’s yield basis at the end of the calendar year, insofar the average exceeds a certain threshold. The Trust Preferred Securities will be included in the individual’s yield basis.

### *Gift and inheritance taxes*

Generally, gift and inheritance taxes will be due in the Netherlands in respect of the acquisition of the Trust Preferred Securities by way of gift by, or on the death of, a holder of the Trust Preferred Securities who is a resident or deemed to be a resident of the Netherlands at the time of the gift or his or her death.

An individual of the Netherlands nationality is deemed to be resident of the Netherlands for the purpose of the Netherlands gift and inheritance tax if he or she has been a resident of the Netherlands during the ten years preceding the gift or his or her death. An individual of any other nationality is deemed to be a resident of the Netherlands for the purpose of the Netherlands gift tax only if he or she has been residing in the Netherlands at any time during the twelve months preceding the time of the gift. Applicable tax treaties may override deemed residency.



*Other taxes and duties*

No capital tax, registration tax, customs duty, transfer tax, stamp duty or any other similar documentary tax or duty, will be payable in the Netherlands by the holder of the Trust Preferred Securities in respect of or in connection with the subscription, issue, placement, allotment or delivery of the Trust Preferred Securities.

*Proposed EU Savings Directive*

On 18th July, 2001 the EU Commission published a proposal for a new directive regarding the taxation of savings income. It is proposed that, subject to a number of important conditions being met, Member States will be required to provide to the tax authorities of another Member State details of payments of interest or other similar income paid by a person within its jurisdiction to an individual resident in that other Member State, subject to the right of certain Member States to opt instead for a withholding system for a transitional period in relation to such payments. The proposed directive is not yet final, and may be subject to further amendment and/or clarification.

## SUBSCRIPTION AND SALE

Subject to the terms and conditions set forth in a Subscription Agreement among the Bank, the Company, the Trust, DePfa Services and each of the Managers named below (the “Managers”), the Trust has agreed to sell to each of the Managers and each of the Managers has severally agreed to purchase the number of the Trust Preferred Securities provided in the Subscription Agreement.

### **Managers**

BNP Paribas

Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.

DZ BANK AG Deutsche Zentral-

Genossenschaftsbank, Frankfurt am Main

Under the terms and conditions of the Subscription Agreement, the Managers are committed to take and pay for all shares of the Trust Preferred Securities offered hereby, if any are taken.

The purchase price for the Trust Preferred Securities will be the initial offering price of € 25 per Trust Preferred Security (the “Offering Price”). The Bank or a majority-owned subsidiary, as the holder of the Company Common Security, will pay the Managers a combined management and underwriting fee of € 0.25 per Trust Preferred Security and selling commission of € 0.25 per Trust Preferred Security. In addition, the Bank will pay the Lead Managers an arrangement fee, which may be reallocated to certain third parties for services in connection with the Offering. The Managers propose to offer shares of the Trust Preferred Securities at the Offering Price. After the Trust Preferred Securities are released for sale, the Offering Price and other selling terms may from time to time be varied by the Managers.

In view of the fact that the proceeds from the sale of the Trust Preferred Securities will be used to purchase the Initial Debt Obligations, the Subscription Agreement provides that the Bank will reimburse the Managers for certain expenses of the Offering.

The Trust Preferred Securities are expected to be issued on November 20, 2001. Payment and delivery will be through the facilities of the Common Depositary.

The Trust Preferred Securities are a new issue of securities with no established trading market. The Bank and the Company have been advised by the Managers that they currently intend to make a market in Trust Preferred Securities. However, the Managers are not obligated to do so and any such market making activity will be subject to the limits imposed by applicable law and may be interrupted or discontinued at any time without notice.

In connection with the Offering, the Managers may engage in transactions that stabilize, maintain or otherwise affect the price of the Trust Preferred Securities. These transactions may include over-allotment and stabilizing transactions and purchases to cover short positions created by the Managers, and the imposition of a penalty bid, in connection with the Offering. Stabilizing transactions consist of certain bids or purchases for the purpose of preventing or retarding a decline in the market price of the Trust Preferred Securities; and short positions created by the Managers involve the sale by the Managers of a greater number of the Trust Preferred Securities than they are required to purchase from the Trust in the Offering. The Managers also may impose a penalty bid, whereby selling concessions allowed to broker-dealers in respect of the Trust Preferred Securities sold in the offering may be reclaimed by the Managers if such Trust Preferred Securities are repurchased by the Managers in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the Trust Preferred Securities, which may be higher than the price that might otherwise prevail in an independent market. These activities, if commenced, may be discontinued at any time.

Certain of the Managers or their affiliates have provided from time to time, and expect to provide in the future, investment services to the Bank and its affiliates, for which such Managers or their affiliates have received or will receive customary fees and commissions.

## **Selling Restrictions**

### *United States of America*

The Trust Preferred Securities have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the “Securities Act”) and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act (“Regulation S”) or pursuant to an exemption from the registration requirements of the Securities Act. Each Manager has represented and agreed that it has not offered or sold, and will not offer or sell, any Trust Preferred Securities (i) as part of their distribution at any time and (ii) otherwise until 40 days after the later of the commencement of the offering and the Issue Date, except to persons who it reasonably believes are non-U.S. persons in transactions meeting the requirements of Rule 903 of Regulation S under the Securities Act. Accordingly, each Manager has confirmed that 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 Trust Preferred Securities, and they have complied and will comply with the offering restrictions requirement of Regulation S.

### *United Kingdom*

Each Manager has represented and agreed that:

- (a) it has not offered or sold and, prior to the expiry of the period of six months from the Settlement Date, will not offer or sell any Trust Preferred Securities to persons in the United Kingdom except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their business or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations 1995;
- (b) it has complied and will comply with all applicable provisions of the Financial Services Act 1986 with respect to anything done by it in relation to the Trust Preferred Securities in, from or otherwise involving the United Kingdom;
- (c) it has only issued or passed on and will only issue or pass on to any person in the United Kingdom any document received by it in connection with the issue of the Trust Preferred Securities if that person is of a kind described in Article 11 (3) of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1996, as amended by the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1996, as amended, or is a person to whom such document may otherwise lawfully be issued or passed on.

As used herein, “United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

### *Germany*

Each Manager has acknowledged that no securities sales prospectus complying with the German Securities Sales Prospectus Act (*Wertpapier-Verkaufsprospektgesetz*) has been or will be prepared in respect of the Trust Preferred Securities and that offers and sales of the Trust Preferred Securities in Germany may only be made in accordance with the exemption for “Euro-Securities” pursuant to Section 4 No. 1 of that Act. Accordingly, no public advertising with respect to the Trust Preferred Securities may take place.

### *The Netherlands*

So long as the Trust Preferred Securities have not been listed on Euronext Amsterdam, or it is unlikely that the Trust Preferred Securities will soon be admitted to listing, the Trust Preferred Securities may only be offered, sold, or delivered in or from the Netherlands, as part of their initial distribution or as part of any re-offering, and this Preliminary Offering Circular and any other document in respect of the offering may only be distributed or circulated in the Netherlands, to individuals or legal entities, which include, but are not limited to, banks brokers, dealers, institutional investors and undertakings with a treasury department, who or which trade or invest in securities in the conduct of a business or profession. This Preliminary Offering Circular constitutes a “prospectus” with regard to sales of or offers to sell the Trust Preferred Securities in the Netherlands.

### *Spain*

Each Manager has acknowledged that the Trust Preferred Securities may not be offered or sold in Spain nor may any document or offer material be distributed in Spain or targeted to Spanish resident investors save in compliance and in accordance with the requirements set out in Law 24/1988 on the Spanish Securities Market, as amended.

### *General*

In addition to the specific restrictions set out above each Manager has agreed that it will observe all applicable provisions of law in each jurisdiction in or from which it may offer Trust Preferred Securities or distribute any offering material.

## **SUMMARY OF MATERIAL DIFFERENCES BETWEEN GERMAN AND UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES**

The differences between the generally accepted accounting principles of the German Commercial Code (*HGB*) and US GAAP, which are relevant to the DePfa Group, are set out below.

### *Securities*

In accordance with SFAS 115 (Accounting for Certain Investments in Debt and Equity securities), securities are classified into three categories depending on the purpose for which they were purchased: held to maturity, available for sale and trading. Securities held to maturity are recorded at net book value. In valuing securities available for sale, changes in their market value are recorded in other comprehensive income without impacting profit and loss while changes in the market value of trading securities are recorded in the profit and loss account. By contrast, under the German Commercial Code a valuation at the lower of cost or market is mandatory. All changes in valuation are charged to the profit and loss account.

### *Repurchased debt securities*

Under US GAAP, debt securities, which are repurchased, lead to a reduction of outstanding liabilities in the balance sheet. This takes place irrespective of whether the paper is intended for resale or not. The difference between the cost of acquisition and the book value is reported under income in the profit and loss account. Under the German Commercial Code, the securities are capitalized and valued strictly at the lower of cost or market.

### *Treasury stock*

Under US-GAAP, own shares are to be deducted from equity. Differences between the purchase price and their realizable value are taken into account in the equity and excluded from profit and loss. The provisions of the German Commercial Code state that the difference between the purchase price and realizable value should be capitalized and recorded in income in the profit and loss account.

### *Derivatives*

Under US GAAP, all derivatives, which do not fulfil the strict criteria for hedge accounting, are reported at fair value in the profit and loss account. This valuation is effected irrespective of the commercial hedging effect of the transactions in question. Derivatives forming part of a hedging relationship are reported on a basis consistent with the hedged transaction. All derivatives valued are reported under other assets or other liabilities. Under the German Commercial Code, the reporting of hedging relationships is subject to less stringent requirements than under US GAAP. Neither underlying nor hedging transactions are valued. On derivatives without any hedging relationship, unrealized losses resulting from changes in market values are recorded and charged to the profit and loss account while unrealized gains are not reflected in the profit and loss.

### *Provision for loan losses*

For loans within the scope of SFAS 114 (Accounting by Creditors for Impairment of a Loan), specific charges are determined based on the present value of future cash flows discounted at the loan's effective rate or based on the fair value of the collateral provided. Where applicable, the market value can be used. Portfolios of smaller sized loans of a similar type that are collectively evaluated for impairment such as private residential mortgage loans, fall outside the scope of SFAS 114. General provisions are maintained to cover inherent losses in the portfolio that have not yet been specifically identified. Under the German Commercial Code, account is taken of potential credit risk on the basis of historical loan loss experience, taking into account the parameters prescribed under tax legislation. Provision for general

banking risks as permitted under section 340 f and section 340 g of the German Commercial Code is not permissible under US GAAP.

#### *Property and equipment*

Under US GAAP, property and equipment may not be carried at more than the historic cost less scheduled depreciation. Extraordinary depreciation is to be carried out if the value is permanently impaired. Under the provisions of US GAAP, any subsequent revaluation does not lead to any recovery, while a recovery is required under the provisions of the German Commercial Code.

#### *Deferred taxes*

Under US GAAP, deferred taxes must be provided for on all differences between tax reporting and financial reporting in the Group accounts, irrespective of when the differences are netted (temporary concept). In addition, a deferred tax asset is mandatory for tax losses carried forward. Under the German Commercial Code, differences in results, which are likely to be reversed in the foreseeable future (timing concept), are supported by deferred taxes, no deferred taxes may be created on tax losses carried forward.

#### *Pension provisions*

Unlike German law, forward-looking assumptions such as future salary developments and career expectations are to be taken into account under US GAAP. The basis for the valuation is equivalent to the prevalent capital market rate.

#### *Costs of developing computer software*

Under US GAAP, the costs of developing software for use by the Group are to be capitalized, while this is prohibited under the German Commercial Code.

## GENERAL INFORMATION

### Use of Proceeds

All the proceeds from the sale of the Trust Securities will be invested by the Trust in the Class B Preferred Securities. The Company will use the funds from the sale of the Class B Preferred Securities, together with funds contributed in return for the Class A Preferred Security and the Company Common Security, to make an investment in the Initial Debt Obligations. The Bank intends that the proceeds of the sale of the Initial Debt Obligations will be used for general corporate purposes of the Bank and its subsidiaries. After the Restructuring, the Bank expects to treat the Class B Preferred Securities as consolidated Tier I regulatory capital of the Bank. Prior thereto, the Class B Preferred Securities are expected to be treated as consolidated Tier I regulatory capital of the DePfa Group.

### Material Change

Save as disclosed herein, there has been no material adverse change in the financial condition, earnings, business or operations of the Bank since December 31, 2000, which would adversely affect its ability to perform its obligations under the Support Undertaking and the Initial Guarantee.

### Financial Year

The financial year of the Bank is the calendar year.

### Independent Auditors

The independent auditors of the Bank are PwC Deutsche Revision Aktiengesellschaft Wirtschaftsprüfungsgesellschaft ("PwC"), Olaf-Palme-Strasse 35, D-60439 Frankfurt am Main.

PwC has audited the unconsolidated financial statements of the Bank for the years ended December 31, 1998, 1999 and 2000 in accordance with German Commercial Code regulations (HGB), and has issued an unqualified opinion in each case.

### Legal Opinions

Certain matters of Delaware law relating to the validity of the Trust Preferred Securities and the Class B Preferred Securities will be passed upon for the Trust, the Company and the Bank by Richards, Layton & Finger, P.A., Wilmington, Delaware. Cleary, Gottlieb, Steen & Hamilton, Frankfurt am Main, has acted as legal adviser to the Bank. Linklaters Oppenhoff & Rädler, Frankfurt am Main, has acted as legal adviser to the Managers.

### Clearing Codes

ISIN: XS0138973010  
Common Code: 013897301  
Amsterdam Security Code (*Fondscode*): 45542  
German Security Code: 778 998

### Availability of Documents

The documents referred to in this Circular, and an English translation of the Articles of Association (*Satzung*) of the Bank, may be inspected during customary business hours, so long as any of the Trust Preferred Securities remain outstanding, at the offices of DePfa Bank AG, Paulinenstrasse 15, D-65189, Wiesbaden, and at the specified offices of the Paying Agent and the Netherlands Paying Agent.

For so long as the Trust Preferred Securities are listed on Euronext Amsterdam, copies of the audited annual financial statements and interim financial statements of the Bank will be available in the English language free of charge, at the specified offices of the Netherlands Paying Agent. Neither the Company nor the Trust publishes financial statements.

## GLOSSARY

“1940 Act” means the U.S. Investment Company Act of 1940, as amended.

“Additional Amounts” means any additional amounts payable by the Company or Trust pursuant to the terms of Class B Preferred Securities and the Trust Preferred Securities as a result of deduction or withholding on payments or on repayment upon redemption thereof.

“Additional Interest Amounts” means any additional interest amounts payable by DePfa Services or other obligor pursuant to the terms of the Initial Debt Obligations as a result of deduction or withholding upon payment of interest on the Initial Debt Obligations or repayment upon redemption thereof.

“Administrative Action” means any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt certain procedures or regulations) by any legislative body, court, governmental authority or regulatory body.

“BAKred” means the German Federal Banking Supervisory Authority (*Bundesaufsichtsamt für das Kreditwesen*).

“Bank” or “DePfa Bank” means DePfa Bank AG.

“billions” means one thousand millions.

“Board of Directors” means the board of directors of the Company.

“Business Day” means a day on which on which all relevant parts of the Trans-European Automated Real-time Gross Settlement Transfer system (TARGET) are operational.

“Bylaws” means the by-laws of the Company.

“Capital Payments” means the periodic distributions on the Trust Securities and the Class B Preferred Securities.

“Class A Preferred Security” means the noncumulative Class A Preferred Security representing a limited liability company interest in the Company.

“Class B Preferred Securities” means the noncumulative Class B Preferred Securities evidencing preferred limited liability company interests in the Company.

“Clearstream S.A.” means Clearstream Banking S.A. established in Luxembourg.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“Common Depositary” means Deutsche Bank AG London, as common depositary for Euroclear Bank S.A./N.V. as operator of the Euroclear System and for Clearstream Banking S.A.

“Company” means DePfa Bank Capital Funding LLC, a Delaware limited liability company.

“Company Common Security” means the voting common security representing a limited liability company interest in the Company.

“Company Securities” means, collectively, the Company Common Security, the Class A Preferred Security and the Class B Preferred Securities.

“Company Special Redemption Event” means (i) a Regulatory Event, (ii) a Tax Event or (iii) an Investment Company Act Event with respect to the Company.

“Debt Redemption Date” means any Interest Payment Date on or after the Initial Debt Redemption Date.

“Debt Obligations” means the Initial Debt Obligations and the Substitute Debt Obligations.



“Delaware Trustee” means Bankers Trust (Delaware).

“Distributable Profits” of the Bank for any fiscal year is the balance sheet profit (*Bilanzgewinn*) as of the end of such fiscal year, as shown in the audited unconsolidated balance sheet of the Bank as of the end of such fiscal year. Such balance sheet profit includes the annual surplus or loss (*Jahresüberschuß/fehlbetrag*), plus any profit carried forward from previous years, minus any loss carried forward from previous years, plus transfers from capital reserves and earnings reserves, minus allocations to earnings reserves, all as determined in accordance with the provisions of the German Stock Corporation Act (*Aktiengesetz*) and accounting principles generally accepted in the Federal Republic of Germany as described in the German Commercial Code (*Handelsgesetzbuch*) and other applicable German law then in effect.

“DePfa Services” means DePfa Property Services B.V.

“DePfa Group” means DePfa Deutsche Pfandbriefbank AG and its consolidated subsidiaries, including the Bank.

“DM” means Deutsche Mark.

“DZ BANK AG” means DZ BANK AG Deutsche Zentral-Genossenschaftsbank, Frankfurt am Main.

“euro” and “€” means the single unified currency that became legal currency on January 1, 1999 in those member states of the European Monetary Union that satisfied the convergence criteria set forth in the Maastricht Treaty, including Germany.

“Euro-zone” means the region comprised of member states of the European Union that adopt the single currency in accordance with the Treaty Establishing the European Community, as amended by the Maastricht Treaty on European Union.

“Euroclear” means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

“Euronext Amsterdam” means the Stock Market of Euronext Amsterdam N.V.

“Fitch” means Fitch Ratings Ltd.

“Global Certificates” means the Permanent Global Certificate together with the Temporary Global Certificate.

“Global Securities” means one or more global certificates representing the Class B Preferred Securities which the Company will use reasonable efforts to have issued registered in the name of the depositary or its nominee if the Class B Preferred Securities are distributed to holders of the Trust Preferred Securities in connection with the involuntary or voluntary liquidation, dissolution, winding up or termination of the Trust.

“Independent Enforcement Director” means the independent member of the Board of Directors elected by the holders of the Class B Preferred Securities under specified circumstances.

“Initial Debt Redemption Date” means December 31, 2006, the first day on which the Initial Debt Obligations will be redeemable by the Bank, in whole but not in part, other than upon the occurrence of a Company Special Redemption Event or in the event of replacement with Substitute Debt Obligations.

“Initial Debt Obligations” means subordinated notes of DePfa Services due December 31, 2026.

“Initial Guarantee” means the Bank’s subordinated guarantee of payment of the principal of and interest on the Initial Debt Obligations.

“Initial Redemption Date” means December 31, 2006, the first day on which the Class B Preferred Securities are redeemable at the option of the Company, in whole but not in part, other than upon the occurrence of a Company Special Redemption Event.

“Interest Payment Date” means the dates March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001.

“Interest Period” means the period beginning and including the immediately preceding Interest Payment Date (or the issue date with respect to interest payable on December 31, 2001) to but excluding the relevant Interest Payment Date.

“Investment Company” means an investment company within the meaning of the 1940 Act.

“Investment Company Act Event” means that the Bank has requested and received an opinion of a nationally recognized U.S. law firm experienced in such matters to the effect that there is more than an insubstantial risk that the Company or the Trust is or will be considered an “investment company” within the meaning of the 1940 Act as a result of any judicial decision, pronouncement or interpretation (irrespective of the manner made known), the adoption or amendment of any law, rule or regulation, or any notice or announcement (including any notice or announcement of intent to adopt such law, rule or regulation) by any U.S. legislative body, court, governmental agency, or regulatory authority, in each case after the date of the issuance of the Company Securities and the Trust Securities.

“IRS” means the U.S. Internal Revenue Service.

“Junior Securities” means (i) common stock of the Bank, (ii) each class of preference shares of the Bank ranking junior to Parity Securities of the Bank, if any, and any other instrument of the Bank ranking *pari passu* therewith or junior thereto, and (iii) preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking junior to the obligations of the Bank under the Support Undertaking.

“KWG” means the German Banking Act (*Kreditwesengesetz*).

“Liquidation Preference Amount” means the liquidation preference amount of € 25 per Trust Preferred Security.

“LLC Act” means the Delaware Limited Liability Company Act, as amended.

“LLC Agreement” means the amended and restated limited liability company agreement of the Company.

“Maastricht Treaty” means the Treaty on European Union which amended the Treaty Establishing the European Community.

“Managers” means the institutions listed as Managers in “Subscription and Sale”.

“Maturity Date” means, in respect of the Initial Debt Obligations, December 31, 2026.

“Non-U.S. Holder” means a non-resident alien individual, a foreign corporation, a foreign partnership or an estate or trust that in either case is not subject to United States federal income tax on a net income basis or income or gain from Trust Preferred Securities.

“Offering” means the offering by DePfa Bank Capital Funding Trust of 9,200,000 Noncumulative Trust Preferred Securities.

“Offering Price” means the initial offering price of € 25 per Trust Preferred Security.

“Operating Profits” of the Company for any Payment Period means the excess of the amounts payable (whether or not paid) on the Debt Obligations or, after the Maturity Date, on the Permitted Investments that the Company may then hold in accordance with the LLC Agreement during such Payment Period, over any operating expenses of the Company not paid or reimbursed by the Bank or one of its branches or affiliates during such Payment Period.

“Parity Securities” means each class of the most senior ranking preference shares of the Bank, if any, and Parity Subsidiary Securities.

“Parity Subsidiary Securities” means the most senior ranking preference shares or any other instrument of any subsidiary of the Bank subject to any guarantee or support agreement of the Bank ranking *pari passu* with the obligations of the Bank under the Support Undertaking.

“Paying Agent” means Deutsche Bank AG London.

“Payment Date” means March 31, June 30, September 30 and December 31 of each year, commencing December 31, 2001.

“Payment Period” means the period from and including the immediately preceding Payment Date (or the issue date, with respect to Capital Payments payable on December 31, 2001) to but excluding the relevant Payment Date.

“Permanent Global Certificate” means the permanent global certificate representing the Trust Preferred Securities.

“Permitted Investments” means investments by the Company after the Maturity Date in (i) debt obligations of one or more Qualified Issuers (not including the Bank) which are unconditionally guaranteed by the Bank on a subordinated basis at least equal to the ranking of the Debt Obligations, or (ii) in the event such an investment is not available, in U.S. Treasury securities, *provided, in each case*, that such investment does not result in a Company Special Redemption Event.

“Pfandbriefbank” means DePfa Deutsche Pfandbriefbank AG.

“Preferred Securities” means the Class B Preferred Securities and the Class A Preferred Security.

“Principal Amount” means, in respect of the Initial Debt Obligations, € 230,000,300.

“Property Account” means a segregated non-interest bearing trust account maintained by the Property Trustee.

“Property Trustee” means Bankers Trust Company.

“Proposed EU Savings Tax Directive” means the proposal dated July 18, 2001 currently under consideration by the European Union that would, if enacted in its current form, require each EU member state, beginning in 2003, to impose an obligation on “paying agents” (within the meaning given to this term in the proposal) established on its territory to either (i) report the payment to the tax authorities of the recipient’s state of residence or (ii) as an alternative only through 2009, withhold tax on the payment of interest, discount or premium to an individual who is a resident of another EU member state at a rate of 15% (20% after 2005).

“Qualified Issuer” means a non-German branch of the Bank or a direct or indirect majority owned subsidiary of the Bank that is a credit institution, financial services institution or financial enterprise within the meaning of the German Banking Act (*Kreditwesengesetz*).

“Rabobank” means Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.

“Redemption Date” means the date of redemption of the Class B Preferred Securities.

“Redemption Notice” means notice of any redemption of the Class B Preferred Securities.

“Regular Trustees” means two of the Trustees who are employees or officers of, or who are affiliated with, the Bank or one of its affiliates.

“Regulation S” means Regulation S under the Securities Act.

“Regulatory Event” means that the Bank is notified by a relevant regulatory authority that, as a result of the occurrence of any amendment to or change (including any change that has been adopted but has not yet become effective) in, the applicable banking laws of Germany (or any rules, regulations or interpretations thereunder, including rulings of the relevant banking authorities) or the guidelines of the Basle Committee for Banking Supervision, the Bank is not, or will not be, allowed to treat the Class B Preferred Securities as core capital or Tier I regulatory capital for capital adequacy purposes on a consolidated basis.

“Relevant Jurisdiction” means Germany, the United States, the jurisdiction of residence of any obligor on given Debt Obligations (or any jurisdiction from which payments are made), and in the case of Debt Obligations issued by a non-German branch of the Bank, the jurisdiction in which such branch is located, but excluding jurisdiction based on the mere holding of the Class B Preferred Securities or the Trust Preferred Securities, respectively.

“Restructuring” means the separation of the public finance and property business activities of the DePfa Group as a result of which (1) shareholders of Pfandbriefbank will become shareholders of a newly created Irish public limited company and (2) such shareholders will receive by way of dividend the common shares of the Bank and certain related transactions will occur, all described in “The Restructuring of the DePfa Group” herein.

“Restricted Period” means the period ending on the 40th day after the later of the closing date and the completion of the distribution of the Trust Preferred Securities.

“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc.

“Securities Act” means the U.S. Securities Act of 1933, as amended.

“Servicer” means either the Bank or one of its branches or affiliates that is providing certain accounting, legal, tax and other support services to the Company and the Trust.

“Services Agreement” means the services agreement among the Trust, the Company and the Servicer.

“Stated Rate” means, at any time, the per annum rate at which Capital Payments accrue on the Liquidation Preference Amounts of Trust Preferred Securities.

“Substitute Debt Obligations” means any debt obligations issued in substitution of the Initial Debt Obligations.

“Successor Securities” means other securities having substantially the same terms as the Trust Securities.

“Support Undertaking” means a support agreement between the Bank and the Company.

“Tax Event” means the receipt by the Bank of an opinion of a nationally recognized law firm or other tax adviser in a Relevant Jurisdiction, experienced in such matters, to the effect that, as a result of (i) any amendment to, or clarification of, or change (including any change that has been adopted but has not yet become effective) in, the laws or treaties (or any regulations promulgated thereunder) of such jurisdiction or any political subdivision or taxing authority thereof or therein affecting taxation, (ii) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) or (iii) any amendment to, clarification of, or change in the official position or the interpretation of such Administrative Action or any interpretation or pronouncement that provides for a position with respect to such Administrative Action that differs from the theretofore generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification or change is made known, which amendment, clarification or change is effective, or which pronouncement or decision is announced, after

the date of issuance of the Company Securities and the Trust Securities, there is more than an insubstantial risk that (a) the Trust or the Company is or will be subject to more than a *de minimis* amount of taxes, duties or other governmental charges, or (b) the Trust, the Company or an obligor on the Debt Obligations would be obligated to pay Additional Amounts or Additional Interest Amounts, provided, however, that none of the foregoing will constitute a Tax Event if it may be avoided by the Bank, the Trust or the Company taking reasonable measures under the circumstances.

“Temporary Global Certificate” means the temporary global certificate representing the Trust Preferred Securities.

“Transfer Agent” means Deutsche Bank AG London.

“Trust” means DePfa Bank Capital Funding Trust, a statutory business trust created under the laws of the State of Delaware, United States of America.

“Trust Act” means the Delaware Business Trust Act.

“Trust Agreement” means the trust agreement among the Trustees, the Sponsor and the Holders, as amended and restated.

“Trust Common Security” means one common security of the Trust.

“Trust Enforcement Event” under the Trust Agreement with respect to the Trust Securities means the occurrence, at any time, of (i) non-payment of Capital Payments (plus any Additional Amounts thereon, if any) on the Trust Preferred Securities or the Class B Preferred Securities at the Stated Rate in full, for four consecutive Payment Periods or (ii) a default by the Bank in respect of any of its obligations under the Support Undertaking, provided, that, pursuant to the Trust Agreement, the holder of the Trust Common Security will be deemed to have waived any Trust Enforcement Event with respect to the Trust Common Security until all Trust Enforcement Events with respect to the Trust Preferred Securities have been cured, waived or otherwise eliminated.

“Trust Preferred Securities” means the 9,200,000 Noncumulative Trust Preferred Securities offered in the Offering.

“Trust Preferred Securityholder” means a person that acquires Trust Preferred Securities on their original issue at their original offering price.

“Trust Securities” means the Trust Common Security together with the Trust Preferred Securities.

“Trust Special Redemption Event” means (i) a Tax Event solely with respect to the Trust, but not with respect to the Company, or (ii) an Investment Company Act Event solely with respect to the Trust, but not with respect to the Company.

“Trustees” means the trustees of the Trust, pursuant to the Trust Agreement.

“U.S. GAAP” means U.S. Generally Accepted Accounting Principles.

“U.S. Person” has the meaning given such term in Regulation S.

“Withholding Taxes” means any present or future taxes, duties or governmental charges of any nature whatsoever imposed, levied or collected by or on behalf of a Relevant Jurisdiction or any political subdivision or authority therein or thereof having the power to tax.

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**APPENDIX A  
SUPPORT UNDERTAKING**

This Agreement (this “**Agreement**”), dated November 20, 2001, is entered into between DePfa Bank AG, a German banking corporation, (the “**Bank**”) and DePfa Bank Capital Funding LLC, a Delaware limited liability company (the “**Company**”).

WITNESSETH:

WHEREAS, the Bank owns the Common Security (as defined below) of the Company;

WHEREAS, pursuant to the LLC Agreement, the Company will issue the Class A Preferred Security to the Bank and all of the Class B Preferred Securities to the Trust (each as defined below);

WHEREAS, pursuant to the Trust Agreement (as defined below), the Trust will issue the Trust Preferred Securities (as defined below) with the same terms as, and representing corresponding amounts of, the Class B Preferred Securities;

WHEREAS, the Company intends to use the proceeds from the issuance of the Class B Preferred Securities to purchase subordinated notes of DePfa Property Services B.V., a wholly-owned subsidiary of the Bank;

WHEREAS, the Company may from time to time declare capital payments on the Class B Preferred Securities pursuant to and in accordance with the LLC Agreement; and

WHEREAS, the Bank wishes to undertake for the benefit of the Company and the holders of the Class B Preferred Securities that so long as any Class B Preferred Securities remain outstanding (i) the Bank will maintain direct or indirect ownership of the Class A Preferred Security and the Common Security, (ii) the Company will at all times be in a position to meet its obligations, including its obligation to pay Capital Payments and the Redemption Price of Class B Preferred Securities called for redemption, including in each case Additional Amounts thereon, if any, and (iii) in liquidation or dissolution, the Company will have sufficient funds to pay the Liquidation Preference Amounts.

NOW, THEREFORE, the parties agree as follows:

Section 1. *Certain Definitions.*

“**Agreement**” has the meaning specified in the preamble.

“**Bank**” has the meaning specified in the preamble.

“**Capital Payments**” mean any capital payments or other distributions at any time after the date hereof declared by the Board of Directors of the Company (or deemed declared in accordance with the LLC Agreement), but not yet paid, on the Class B Preferred Securities.

“**Class A Preferred Security**” means the class of preferred limited liability company interests in the Company designated as Class A.

“**Class B Payment Period**” has the meaning set forth in the LLC Agreement.

“**Class B Preferred Securities**” mean the class of preferred limited liability company interests in the Company designated as Class B, with a liquidation preference amount of € 25 per security.

“**Common Security**” means the common limited liability company interest, without par value, of the Company.

“**Company**” has the meaning specified in the preamble.

“**Independent Enforcement Director**” means the independent member of the board of directors of the Company elected by the holders of the Class B Preferred Securities upon the occurrence of certain events in accordance with, and under the terms set forth in, the LLC Agreement.

“**Liquidation Preference Amount**” means the stated Liquidation Preference Amount of the Class B Preferred Securities and any other amounts due and payable under the LLC Agreement upon the voluntary or involuntary liquidation, dissolution, winding-up or termination of the Company to the holders of the Class B Preferred Securities.

“**LLC Agreement**” means the limited liability company agreement of the Company dated as of November 1, 2001, as amended and restated as of November 20, 2001, and as the same may be further amended from time to time in accordance with its terms.

“**Person**” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“**Preferred Securities**” mean the Class A Preferred Security and the Class B Preferred Securities, collectively.

“**Redemption Price**” has the meaning set forth in the LLC Agreement

“**Trust**” means DePfa Bank Capital Funding Trust, a Delaware statutory business trust established pursuant to a Trust Agreement dated as of November 1, 2001, as amended and restated as of November 20, 2001, and as the same may be further amended from time to time in accordance with its terms.

“**Trust Preferred Securities**” means the Noncumulative Trust Preferred Securities issued by the Trust.

#### Section 2. *Support Undertaking.*

(a) The Bank undertakes to ensure that the Company will at all times be in a position to meet its obligations if and when such obligations are due and payable, including its obligations to pay Capital Payments and the Redemption Price of Class B Preferred Securities called for redemption (including in each case Additional Amounts thereon, if any).

(b) The Bank undertakes to ensure that in the event of any liquidation of the Company, the Company will have sufficient funds to pay the Liquidation Preference Amount (including accrued and unpaid Capital Payments for the then current Class B Payment Period to but excluding the date of liquidation and Additional Amounts, if any).

(c) The obligations of the Bank under this Section 2 will be subordinated to all senior and subordinated debt obligations of the Bank, and will rank *pari passu* with the most senior ranking preference shares of the Bank, if any, and will rank senior to any other preference shares and the common shares of the Bank.

(d) This Agreement shall not constitute a guarantee or undertaking of any kind that the Company will at any time have sufficient assets, or be authorized pursuant to the LLC Agreement, to declare a Capital Payment or other distribution.

#### Section 3. *Third Party Beneficiaries and Enforcement of Rights.*

(a) The parties hereto agree that this Agreement is entered into for the benefit of the Company and all current and future holders of the Class B Preferred Securities and that the Company and any holder of any such Class B Preferred Securities may severally enforce the obligations of the Bank under Section 2.

(b) The parties hereto acknowledge that, as provided in the LLC Agreement, if a holder of Class B Preferred Securities has notified the Company that the Bank has failed to pay any amount then due



hereunder, and such failure continues for sixty (60) days or more after such notice is given, the holders of the Class B Preferred Securities shall have the right to elect the Independent Enforcement Director who will be required to enforce the rights of the Company under this Agreement.

Section 4. *No Exercise of Rights.* The Bank will not exercise any right of set-off, counterclaim or subrogation that it may have against the Company as long as any Class B Preferred Securities are outstanding.

Section 5. *Burden of Proof.* Any failure of the Company to pay Capital Payments, Redemption Price, or Liquidation Preference Amounts (or any part thereof), plus, in any case, Additional Amounts, if any, shall constitute prima facie evidence of a breach by the Bank of its obligations hereunder. The Bank shall have the burden of proof that the occurrence of such breach results neither from its negligent nor its intentional misconduct.

Section 6. *No Senior Support to Other Subsidiaries.* The Bank undertakes that it shall not give any guarantee or other support agreement or similar undertaking with respect to, or enter into any other agreement relating to the guarantee, support or payment of any amounts in respect of, any other preference shares (or instruments ranking *pari passu* with or junior to preference shares) of any other affiliated entity that would in any regard rank senior in right of payment to the Bank's obligations under this Agreement, unless the parties hereto modify this Agreement such that the Bank's obligations under this Agreement rank at least *pari passu* with, and contain substantially equivalent rights of priority as to payment as, such guarantee or other support agreement.

Section 7. *Continued Ownership of the Class A Preferred Security and the Common Security.* The Bank undertakes to maintain direct or indirect ownership of the Class A Preferred Security and the Common Security so long as any Class B Preferred Securities remain outstanding.

Section 8. *No dissolution of the Company.* Under the terms of the LLC Agreement and to the fullest extent permitted by law, the Bank shall not permit the Company to be dissolved until all obligations under this Agreement have been paid in full pursuant to its terms.

Section 9. *Modification and Termination.* So long as any Class B Preferred Securities remain outstanding, this Agreement may not be modified or terminated without the consent of 100% of the holders of the Class B Preferred Securities as provided in the LLC Agreement, except for such modifications that are not adverse to the interests of the holders of the Class B Preferred Securities.

Section 10. *No Assignment.* So long as any Class B Preferred Securities remain outstanding, the Bank shall not assign its rights or obligations under this Agreement to any Person without the consent of the holders of such Class B Preferred Securities.

Section 11. *Successors.* This Agreement will be binding upon successors to the parties.

Section 12. *Severability.* Should any provision of this Agreement be found invalid, illegal or unenforceable for any reason, it is to be deemed replaced by the valid, legal and enforceable provision most closely approximating the intent of the parties, as expressed in such provision, and the validity, legality and enforceability of the remainder of this Agreement will in no way be affected or impaired thereby.

Section 13. *Governing Law and Jurisdiction.* This Agreement shall be governed by and construed in accordance with, the laws of the Federal Republic of Germany and the parties irrevocably submit to the non-exclusive jurisdiction of such German courts as have jurisdiction over civil matters arising in Wiesbaden.

IN WITNESS WHEREOF, the Bank and the Company have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the date first written above.

DEPFA BANK AG

DEPFA BANK CAPITAL FUNDING LLC

By:  
Name:  
Title:

By:  
Name:  
Title:

By:  
Name:  
Title:

By:  
Name:  
Title:

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## DePfa Bank AG Balance Sheet as at September 30, 2001 – Assets

Position	€	€	9/30/2001 €	9/30/2000 €
1. Cash Reserves				
a) cash in hand		465,631.81		
b) balance at central banks	85,133,588.09		85,599,219.90	809,760,875.60
2. Public Sector debt instruments and bills admitted for refinance at central banks				
a) Treasury bills and non-interest bearing treasury notes and similar public debt instruments		0.00		
b) bills		0.00	0.00	0.00
3. Loans and advances to banks				
a) payable on demand		675,435,286.61		
b) other loans and advances	4,178,802,430.38		4,854,237,716.99	4,399,320,677.60
4. Loans to customers			14,572,364,019.63	10,205,181,777.35
5. Debentures and other fixed interest securities			9,610,884,765.76	5,390,630,064.99
6. Shares and other non-fixed interest securities			370,478,286.82	374,336,681.86
7. Trade Investments and Holdings in associated undertakings			19,580,936.52	258,063,201.30
8. Holdings in associated undertakings			275,617,229.89	222,673,107.70
9. Trust Assets			2,926,945,155.54	2,414,768,249.92

Position	€	€	9/30/2001 €	9/30/2000 €
10. Public Sector recovery claims including those exchanged for debentures			0.00	0.00
11. Intangible Assets			15,965,807.60	18,772,502.74
12. Property, Plant and Equipment			19,174,520.47	6,953,895.04
13. Outstanding contributions to subscribed capital			0.00	0.00
14. Own Shares			0.00	0.00
15. Other Assets			307,095,415.28	315,140,916.31
16. Deferred items			29,278,442.60	34,294,470.90
17. Deficit not covered by own capital			0.00	0.00
<b>Total Assets</b>			<b>33,087,221,517.00</b>	<b>24,449,896,421.31</b>

## DePfa Bank AG Balance Sheet as at September 30, 2001 – Liabilities

Position	€	€	9/30/2001 €	9/30/2000 €
1. Deposits by banks				
a) payable on demand		1,125,959,588.15		
b) with agreed maturity or withdrawal notice		<u>8,311,499,542.88</u>	9,437,459,131.03	5,821,890,994.92
2. Deposits by customers				
a) savings deposits				
aa) with withdrawal notice of 3 months	363,076.20			
ab) with agreed withdrawal notice of more than 3 months	<u>3,067,689.67</u>	3,430,765.87		
Total savings deposits				
b) other liabilities				
ba) payable on demand	3,629,420,361.70			
bb) with agreed maturity or withdrawal notice	<u>7,289,965,391.83</u>	10,919,385,753.53	10,922,816,519.40	8,811,108,824.33
3. Securitised Liabilities				
a) debentures issued		7,816,131,428.42		
b) other securitised liabilities		<u>0.00</u>	7,816,131,428.42	5,789,620,100.98
4. Trust liabilities			2,926,945,155.54	2,414,768,249.92
5. Other liabilities			226,816,625.97	13,811,894.07
6. Deferred items			92,502,377.02	107,489,444.69
7. Provisions				
a) Provisions for pensions and other commitments		39,083,675.61		

Position	€	€	9/30/2001 €	9/30/2000 €
b) Provisions for tax of which € 6,135,502.58 tax contingency		37,913,631.50		
c) other provisions		<u>35,254,867.69</u>	112,252,174.80	92,126,075.57
8. Special reserves			0.00	0.00
9. Subordinated liabilities			457,223,526.27	376,116,683.46
10. Profit sharing capital			72,092,155.24	77,592,228.93
11. Fund for general banking risks			58,000,000.00	58,000,000.00
12. Equity				
a) subscribed capital	83,200,000.00			
contributions by silent partners	320,732,962.07			
b) capital reserves	45,746,761.22			
c) profit reserves	<u>428,513,202.07</u>	878,192,925.36		
d) retained profit/loss	86,789,497.95	86,789,497.95	964,982,423.31	887,371,924.45
<b>Total Liabilities</b>			<b>33,087,221,517.00</b>	<b>24,449,896,421.31</b>
1. Contingent Liabilities				
a) contingent liabilities from discounted forward bills			0.00	0.00
b) Liabilities from guarantees and indemnity agreements		633,888,801.76		
c) Liability from provision of securities for third party liabilities			0.00	633,888,801.76
				644,526,438.35
2. Other Liabilities				
a) Repurchase obligations under partial repo transactions			0.00	
b) Placing and underwriting obligations			0.00	
c) Irrevocable loan commitments		1,656,880,724.50	1,656,880,724.50	1,686,760,689.86

**Profit and loss account of DePfa Bank AG  
for the period January 1 to September 30, 2001**

Expenditure	€	€	9/30/2001 €	9/30/2000 €
1. Interest payable			966,866,567.35	642,947,092.28
2. Commission payable			7,131,998.70	3,250,321.88
3. Net expenditure on financial transactions			—	—
4. General administrative expenditure				
a) Personnel Costs			49,681,434.57	48,148,114.71
aa) wages and salaries			38,847,135.78	37,557,934.56
ab) social security payments and contributions for pensions and benefits of which: for pensions EUR:			10,834,298.79	10,590,180.14
			5,142,437.10	4,961,107.36
b) other administrative expenditure			71,001,158.33	60,717,472.40
5. Depreciation and write-offs on intangible assets and property, plant and equipment			4,212,593.22	4,747,457.18
6. Other operating expenditure			10,206,423.68	2,384,501.09
7. Depreciation and write-offs receivables and certain securities as well as transfers to loan provisions			—	117,384,163.90
8. Depreciation and write-offs on trade investments, shareholdings in associated undertakings and securities treated as fixed assets			—	5,300,000.00
9. Expenditure on assumption of losses			—	20,854,081.54
10. Transfers to fund for general banking risks			—	—
11. Extraordinary expenditure			—	—
12. Taxes on income and earnings			35,753,115.31	-2,720,265.77
13. Other taxes not included in item #6			18,275.19	13,880.39



<b>Expenditure</b>	<b>€</b>	<b>€</b>	<b>9/30/2001</b>	<b>9/30/2000</b>
			<b>€</b>	<b>€</b>
14. Expenditure on silent contributions			—	—
15. Net income for the year			86,789,497.95	12,227,575.37
<b>Total expenditure</b>			<b>1,231,661,064.30</b>	<b>915,254,394.97</b>

<b>Income</b>	<b>€</b>	<b>9/30/2001</b>	<b>9/30/2000</b>
		<b>€</b>	<b>€</b>
1. Interest receivable from			
a) loan and money market transactions	804,975,055.09		
b) fixed interest securities and debt register claims	333,941,703.90	1,138,916,758.99	830,405,045.83
2. Current income from			
a) shares and other non-fixed interest securities	3,220,726.73		
b) trade investments	6,901,482.10		
c) shares in associated undertakings	721,443.61	10,843,652.44	9,538,462.64
3. Income received under profit-pooling or profit-transfer agreement or partial-profit transfer agreement		—	—
4. Commission receivable		71,658,722.94	67,334,535.00
5. Net income from financial transactions		—	—
6. Income from additions to receivables and certain securities as well as from writing back loan provisions		723,749.59	—
7. Income from additions to trade investments, shareholdings in associated undertakings and securities treated as assets		667,157.95	—
8. Other operating income		8,851,022.39	7,976,351.49
9. Income from writing back special reserves		—	—
10. Extraordinary income		—	—
11. Income from assumption of losses		0.00	—
12. Loss of the year		—	—
<b>Total income</b>		<b>1,231,661,064.30</b>	<b>915,254,394.96</b>

## Balance sheet as at 31 December 2000 of DePfa Bank AG, Wiesbaden

### Assets

	€	€	2000 €	1999 €
1. Cash reserves				
a) cash in hand		854,197		
b) balance at central banks		<u>830,463,139</u>		
of which: € 785,674,139 with the Deutsche Bundesbank			831,317,337	762,421,645
2. Public sector debt instruments and bills admitted for refinance at central banks				
a) Treasury bills and non-interest bearing treasury notes and similar public debt instruments:			—	—
of which admitted for refinance at the Deutsche Bundesbank			—	—
b) bills			—	—
of which: admitted for refinance at the Deutsche Bundesbank			—	—
3. Loans and advances to banks				
a) payable on demand		1,176,810,365		
b) other loans and advances		<u>3,534,626,801</u>	4,711,437,166	4,362,046,726
4. Loans to customers			11,701,791,361	10,032,470,983
of which: € 4,012,708,160 secured by charges on real property				
€ 1,203,618,047 Public sector loans				
5. Debentures and other fixed interest securities				
a) money market loans				
aa) public sector		—		
ab) other		—		
b) bonds and debentures				
ba) public sector		2,254,426,148		
bb) other		3,947,508,516	6,201,934,665	
of which: € 3,888,000,900 eligible as collateral at the Deutsche Bundesbank				

## Liabilities

	€	€	2000 €	1999 €
1. Deposits by banks				
a) payable on demand		1,813,960,206		
b) with agreed maturity or notice period		<u>6,371,781,133</u>	8,185,741,339	7,073,289,018
2. Deposits by customers				
a) savings deposits				
aa) with notice period of 3 months		539,626		
ab) with agreed notice period of more than 3 months		<u>7,378,982</u>	7,918,607	
b) other liabilities				
ba) payable on demand		3,080,441,899		
bb) with agreed maturity or notice period		<u>5,517,756,010</u>	8,598,197,909	8,606,116,516
			8,606,116,516	7,548,026,940
3. Securitised liabilities				
a) debentures issued			6,423,554,553	4,008,649,602
b) other securitised liabilities			—	—
of which:				
money market loans € –				
own acceptances and				
promissory notes in				
circulation € –				
4. Trust liabilities			2,753,488,094	1,614,504,574
of which:				
€ 2,741,473,735 trust loans				
5. Other liabilities			48,885,761	59,619,484
6. Deferred items			55,380,174	57,722,144
7. Provisions				
a) Provisions for pensions and other commitments		39,083,676		
b) Provisions for Tax		11,718,417		
of which: € 6,135,503 tax contingency				
c) other provisions		<u>44,289,757</u>	95,091,850	88,370,756

## Balance sheet as at 31 December 2000 of DePfa Bank AG, Wiesbaden

### Assets

	€	€	2000 €	1999 €
c) own debentures nominal value € 5,112,919		5,180,376	6,207,115,041	3,820,394,260
6. Shares and other non fixed interest securities			357,972,818	394,954,316
7. Participations			262,563,915	258,046,840
of which: € 768,855 in banks € 42,437 in financial services institutions				
8. Shares in affiliated companies			265,757,923	197,787,453
of which: € 98,260,494 in banks € 16,837,115 in financial services institutions				
9. Trust assets			2,753,488,094	1,614,504,574
of which: € 2,741,472,735 in trust loans				
10. Public sector recovery claims including those exchanged for debentures			—	—
11. Intangible assets			17,873,808	20,932,403
12. Property, plant and equipment			19,223,278	21,310,151
13. Outstanding contributions to subscribed capital			—	—
of which: € – called				
14. Own shares Nominal value € –			—	—
15. Other assets			429,357,573	180,172,551
16. Deferred Items			15,770,906	18,615,695
17. Deficit not covered by own capital			—	—
<b>Total assets</b>			<b>27,573,669,219</b>	<b>21,683,657,597</b>

## Liabilities

	€	€	2000 €	1999 €
8. Special reserves			—	—
9. Subordinated liabilities			382,940,822	235,597,221
10. Profit sharing capital			77,125,185	77,125,185
of which: € – payable within two years				
11. Fund for general banking risks			58,000,000	58,000,000
12. Equity				
a) subscribed capital	83,200,000			
contributions by silent partners	320,732,962			
b) capital reserves	45,746,761			
c) profit reserves				
ca) legal reserve	4,513,202			
cb) reserve for own shares	—			
cc) statutory reserves	—			
cd) other profit reserves	424,000,000	878,192,925		
d) Retained profit/loss	9,152,000	9,152,000	887,344,925	862,752,673
<b>Total liabilities</b>			<b>27,573,669,219</b>	<b>21,683,657,597</b>
1. Contingent liabilities				
a) Contingent liabilities from discounted forward bills		—		
b) Liabilities from guarantees and indemnity agreements		692,960,774		
c) Liability from provision of securities for third party liabilities		—	692,960,774	742,815,673
2. Other liabilities				
a) Repurchase obligations under partial repo transactions		—		
b) Placing and underwriting obligations		—		
c) Irrevocable loan commitments	1,927,499,186	1,927,499,186	2,131,890,700	

## Profit and loss account of DePfa Bank AG, Wiesbaden for the period 1 January to 31 December 2000

### Expenditure

		2000	1999
	€	€	€
1. Interest payable		883,747,147.28	611,215,715.00
2. Commission payable		5,008,496.14	5,341,274.00
3. Net expenditure on financial transactions		—	—
4. General administrative expenditure			
a) Personnel costs			
aa) wages and salaries	52,348,981.96		
ab) social security payments and contributions for pensions and benefits	<u>14,709,868.40</u>	67,058,850.37	
of which: € 7,059,099.98 for pensions			
b) other administrative expenditure	<u>97,607,452.79</u>	164,666,303.16	144,936,582.00
5. Depreciation and write-offs on intangible assets and property, plant and equipment		6,311,692.80	6,846,202.00
6. Other operating expenditure		8,221,020.32	17,795,683.00
7. Depreciation and write-offs on receivables and certain securities as well as transfers to loan provisions		146,656,709.93	—
8. Depreciation and write-offs on participations, shares in affiliated companies and securities treated as fixed assets		17,703,481.39	470,746.00
9. Expenditure on assumption of losses		20,722,999.92	1,509,233.00
10. Transfers to fund for general banking risks		—	58,000,000.00
11. Extraordinary expenditure		10,000,000.00	—
12. Taxes on income and earnings		345,582.44	59,429,002.00
13. Other taxes not included in item 6		19,832.42	132,482.00
14. Expenditure on silent contributions		3,854,521.01	33,740,858.00
15. Net income for the year		10,152,000.00	39,802,074.00
<b>Total expenditure</b>		<b>1,277,409,786.81</b>	<b>979,219,851.00</b>

	€	€	2000 €	1999 €
1. Net income for the year			10,152,000.00	
2. Transfers to profit reserves			1,000,000.00	
3. Retained profit			9,152,000.00	



## Income

	€	€	2000 €	1999 €
1. Interest receivable from				
a) loan and money market transactions	855,572,811.97			
b) fixed interest securities and debt register claims	<u>244,300,968.35</u>	1,099,873,780.32		864,942,230.00
2. Current income from				
a) shares and other non-fixed interest securities	52,095,562.16			
b) participations	9,502,804.95			
c) shares in affiliated companies	<u>5,761,729.74</u>	67,360,096.84		12,122,713.00
3. Income received under a profit pooling or profit transfer agreement or partial profit transfer agreement			—	—
4. Commission receivable			90,342,729.07	90,306,742.00
5. Net income from financial transactions			—	—
6. Income from additions to receivables and certain securities as well as from writing back loan provisions			—	787,877.00
7. Income from additions to participations, shares in affiliated companies and securities treated as assets			—	—
8. Other operating income			19,833,180.59	11,060,289.00
9. Income from writing back special reserves			—	—
10. Extraordinary income			—	—
11. Income from assumption of losses			—	—
12. Loss for the year			—	—
<b>Total Income</b>			<b>1,277,409,786.81</b>	<b>979,219,851.00</b>

## Notes

### **Accounting and valuation**

The annual accounts of DePfa Bank AG have been compiled in accordance with the provisions of the German Commercial Code (HGB) and supplementary regulations of the Companies Act and the accounting regulations for banks. The provisions of the Law on Corporate Control and Transparency (KonTraG) have also been applied.

### **Loans to customers (assets item 4)**

These are allocated in full to current assets and have been valued conservatively in accordance with normal banking practice. Any quantifiable risks have been covered in full by making individual value adjustments. The general credit risk has been covered by general adjustments, the amount of which was determined on the basis of the average actual amount of loan losses over the last five years and taxation regulations. Loans bearing little or no interest have been discounted to their cash value. Where the nominal value for loans differs from their acquisition cost, the amount of the difference has been shown as a deferred item according to § 340e HGB.

### **Debentures and other fixed interest securities (assets item 5)**

Securities are allocated to the liquidity reserve or fixed assets and valued strictly at the lower of cost or market (§ 253 para. 3 and § 280 para. 2 HGB) or according to the principles applying to fixed assets (§ 253 para. 2 HGB). Any premiums and discounts are written back on maturity.

The book value on 31 December 2000 of assets (debentures) pledged under repurchase agreements amounted to € 228,038,250.

### **Shares and other non fixed interest securities (assets item 6)**

In addition to the shares in special funds shown here, which are valued at acquisition cost or lower attributable value, participation certificates to the sum of € 16,336,000 and shares with a book value of € 839,000 are included in this item.

### **Participations, shares in affiliated companies (assets items 7 and 8)**

These are shown at acquisition cost less depreciation under § 253 para. 2 HGB.

### **Intangible assets, property, plant and equipment (assets items 11 and 12)**

Computer programs bought from outside manufacturers (IT software) are shown under intangible assets. These, and the office furniture and equipment included under Property, plant and equipment, have been valued at acquisition cost less depreciation allowed under tax regulations. Low value economic assets are written off in full in the year of acquisition. Land and buildings also included under Property, plant and equipment have been valued at acquisition cost less depreciation allowed for tax.

Land acquired under foreclosure measures and in the possession of the Bank for more than 5 years is also shown under this item.

As part of the transfer of some of the business operations of the Pfandbriefbank to DePfa Bank AG, goodwill has been capitalised and will be depreciated over a period of 9 years.

### **Other assets (assets item 15)**

Items shown here are valued at nominal value.

### **Deferred items (assets item 16 and liabilities item 6)**

Premiums and discounts on registered bonds, claims backed by loan notes and loans have been spread over the term involved, depending on the residual loan in each case.

### **Liabilities**

These are valued at the amount due for repayment.

### **Provisions (Liabilities item 7)**

Provisions for pension and similar liabilities have been formed applying the partial value principle under § 6 a EStG (Income Tax Act) on the basis of an interest rate of 6 % using the 1998 mortality tables issued by Heubeck. One quarter of the resulting difference in value to the 1983 mortality tables was allowed for in the 2000 accounts. Provisions for taxation and other provisions have been set up for all quantifiable risks and contingent liabilities at the amount necessary according to a reasonable business judgement.

### **Currency conversion**

Foreign currency loans and liabilities have been converted at the exchange rates in force on the balance sheet date, in accordance with § 340 h para. 1 sentence 2 HGB. Any differential amounts arising were treated as provided for in § 340 h para. 2 HGB. Futures business awaiting settlement was converted at the forward rate in force on the balance sheet date.

## Notes to the balance sheet

### Breakdown of maturities of assets and liabilities (residual maturities)

#### Loans and advances to banks (assets item 3 b) with residual maturities of:

	€ '000
payable on demand	1,176,810
less than three months	2,972,235
at least three months but less than one year	251,944
at least one year but less than five years	155,224
more than five years	155,224
	<b>4,711,437</b>

#### Loans to customers (assets item 4) with residual maturities of:

	€ '000
less than three months	2,637,117
at least three months but less than one year	1,897,167
at least one year but less than five years	3,634,251
more than five years	3,533,256
	<b>11,701,791</b>

Loans with an indefinite term are not included.

#### Debentures and other fixed interest securities (assets item 5):

In 2001, bonds, debentures and other fixed interest securities with a nominal value of € 1,060,374,000 become due.

**Deposits by banks with agreed maturity or notice period (liabilities item 1 b) with residual maturities of:**

	€ '000
payable on demand	1,813,960
less than three months	4,352,287
at least three months but less than one year	1,337,910
at least one year but less than five years	174,874
more than five years	506,710
	<b>8,185,741</b>

**Savings deposits with an agreed notice period of more than three months (liabilities item 2aab):**

	€ '000
less than three months	163
at least three months but less than one year	7,756
at least one year but less than five years	0
	<b>7,918</b>

**Other deposits by customers with an agreed maturity or notice period (liabilities item 2bbb):**

	€ '000
payable on demand	3,080,442
less than three months	4,472,371
at least three months but less than one year	366,407
at least one year but less than five years	555,484
more than five years	123,494
	<b>8,598,198</b>

Debentures issued with a nominal value of € 442,267,000 are due to mature in 2001.

**Amounts owed to/by affiliated companies/companies with which a shareholding relationship exists under § 271 para. 1 HGB**

	To/from affiliated companies € m	To/from companies with which a shareholding relationship exists € m
Loans and advances to banks (assets item 3)	2,652.0	—
Loans to customers (assets item 4)	261.6	—
Debentures and other fixed interest securities (assets item 5)	366.6	—
Deposits by banks (liabilities item 1)	2,840.0	—
Deposits by customers (liabilities item 2)	31.2	—
Securitised liabilities (liabilities item 3)	—	—
Subordinated liabilities (liabilities item 9)	—	—
Liabilities from guarantees	33.1	—

**Movements in fixed assets**

	Participations (assets item 7) € '000	Shares in affiliated companies (assets item 8) € '000	Intangible assets (assets item 11) € '000	Property plant and equipment Land and buildings € '000	Operational and office equipment € '000
Cost of acquisition/ manufacture on 01.01.2000	258,789	199,066	22,981	38,973	13,638
Accruals	4,314	85,928	—	953	—
Write-ups	—	—	—	—	16
Transfers	203	– 203	—	500	—
Disposals at acquisition cost	16	51	—	1,078	267
Depreciation (cumulative)	726	18,982	5,107	33,418	94
Book value on 31.12.2000	262,564	265,758	17,874	5,930	13,293
Depreciation in the financial year	—	17,703	2,553	3,751	8
Book value on 31.12.1999	258,047	197,787	20,932	7,760	13,551

The Bank used land and similar rights and buildings with a book value of € 389,000 for its own purposes. Almost all the other business premises and buildings were leased by the Bank from one of its subsidiaries.

## Fixed assets

The Bank (company no. 1) has participations in the following companies in accordance with § 271 para. 1 HGB. Unlike the balance sheet, companies in which the Bank holds its interest indirectly are shown here (§ 285 no. 11 HGB).

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.2000 € '000,000	2000 Results € '000,000
1.	DePfa Bank AG, Berlin				
2.	Aufbaugesellschaft Prager Straße mbH, Wiesbaden	100.0	44	0.0	0.0
3.	Barnimer Grundstücksgesellschaft mbH, Frankfurt	100.0	7	0.0	0.0 <sup>2)</sup>
4.	Barnimer Grundstücksgesellschaft mbH & Co. Erste KG, Munich	100.0	7, 103	0.0	-0.2
5.	Barnimer Grundstücksgesellschaft mbH & Co. Zweite KG, Munich	100.0	7, 103	0.2	-0.3
6.	Bau- und Bodenverwaltungsgesellschaft GbR, Wiesbaden	100.0	7, 1	1.9	-1.4
7.	BauBo Bau- und Bodenverwertungs- und -verwaltungsgesellschaft mbH Berlin, Berlin	100.0	1	50.4	0.0 <sup>3)</sup>
8.	BauBo-Immobilien Projekt GmbH, Frankfurt	100.0	7	0.0	0.0 <sup>2)</sup>
9.	BauConsult DV- und Unternehmensberatung Bayern GmbH, Munich	50.0	49	0.7	0.2
10.	BauConsult DV- und Unternehmensberatung Berlin GmbH, Berlin	100.0	49	1.9	0.5
11.	BauConsult DV- und Unternehmensberatung Hamburg GmbH, Hamburg	100.0	49	1.5	0.7
12.	BauConsult DV- und Unternehmensberatung Hannover GmbH, Hanover	51.0	49	3.1	0.3
13.	BauConsult DV- und Unternehmensberatung Mainz GmbH, Mainz	51.0	49	2.4	0.1
14.	BauConsult DV- und Unternehmensberatung Stuttgart GmbH, Stuttgart	74.0	49	0.6	0.1
15.	BauContact Immobilien GmbH, Wiesbaden	100.0	1	22.0	-0.2
16.	baudata Gesellschaft für bau- und wohnungswirtschaftliche Datenverarbeitung mbH, Hamburg	100.0	49	3.0	0.0 <sup>2)</sup>
17.	BauSecura Versicherungsmakler GmbH, Hamburg	51.0	49	1.4	1.3

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.2000 € '000,000	2000 Results € '000,000
18.	BauTec Gesellschaft für Wärmerneßtechnik und gebäudetechnische Planung und Beratung mbH, Hamburg	100.0	49, 16	6.8	1.8
19.	BGB-Gesellschaft Friedrichshain Block-A-Nord, Berlin	100.0	44, 42	-0.8	-0.3
20.	BGB-Gesellschaft Friedrichshain Block-A-Süd, Berlin	100.0	44, 42	-7.1	-1.2
21.	BGB-Gesellschaft Friedrichshain Block-B-Nord, Berlin	100.0	44, 42	2.3	4.2
22.	BGB-Gesellschaft Friedrichshain Block-B-Süd, Berlin	100.0	44, 42	2.0	-0.2
23.	BGB-Gesellschaft Friedrichshain Block-E-Nord, Berlin	100.0	44, 42	1.9	-0.3
24.	BGB-Gesellschaft Friedrichshain Block-E-Süd, Berlin	100.0	44, 42	2.9	4.0
25.	BGB-Gesellschaft Friedrichshain Block-G-Nord, Berlin	100.0	44, 42	-2.1	-0.3
26.	BGB-Gesellschaft Friedrichshain Block-G-Süd (1), Berlin	100.0	44, 42	-1.0	1.7
27.	BGB-Gesellschaft Friedrichshain Block-G-Süd (2), Berlin	100.0	44, 42	0.6	2.1
28.	BGB-Gesellschaft Spindlers Hof Berlin, Berlin	100.0	7, 42, 44	-18.5	-10.3
29.	BGB-Gesellschaft Wohnpark Stralau VI, Berlin	42.4	40	-0.1	-0.1 <sup>2)</sup>
30.	Bürozentrum Parkstadt Munich-Schwabing KG, Munich	33.3	1	12.7	0.0
31.	Centimanen Vastgoed B.V., Rotterdam	100.0	7	-0.1 m NLG	0.0 m NLG
32.	Charlton Vastgoed B.V., Velp	100.0	7	-0.6	0.2
33.	Delphi Vastgoed B.V., Velp	100.0	7	-0.4	0.0
34.	Delphi Vastgoed B.V.-Meteora Vastgoed B.V. GbR, Frankfurt	100.0	33, 88	2.3	0.0
35.	DePfa Bau-, Verwaltungs- und Controlling GmbH, Hamburg	100.0	1	3.5	1.6
36.	DePfa Capital Japan K.K., Tokyo	67.0	1	470.9 m JPY	339.7 m JPY
37.	DePfa Financial Service Polska Sp.z.o.o., Warsaw	100.0	1	1.8 m PLZ	-0.2 m PLZ
38.	DePfa Financial Service spol sr.o., Prague	100.0	1	2.0 m KC	0.1 m KC
39.	DePfa Hypotheken-Management GmbH, Mannheim	100.0	1	2.5	-1.1



No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.2000 € '000,000	2000 Results € '000,000
40.	DePfa Immobilien Anlagen GmbH, Wiesbaden	100.0	44	0.0	0.0
41.	DePfa Immobilien Beteiligungs GmbH, Wiesbaden	100.0	44	0.0	0.0
42.	DePfa Immobilien Fonds GmbH, Wiesbaden	60.0	44	0.2	-0.2
43.	DePfa Immobilien Fonds GmbH & Co. Dresden-Klotzsche Baufeld C/D KG, Berlin	93.2	1, 42, 44	21.7	-20.0
44.	DePfa Immobilien Management AG, Wiesbaden	100.0	1	13.3	-1.8
45.	DePfa Immobilien Projektentwicklungs GmbH, Wiesbaden	50.0	44	0.0	0.0
46.	DePfa Investment Bank Ltd., Nicosia	60.0	1	185.3 m USD	53.4 m USD
47.	DePfa IT Media AG, Business to Business, Mainz	100.0	49	0.5	0.0
48.	DePfa IT Media AG, Business to Consumer, Mainz	100.0	49	0.5	0.0
49.	DePfa IT Services AG, Wiesbaden	100.0	1	13.5	-1.2
50.	DePfa IT Services Italia S.r.l., Rome	100.0	49, 53	0.3 m ITL	0.3 <sup>2)</sup> m ITL
51.	DePfa IT Services Polska Sp.z.oo, Posen	100.0	49	4.4 m PLZ	-3.0 m PLZ
52.	DePfa IT Services UK Ltd., Coventry	100.0	49	0.0	0.0
53.	DePfa Systems GmbH, Mainz	100.0	49	23.7	6.6
54.	DePfa UK, Ltd., London	100.0	55	0.2 m GBP	0.1 m GBP
55.	DePfa USA Inc., Wilmington	100.0	1	2.8 m USD	0.2 m USD
56.	DePfa Partecipazioni S.p.A., Rome	100.0	1	12540.6 m ITL	95.3 <sup>2)</sup> m ITL
57.	DePfa Securities Romania S.A., Bukarest	87.8	46	7522.6 m ROL	-1207.8 <sup>2)</sup> m ROL
58.	DePfa-Bank France S.A., Paris	100.0	1	272.1 m FRF	27.2 m FRF
59.	Deutsche Aircraft Leasing GmbH, Frankfurt	100.0	61	0.0	0.0
60.	Deutsche Bau- und Grundstücks-Aktiengesellschaft, Berlin	50.0	1	9.9	2.0
61.	Deutsche Structured Finance GmbH, Frankfurt	100.0	1	9.4	4.3
62.	Deutsche Structured Finance GmbH & Co. Ataiier KG, Frankfurt	100.0	61, 74	0.8	0.8
63.	Deutsche Structured Finance GmbH & Co. Phönix KG, Frankfurt	100.0	61, 74	0.1	0.1
64.	Deutsche Structured Finance GmbH & Co. Skorpion KG, Frankfurt	100.0	61, 74	0.8	0.8
65.	B&P/DSF Windpark GbR, Frankfurt	50.0	61	0.0	1.9

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.2000 € '000,000	2000 Results € '000,000
66.	DP Consult S.A., Buenos Aires	100.0	55	k.A.	k.A.
67.	Dresden-Klotzsche Baufeld B GbR, Berlin	99.0	1, 42, 44	-12.1	-9.9
68.	Dresden-Klotzsche Baufeld E-Ost GbR, Berlin	99.0	44, 42	k.A.	k.A.
69.	Dresden-Klotzsche Baufeld E-West GbR, Berlin	99.0	44, 42	k.A.	k.A.
70.	Dresden-Klotzsche Baufeld F GbR, Berlin	99.0	1, 42, 44	-7.8	-6.5
71.	Dresden-Klotzsche Baufeld G 1 GbR, Berlin	99.0	44, 42	0.0	0.0 <sup>2)</sup>
72.	Dresden-Klotzsche Baufeld G 2 GbR, Berlin	99.0	44, 42	0.0	0.0 <sup>2)</sup>
73.	Dresden-Klotzsche Baufeld G 3 GbR, Berlin	99.0	44, 42	0.0	0.0 <sup>2)</sup>
74.	DSF Beteiligungsgesellschaft mbH, Frankfurt	100.0	61	0.1	0.1
75.	DSF Verwaltungsgesellschaft mbH, Frankfurt	100.0	61	0.0	0.0
76.	EUROPA-Forum II Gesellschaft für Immobilienentwicklung mbH, Grünwald	33.3	15	0.4	-0.7
77.	Fachklinik Lenggries für Neurologie und Physikalisch-rehabilitative Medizin GmbH, Lenggries	100.0	1	0.0	0.0
78.	Friedrich-Ebert-Allee Bonn GbR, Bochum	22.5	44	103.3	7.8 <sup>2)</sup>
79.	GbR Melchendorfer Straße, Wiesbaden	75.0	40, 45	-3.0	-1.6
80.	GbR Wienerplatz MK 4 Dresden, Wiesbaden	100.0	44, 41	0.0	0.0
81.	Hypotheken-Discount Vermittlungs GmbH, Mannheim	90.1	1	-1.0	-1.3
82.	IBS Innovative Banking Solutions AG, Wiesbaden	49.0	1	1.0	0.0 <sup>1)</sup>
83.	IMMO Consulting S.p.A., Rome	75.0	1	765.0 m ITL	-203.1 m ITL
84.	Immobilien Scout GmbH, Berlin	28.4	15	-3.3	-17.1
85.	InfraLease Leasinggesellschaft für Infrastruktureinrichtungen mbH, Wiesbaden	100.0	1	5.2	0.2
86.	IVC Immobilienverwaltungs- und Controlling GmbH, Hamburg	100.0	35	0.0	0.1
87.	Lucascribe Participations SARL, Paris	100.0	58	-1.0 m FRF	0.0 m FRF
88.	Meteora Vastgoed B.V., Velp	100.0	7	-0.2	0.0
89.	Objektgesellschaft FFA-Wohnungen Freiburg GbR, Wiesbaden	100.0	44, 42	-1.0	1.5
90.	Parkhotel Altenburg GbR, Stuttgart	100.0	1, 7	-3.2	-0.9
91.	PREM S.A.S. Orléans	70.0	49	0.3	0.2
92.	Real Dritte Grundstücksgesellschaft mbH, Frankfurt	100.0	1	0.0	0.0

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.2000 € '000,000	2000 Results € '000,000
93.	Real Erste Grundstücksgesellschaft, mbH, Frankfurt	100.0	1	0.0	0.0
94.	Real Zweite Grundstücksgesellschaft mbH, Frankfurt	100.0	1	0.0	0.0
95.	Rimo Consulting AG, Ried-Neerach	70.4	49	-0.6	-0.6
96.	RusBauTec, Moscow	50.0	18	0.0 m RUR	-0.1 <sup>2)</sup> m RUR
97.	RusKomBauConsult GmbH, Moscow	50.0	49	-10.8 m RUR	-5.9 <sup>2)</sup> m RUR
98.	SCI rue de Génève, Bobigny	50.0	87	0.0 m FRF	0.0 <sup>2)</sup> m FRF
99.	SEMU Beteiligungsgesellschaft mbH, Frankfurt	33.0	7	4.0	0.5 <sup>2)</sup>
100.	Suhl I GbR, Wiesbaden	100.0	1, 7	-0.3	-0.3
101.	Terrain Herzogpark und Partner Erschließungs-GmbH, Munich	67.0	102	0.8	0.0
102.	Terrain-Aktiengesellschaft Herzogpark, Munich	99.8	7	1.4	0.0
103.	Terrain-Verwaltungs-GmbH Herzogpark, Munich	100.0	102	0.2	-3.1 <sup>3)</sup>
104.	Tower Plaza Limited, London	67.0	58	0.0	0.0
105.	Verwaltung DePfa Euro-Immobilienfonds 1 GmbH, Hamburg	100.0	1	0.0	0.0
106.	Westhafen Haus GmbH & Co. Projektentwicklungs KG, Frankfurt	25.0	44	0.3	0.0
107.	Westhafen-Gelände Frankfurt am Main GbR, Frankfurt	25.0	44	4.0	0.1 <sup>2)</sup>
108.	Windpark Ahlerstedt Verwaltungsgesellschaft mbH, Frankfurt	20.0	61	0.0	0.0
109.	Windpark Borsum Verwaltungsgesellschaft mbH, Frankfurt	20.0	61	0.0	0.0
110.	ZMP Zentral Messepalast Entwicklungs GbR, Leipzig	100.0	1, 7	-37.9	-18.9

1) 1999

2) provisional

3) profit transfer agreement

4) loss transfer agreement

5) profit under US GAAP

## Negotiable securities

	Debtures and other fixed interest securities (assets item 5) € '000	Shares and other non fixed interest securities (assets item 6) € '000	Participations (assets item 7) € '000	Shared in affiliated companies (assets item 8) € '000
listed	6,048,941	17,175	—	—
unlisted	—	—	39	—
<b>negotiable</b>	<b>6,048,941</b>	<b>17,175</b>	<b>39</b>	<b>—</b>

## Trust assets/liabilities (assets item 9/liabilities item 4)

The total amounts break down according to the balance sheet items as follows:

Assets	€ '000	Liabilities	€ '000
4. Loans to customers including € secured by mortgages	2,741,473	1. Deposits by banks b) with an agreed term or notice period	2,600,626
6. Shares and other non fixed interest securities	12,015	2. Deposits by customers b) other liabilities bb) with an agreed term or notice period	152,862
	<b>2,753,488</b>		<b>2,753,488</b>

## Other assets (assets item 15)

This includes the following items of major importance:

Value adjustments on foreign currency transactions in the amount of € 153,545,000, land and building acquired as a way of salvaging loans in the amount of € 133,575,000, tax refund claims in the amount of € 71,819,000, claims against subsidiaries in the amount of € 8,189,000.

## Deferred items (assets item 16)

This item includes discounts of € 10,600,000 and premiums of € 423,000.

## Subordinated assets

Other loans and advances to banks (assets item 3b) includes € 15,245,000 of subordinated loans and advances.

### **Other liabilities (liabilities item 5)**

This includes the following significant amounts:

Liabilities to the amount of € 20,723,000 due to the assumption of losses from a profit transfer agreement.

Liabilities to the amount of € 7,942,000 from interest on silent contributions made, tax liabilities arising from turnover tax and other taxes of € 10,510,000. No major anticipatory items are included here.

### **Deferred items (liabilities item 6)**

This item mainly consists of discounts on claims in respect of loans and administrative fees (€ 47,848,000).

### **Provisions (liabilities item 7)**

Provisions for pensions and other commitments increased by € 2,539,000 over the previous year. Provisions for tax decreased by € 15,544,000 compared to the previous year. They include contingent tax provisions amounting to € 6,136,000. Other provisions increased by € 19,726,000 to € 44,290,000. These consist mainly of provisions for expenditure of € 28,706,000 and provisions for expected losses of € 11,512,000. The provisions for expenditure were set up mainly for end-of-year bonuses, anniversary bonuses and planned restructuring measures. The guarantee provisions are to cover the risks arising from losses in trust business, judgements by BGH (Federal High Court) and the resale of land and buildings acquired to salvage loans.

### **Subordinated liabilities (liabilities item 9)**

Interest paid amounted to € 20,735,000. Funds raised comply with the provisions of § 10 para. 5a KWG.

### **Profit sharing capital (liabilities item 10)**

	€ '000
As at 01.01.2000	72,092
Increase for 2000	—
As at 31.12.2000	72,092
Pro rata interest	5,033
Shown on balance sheet	77,125

Interest paid on the profit sharing capital amounted to € 5,068,000.

The profit sharing capital complies with the provisions of § 10 para. 5 KWG. It is composed of the following tranches:

**1<sup>st</sup> tranche:**

DM 75,000,000 from 1993, consisting of 75,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 7.125 % p.a. and the term expires on 31 December 2005.

**2<sup>nd</sup> tranche:**

DM 36,000,000 from 1994, consisting of 36,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 6.5 % p.a. and this term expires on 31 December 2005.

**3<sup>rd</sup> tranche:**

DM 10,000,000 from 1994, consisting of 10,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 8 % p.a. and this term expires on 31 December 2003.

**4<sup>th</sup> tranche:**

DM 20,000,000 from 1996, consisting of four registered profit participation certificates, one with a par value of DM 10,000,000, and one of DM 6,000,000 and two of DM 2,000,000. The dividend payment is 6.8 % p.a. and this term expires on 31 December 2007.

**Subscribed capital**

The subscribed capital was converted into euros according to the resolution taken at the Annual General Meeting. At the same time, an increase of € 1,393,299.01 to € 83,200,000.00 was decided upon without issuing new shares.

DePfa Deutsche Pfandbriefbank AG holds 99.9% of the subscribed capital directly.

The subscribed capital is divided into

1,050 shares of €	52,000,
53,600 shares of €	520,
9,000 shares of €	52,
10,000 shares of €	26;

The shares are registered.

**Capital reserves**

Capital reserves of € 1,393,299.01 were used for the increase in subscribed capital. Thus capital reserves were reduced to € 45,746,761.00.

## **Profit reserves**

€ 16,000,000 was allocated to other profit reserves from the profit for 1999 by the Annual General Meeting, and € 1,000,000 from the profit for 2000 by the Management Board.

## **Assets and liabilities denominated in foreign currency**

The total assets denominated in foreign currency amounted to € 3,725.8 m while foreign currency liabilities amounted to € 1,600.8 m. The difference was almost entirely covered by forward exchange transactions and cross-currency swaps.

## **Contingent liabilities (liabilities item 1 below the line)**

Liabilities under guarantees and indemnity agreements were mainly attributable to loan guarantees. The total amount of assets transferred as collateral for these amounts to € 851,613,000.

## **Other liabilities (liabilities item 2 c below the line)**

Irrevocable loan commitments are divided into credit and loan commitments of € 1,740,176,000 in Germany and € 187,323,000 abroad.

## **Information on transactions subject to market risk**

The following transactions were outstanding and still awaiting settlement on 31 December 2000:

Futures transactions in foreign currencies

- forward exchange transactions
- currency swaps

These were all hedging transactions.

Interest related futures transactions

- forward rate agreements
- interest swaps
- floors
- caps
- swaptions

The transactions were all effected purely for hedging purposes.

There were no future transactions with other price risks on the balance sheet date. Derivative transactions effected as hedging against interest rate risks have been included in the overall treatment of this kind of risk and are therefore not dealt with separately. The same applies to derivatives which together with other items constitute one position. No derivative transactions designed to yield a profit on sale due to short-term market price fluctuations (trading) were effected.

## Derivative transaction volumes:

	Nominal amount			Total	Counterparty exposure
	less than 1 year	Residual term 1 to 5 years	more than 5 years		
	€ m	€ m	€ m	€ m	€ m
Interest rate & currency swaps	3,713.4	2,786.8	9,395.0	15,895.2	396.9
Interest rate futures & FRAs	462.0	—	—	462.0	—
Interest options (purchases)	—	—	829.8	829.8	3.9
Interest options (sales)	375.5	53.7	857.9	1,287.1	—
Other interest contracts	—	—	—	—	—
Forward exchange transactions	2,229.9	—	—	2,229.9	112.9
Total	6,780.8	2,840.5	11,082.7	20,704.0	513.7

## Counterparties to derivative contracts:

Type of counterparty	Counterparty exposure in € m
OECD central governments	—
OECD banks	513.0
OECD financial institutions	0.7
Other companies, private individuals	—
Non OECD central governments	—
Non OECD banks	—
Non OECD financial institutions	—

## Other financial obligations

As a result of the participation in Liquiditäts- und Konsortialbank GmbH, Frankfurt/Main with a par value of € 1,141,000, there are call commitments of up to € 5,706,000. Furthermore, in the event of non fulfilment of call commitments by other shareholders, whose holdings amount to a total of € 55,919,000, there is a proportional liability as a directly liable guarantor.

The Bank is liable for up to € 11.3 m in connection with measures relating to capital taken by European Property Betelligungs GmbH, and for up to € 12.2 m for such measures by DePfa European Property Holding.

Liabilities under leasing agreements total € 4,499,000.

The Bank will ensure that DePfa Investmentbank Ltd., Nicosia, can meet its contractual obligations.



In connection with the acquisition of companies belonging to Deutsche Structured Finance GmbH, Frankfurt the Bank has undertaken to fulfill the obligations under the letters of comfort of the seller with regard to the acquired subsidiaries.

## **Notes to the profit and loss account**

### **Other operating expenditure (expenditure item 6)**

This includes the following items of significance:

Expenditure from foreclosed assets to the amount of € 2,012,000 and the assumption of loan losses of € 1,380,000 from the trustees business.

### **Taxation on income and earnings (expenditure item 12)**

In addition to taxes on operating earnings, the main factors that had an impact on this item were write-backs of deferred taxes and the reduced corporation tax charge on dividend payments.

### **Interest income (income item 1)**

Interest income was € 873,035,000 from Germany and € 226,839,000 from the rest of Europe.æ

### **Current income (income Item 2)**

Current income was € 63,802,000 from Germany and € 3,558,000 from the rest of Europe.

### **Commission receivable (income Item 4)**

Substantial income was received for services for third parties arising from the management of trust loans and for transmitted loans.

### **Other operating income (income Item 8)**

Other operating income amounting to € 18,236,000 was received in Germany and € 1,597,000 in other European countries.

Items of major importance were rent received for property and for heritable building rights amounting to € 9,209,000, trade tax changes passed on of € 5,378,000, and income of € 1,073,000 for business management contracts.

Income of € 104,000 was realised from the sale of land.

### **Group accounts**

As the parent company of the Group, DePfa Deutsche Pfandbriefbank AG in Wiesbaden produces Group accounts, covering both the Bank and its subsidiaries liable to consolidation. Under § 291 para. 1 HGB, the Bank is exempt from the duty to prepare its own Group accounts if the other shareholders give consent under § 291 para. 3 sentence 2 HGB. The Group accounts can be obtained from DePfa Deutsche Pfandbriefbank AG in Wiesbaden.

## **Executive bodies of the Bank:**

### **Supervisory Board**

**Dr. JÜRGEN WESTPHAL, Hamburg**

Minister (ret'd.), attorney-at-law, Judge at the Hamburg Constitutional Court  
Chairman

**CHRISTIAN GRAF VON BASSEWITZ, Düsseldorf**

Personally liable partner and management spokesman of Bankhaus Lampe KG  
Deputy Chairman

**LUTZ BRIEGEL, Frankfurt**

DePfa Bank, AG  
Deputy Chairman

**GEORG BERRES, Essenheim**

DePfa Systems GmbH

**Dr. RICHARD BRANTNER, Schramberg**

Member of a Management Board (ret'd.)

**Prof. Dr. JOHANN EEKHOFF, Bonn**

State Secretary (ret'd.)

**WOLFGANG FAUTER, Hamburg**

Chairman of the Boards of Deutsche Ring Versicherungen

**ERWIN FLIEGER (from 8 May 2000), Geretsried**

Chairman of the Management Boards of Bayerische Beamten Lebensversicherung a.G. and BBV Holding AG

**Dr. FRIEDRICH ADOLF JAHN, Münster**

President of the Zentralverband der Deutschen Haus-, Wohnungs- und Grundeigentümer e.V.

**Dr. THILO KÖPFLER (from 20 June 2000), Wiesbaden**

Chairman of the Management Boards of DePfa Deutsche Pfandbriefbank AG and DePfa Bank AG (ret'd.)

**RALF KUPKA, Starnberg**

DePfa Bank AG

**JACQUES LEBHAR, Paris**

Chairman and Managing Director of Entenial S.A.

**KURT PFEIFFELMANN, Mainz**  
DePfa Bank AG

**ROLF PFEIL, Frankfurt**

**Dr. ROLF SCHMID, Ettlingen**  
President of the Federal and state pensions office

**KLAUS-PETER SELL, Burkardroth**  
DePfa Bank AG

**JÜRGEN STEINERT (until 28 February 2001), Berlin**  
President of the GdW Bundesverband deutscher Wohnungsunternehmen e.V., Senator (ret'd.)

**JÜRGEN STRAUSS, München**  
General Manager and Principal Agent for Germany of the Schweizerische Lebensversicherungs- und Rentenanstalt

**PROFESSOR DR. DR. h.c. mult. HANS TIETMEYER (from 8 May 2000), Königstein**  
President of Deutsche Bundesbank (ret'd)

**HELMUT WAGNER, Hahnheim**  
DePfa Systems GmbH

**Dr. GEORG FREIHERR VON WALDENFELS, Munich**  
Member of the Management Board of VIAG TELECOM AG

## **Management Board**

**Hans-Jochen Erlebach**

**Karl-Heinz Glauner**

**Dr. Thomas M. Kolbeck**

**Michael A. Kremer**

**Dr. Peter Lammerskitten**

**Dr. Ralph Hill,**  
Deputy Member of the Management Board (from 02.04.2001)

**Hermann Josef Merkens,**  
Deputy Member of the Management Board (from 02.04.2001)

**Ulrich Claßen**  
(until 27.11.2000)

**Dr. Thilo Köpfler**  
Chairman of the Management Board (until 20.06.2000)

## Emoluments to officers

Total emoluments for the financial year came to € 1,388,583.53 for members of the Management Board; € 309,201.75 for members of the Supervisory Board, € 11,360.80 for the Bank's Advisory Boards and € 457,149.65 for former members of the Management Board and their surviving dependants. Pension provisions of € 3,453,704.05 were set aside for former members of the Management Board and their surviving dependants.

## Loans to officers

The total amount of loans and advances to members of the Supervisory Board came to € 1,548,018.61 and € 1,127.37 for members of the Management Board. There are no contingent liabilities in favour of these officers.

## Number of employees

The average staff level of 909 employees, derived from the figures at the end of each quarter during the year under review, breaks down as follows:

	Male	Female	Total
Employees	410	457	867
Apprentices	3	4	7
Temporary staff	11	13	24
Trainees	7	4	11
	<b>431</b>	<b>478</b>	<b>909</b>

## Proposed allocation of profits

At the Annual General Meeting, it will be proposed that the full amount of the retained profit be paid out as a dividend of 11% on the share capital (9,152,000.00).

Berlin, 28 March 2001

The Management Board

Glauner

Erlebach

Dr. Kolbeck

Kremer

Dr. Lammerskitten

## Auditors' Report

We have audited the annual accounts, including the books and financial overview of DePfa Bank AG, Berlin for the financial year from 1 January to 31 December 2000. The Management Board of the Bank is responsible for the books and the preparation of the annual accounts, including the financial overview, in accordance with the provisions of German commercial law. It is our task to provide an assessment of the annual accounts, including the books, and the financial overview, based on the audit conducted by us.

We have audited the annual accounts in accordance with Section 317 of the German Commercial Code and in compliance with the principles of proper and correct auditing laid down by the IDW (German Institute of Accountants). In accordance with these principles, our audit must be planned and carried out in such a way that there is sufficient certainty that inaccuracies and infringements which materially affect the true and fair view of the assets, liabilities, financial position and profit or loss presented by the annual accounts, in compliance with the generally accepted accounting principles, and the financial overview, will be recognised. Audit activities are planned in accordance with our knowledge of the company's business activities and economic and legal framework as well as the anticipated margin of error. Our audit has also assessed the effectiveness of the internal controlling system and the details provided in the books, annual accounts and the financial overview, mainly on the basis of random checks. The audit includes an assessment of the basic accounting principles used and of the material estimates made by the Management Board, as well as an assessment of the overall presentation of the annual accounts and the financial overview. We believe that our audit forms a sufficiently reliable basis for our opinion.

Our auditors' report is unqualified.

We are of the opinion that the annual accounts give a true and fair view of the assets, liabilities, financial position and profit or loss of the Bank, using the principles of proper accounting. The financial overview as a whole provides a true and fair view of the position of the Bank and accurately portrays the risks inherent in future developments.

Frankfurt/Main, 29 March 2001

PwC Deutsche Revision  
Aktiengesellschaft  
Wirtschaftsprüfungsgesellschaft

/s/ Rausch  
Rausch  
Auditor

/s/ ppa. Hinz  
ppa. Hinz  
Auditor

## Balance sheet as at 31 December 1999 of DePfa Bank AG, Wiesbaden

Assets	€	€	1999 €	1998 €
1. Cash reserves				
a) cash in hand		793,580		
b) balance at central banks		761,628,065		
of which:				
€ 757,604,065 with the Deutsche Bundesbank			762,421,645	78,166,720
2. Public sector debt instruments and bills admitted for refinance at central banks				
a) Treasury bills and non- interest bearing treasury notes and similar public debt instruments:				
of which admitted for refinance at the Deutsche Bundesbank				
b) bills		—	—	50,573,347
of which: admitted for refinance at the Deutsche Bundesbank		—		
3. Loans and advances to banks				
a) payable on demand		543,834,687		
b) other loans and advances		3,818,212,039	4,362,046,726	3,526,147,447
4. Loans to customers			10,032,470,983	10,012,688,168
of which:				
€ 5,667,159,211.17 secured by charges on real property				
Public sector loans € 880,950,438.06				
5. Debentures and other fixed interest securities				
a) money market loans				
aa) public sector		—		
ab) other	48,642,550	48,642,550		
of which:				
€ – eligible as collateral at the Deutsche Bundesbank				

Assets	€	€	1999 €	1998 €
b) bonds and debentures				
ba) public sector	1,353,207,267			
of which:				
€ 1,226,408,490 eligible as collateral at the Deutsche Bundesbank				
bb) other	<u>2,418,544,443</u>	3,771,751,710		
of which:				
€ 1,987,548,971 eligible as collateral at the Deutsche Bundesbank				
c) own debentures				
nominal value			3,820,394,260	2,184,640,479
6. Shares and other non fixed interest securities			394,954,316	376,526,079
7. Trade investments			258,046,840	1,394,677
of which:				
€ 768,855 in banks				
€ – in financial services institutions				
8. Holdings in associated undertakings			197,787,453	156,745,909
of which:				
€ 98,260,494 in banks				
€ 2,227,034 in financial services institutions				
9. Trust assets			1,614,504,574	1,392,432,705
of which:				
€ 1,602,489,215 in trust loans				
10. Public sector recovery claims including those exchanged for debentures			—	—
11. Intangible assets			20,932,403	1,187,849
12. Property, plant and equipment			21,310,151	20,403,605
13. Outstanding contributions to subscribed capital			—	—
of which:				
€ – called				
14. Own shares			—	—
Nominal value € –			—	—

<b>Assets</b>	<b>€</b>	<b>€</b>	<b>1999</b> <b>€</b>	<b>1998</b> <b>€</b>
15. Other assets			180,172,551	161,622,838
16. Deferred items			18,615,695	25,163,426
17. Deficit not covered by own capital			—	—
<b>Total assets</b>			<b>21,683,657,597</b>	<b>17,987,693,249</b>



Liabilities	€	€	1999 €	1998 €
1. Deposits by banks				
a) payable on demand		918,702,165		
b) with agreed maturity or withdrawal notice	6,154,586,853		7,073,289,018	3,251,873,787
2. Deposits by customers				
a) savings deposits				
aa) with withdrawal notice of 3 months	560,201			
ab) with agreed withdrawal notice of more than 3 months	7,390,571	7,950,772		
b) other liabilities				
ba) payable on demand	2,740,688,483			
bb) with agreed maturity or withdrawal notice	4,799,387,686	7,540,076,168	7,548,026,940	7,986,834,637
3. Securitised liabilities				
a) debentures issued		4,008,649,602		
b) other securitised liabilities		—	4,008,649,602	4,150,152,421
of which:				
money market loans € –				
own acceptances and € – promissory notes in circulation				
4. Trust liabilities			1,614,504,574	1,392,432,705
of which:				
€ 1,602,489,215 trust loans				
5. Other liabilities			59,619,484	149,445,168
6. Deferred items			57,722,144	68,179,127
7. Provisions				
a) Provisions for pensions and other commitments		36,545,036		
b) Provisions for tax		27,261,958		
of which: € 9,867,933 tax contingency				
c) other provisions		24,563,762	88,370,756	91,875,356
8. Special reserves			—	—

<b>Liabilities</b>	<b>€</b>	<b>€</b>	<b>1999 €</b>	<b>1998 €</b>
9. Subordinated liabilities			235,597,221	235,626,445
10. Profit sharing capital			77,125,185	77,125,185
of which:				
€ – payable within two years				
11. Fund for general banking risks			58,000,000	—
12. Equity				
a) subscribed capital	81,806,701			
contributions by silent partners	298,112,040			
b) capital reserves	47,140,060			
c) profit reserves				
ca) legal reserve	4,513,202			
cb) reserve for own shares	0			
cc) statutory reserves	—			
cd) other profit reserves	<u>407,000,000</u>	838,572,003		
d) Retained profit/loss	24,180,670	<u>24,180,670</u>	862,752,673	584,148,418
<b>Total liabilities</b>			<b>21,683,657,597</b>	<b>17,987,693,249</b>
1. Contingent liabilities				
a) Contingent liabilities from discounted forwarded bills		0		
b) Liabilities from guarantees and indemnity agreements		742,815,673		
c) Liability from provision of securities for third party liabilities		—	742,815,673	974,286,135
2. Other liabilities				
a) Repurchase obligations under partial repo transactions		—		
b) Placing and underwriting obligations		—		
c) Irrevocable loan commitments		<u>2,131,890,700</u>	2,131,890,700	1,554,067,567

## Profit and loss account of DePfa Bank AG, Wiesbaden for the period 1 January to 31 December 1999

Expenditure	€	€	1999 €	1998 €
1. Interest payable			611,215,715.00	638,743,175.00
2. Commission payable			5,341,274.00	3,399,015.00
3. Net expenditure on financial transactions			—	—
4. General administrative expenditure				
a) Personnel costs				
aa) wages and salaries	46,914,614.00			
ab) social security payments and contributions for pensions and benefits	<u>12,039,929.00</u>	58,954,543.00		
of which: for pensions € 4,724,286.00				
b) other administrative expenditure		85,982,039.00	144,936,582.00	83,218,710.00
5. Depreciation and write-offs on intangible assets and property, plant and equipment			6,846,202.00	3,926,165.00
6. Other operating expenditure			17,795,683.00	4,562,914.00
7. Depreciation and write-offs on receivables and certain securities as well as transfers to loan provisions			—	—
8. Depreciation and write-offs on trade investments, shareholdings in associated undertakings and securities treated as fixed assets			470,746.00	1,278,230.00
9. Expenditure on assumption of losses			1,509,233.00	1,986,140.00
10. Transfers to bund for general banking risks			58,000,000.00	—
11. Extraordinary expenditure			—	7,863,357.00
12. Taxes on income and earnings			59,429,002.00	53,570,618.00

<b>Expenditure</b>	€	€	<b>1999</b> €	<b>1998</b> €
13. Other taxes not included in item 6			132,482.00	159,824.00
14. Expenditure on silent contributions			33,740,858.00	—
15. Net income for the year			39,802,074.00	122,198,760.00
<b>Total expenditure</b>			<b>979,219,851.00</b>	<b>920,906,908.00</b>

<b>Income</b>	<b>€</b>	<b>€</b>	<b>1999</b> <b>€</b>	<b>1998</b> <b>€</b>
1. Interest receivable from				
a) loan and money market transactions	726,856,491.07			
b) fixed interest securities and debt register claims	<u>138,085,738.93</u>	864,942,230.00	824,330,168.00	
2. Current income from				
a) shares and other non-fixed interest securities	4,558,127.00			
b) trade investments	5,600,632.00			
c) shares in associated undertakings	<u>1,963,954.00</u>	12,122,713.00	10,881,912.00	
3. Income received under a profit-pooling or profit-transfer agreement or partial-profit transfer agreement			—	—
4. Commission receivable		90,306,742.00	25,683,137.00	
5. Net income from financial transactions			—	—
6. Income from additions to receivables and certain securities as well as from writing back loan provisions		787,877.00	47,431,638.00	
7. Income from additions to trade investments, shareholdings in associated undertakings and securities treated as assets			—	—
8. Other operating income		11,060,289.00	12,580,053.00	
9. Income from writing back special reserves			—	—
10. Extraordinary income			—	—
11. Income from assumption of losses			—	—
12. Loss for the year			—	—
<b>Total income</b>		<b>979,219,851.00</b>	<b>920,906,908.00</b>	

## Notes

### **Accounting and valuation**

The annual accounts have been compiled in accordance with the provisions of the German Commercial Code and supplementary regulations of the Companies Act and the accounting regulations for banks.

The provisions of the Law on Corporate Control and Transparency (KonTraG) have also been applied.

### **Loans to customers (assets item 4)**

These are allocated in full to current assets and have been valued conservatively in accordance with normal banking practice. Any quantifiable risks have been covered in full by making individual value adjustments. The general credit risk has been covered by general adjustments, the amount of which was determined on the basis of the average actual amount of loan losses over the last five years and taxation regulations. Loans bearing little or no interest have been discounted to their cash value. Where the nominal value for loans differs from their acquisition cost, the amount of the difference has been shown as a deferred item.

### **Debentures and other fixed interest securities (assets item 5)**

Securities have been allocated in full to current assets and valued strictly at the lower of cost or market. Lower valuations from the past have been retained.

The book value on 31.12.99 of assets (debentures) pledged under repurchase agreements amounted to € 1,516,575,000.

### **Shares and other non fixed interest securities (assets item 6)**

In addition to the shares in special funds shown here, which are valued at acquisition cost or lower attributable value, participation certificates in the sum of € 17,026,000 are included in this item.

### **Trade investments, shares in associated undertakings (assets items 7 and 8)**

These are shown at acquisition cost less depreciation under § 253 para. 2 HGB.

### **Intangible assets, property, plant and equipment (assets items 11 and 12)**

Computer programs brought from outside manufacturers (IT software) are shown under intangible assets. They, and the office furniture and equipment included under Property, plant and equipment, have been valued at acquisition cost less depreciation allowed under tax regulations. Low value economic assets are written off in full in the year of acquisition. Land and buildings also included under Property, plant and equipment have been valued at acquisition cost less depreciation allowed for tax. Land acquired under foreclosure measures and in the possession of the Bank for more than 5 years is also shown under this item.

As part of the transfer of some of the business operations of the Pfandbriefbank to DePfa Bank AG, goodwill has been capitalised and will be depreciated over a period of 9 years.

### **Other loans and assets (assets item 15)**

Items shown here are valued at nominal value.

### **Deferred items (assets item 16 and liabilities item 6)**

Premiums and discounts on registered bonds, claims backed by loan notes and loans have been spread over the term involved, depending on the residual loan in each case.

### **Liabilities**

These are valued at the amount due for repayment.

### **Provisions (Liabilities item 7)**

Provisions for pension and similar liabilities have been formed applying the partial value principle under § 6 a EStG on the basis of an interest rate of 6% using the 1998 mortality tables issued by Heubeck. One quarter of the resulting difference in value to the 1983 mortality tables was allowed for in the 1999 accounts. Provisions for taxation and other provisions have been set up for all quantifiable risks and contingent liabilities at the amount necessary according to a reasonable business judgement.

### **Currency conversion**

Foreign currency loans and liabilities have been converted at the exchange rates in force on the balance sheet date, in accordance with § 340 h para. 1 sentence 2 HGB. Any differential amounts arising were treated as provided for in § 340 h para. 2 HGB. Futures business awaiting settlement was converted at the forward rate in force on the balance sheet date.

## Notes to the balance sheet

### Breakdown of maturities of assets and liabilities (residual maturities)

<b>Loans and advances to banks (assets item 3 b) with residual maturities of:</b>	<b>€ '000</b>
less than three months	2,256,413
at least three months but less than one year	1,169,452
at least one year but less than five years	128,807
more than five years	263,541
	<b>3,818,213</b>

<b>Loans to customers (assets item 4) with residual maturities of:</b>	<b>€ '000</b>
less than three months	2,060,240
at least three months but less than one year	1,299,215
at least one year but less than five years	2,861,368
more than five years	3,811,648
	<b>10,032,471</b>

Loans with an indefinite term are not included.

#### Debentures and other fixed interest securities (assets item 5):

In 2000, bonds, debentures and other fixed interest securities with a nominal value of € 1,202,399,000 become due.

<b>Deposits by banks (liabilities item 1 b) with residual maturities of:</b>	<b>€ '000</b>
less than three months	4,983,674
at least three months but less than one year	250,756
at least one year but less than five years	297,741
more than five years	622,416
	<b>6,154,587</b>

<b>Savings deposits with an agreed notice period of more than three months (liabilities item 2 aab):</b>	<b>€ '000</b>
less than three months	151
at least three months but less than one year	7,239
at least one year but less than five years	0
	<b>7,390</b>

<b>Other deposits by customers with an agreed maturity or notice period (liabilities item 2 bbb):</b>	<b>€ '000</b>
less than three months	3,071,331
at least three months but less than one year	477,248
at least one year but less than five years	748,572
more than five years	502,237
	<b>4,799,388</b>

Debentures issued with a nominal value of € 370,687,000 are due to mature in 2000.



<b>Amounts owed to/by associated undertakings/undertakings with which a shareholding relationship exists under § 271 para. 1 HGB:</b>	<b>To/from associated undertakings € '000</b>	<b>To/from undertakings with which a shareholding relationship exists € '000</b>
Loans and advances to banks (assets item 3)	2,157,351	—
Loans to customers (assets item 4)	236,439	—
Debentures and other fixed interest securities (assets item 5)	219,075	—
Deposits by banks (liabilities item 1)	1,521,770	—
Deposits by customers (liabilities item 2)	40,585	—
Securitised liabilities (liabilities item 3)	—	—
Subordinated liabilities (liabilities item 9)	—	—

<b>Movement in fixed assets:</b>	<b>Trade investments (assets item 7) € '000</b>	<b>Shares in associated undertakings (assets item 8) € '000</b>	<b>Intangible assets (assets item 11) € '000</b>	<b>Operational and office equipment (assets item 12) € '000</b>	<b>Land and buildings € '000</b>
Cost of acquisition/manufacture on 01.01.1999	2,606	161,443	4,004	30,409	12,805
Accruals	257,139	41,938	23,211	4,042	1,143
Write-ups	—	—	—	—	—
Transfers	—	—	—	—	—
Disposals at acquisition cost	16	897	554	34	311
Depreciation (cumulative)	1,682	4,697	5,729	26,657	86
Book value on 31.12.1999	258,047	197,787	20,932	7,760	13,551
Depreciation in the financial year	471	—	2,912	3,926	8
Book value on 31.12.1998	1,395	156,746	1,188	7,678	12,726

The Bank used land and buildings with a book value of € 397,000 for its own purposes. Almost all the other business premises and buildings were rented by the Bank from one of its subsidiaries.

## Fixed assets

The Bank (company no. 1) has trade investments in the following companies in accordance with § 271 para. 1 HGB. Unlike the balance sheet, companies in which the Bank holds its interest indirectly are shown here (§ 285 no. 11 HGB).

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.1999 € '000	1999 Profit € '000
1.	DePfa Bank AG Berlin			862,753	24,181
2.	Aufbaugesellschaft Prager Straß mbH, Dresden	100.0	41	51	767
3.	Barnimer Grundstücksgesellschaft mbH, Frankfurt	100.0	7	51	0 <sup>2)</sup>
4.	Barnimer Grundstücksgesellschaft mbH & Co. Erste KG, Munich	100.0	7, 87	-102	-256 <sup>2)</sup>
5.	Barnimer Grundstücksgesellschaft mbH & Co. Zweite KG, Munich	100.0	7, 87	460	-307 <sup>2)</sup>
6.	Bau- und Bodenverwaltungsgesellschaft GbR, Wiesbaden	100.0	7, 1	3,272	920 <sup>5)</sup>
7.	BauBo Bau- und Bodenverwertungs- und -verwaltungsgesellschaft mbH Berlin, Berlin	100.0	1	50,417	0 <sup>3)</sup>
8.	BauBo-Immobilien Projekt GmbH, Frankfurt	100.0	7	0	0 <sup>2)</sup>
9.	BauConsult DV- und Unternehmensberatung Bayern GmbH, Munich	50.0	46	869	358
10.	BauConsult DV- und Unternehmensberatung Berling GmbH, Berlin	100.0	46	2,147	767
11.	BauConsult DV- und Unternehmensberatung Hamburg GmbH, Hamburg	100.0	46	1,687	409
12.	BauConsult DV- und Unternehmensberatung Hannover GmbH, Hanover	51.0	46	3,017	205 <sup>2)</sup>
13.	BauConsult DV- und Unternehmensberatung Mainz GmbH, Mainz	51.0	46	2,965	358 <sup>2)</sup>
14.	BauConsult DV- und Unternehmensberatung Stuttgart GmbH, Stuttgart	74.0	46	1,074	460 <sup>2)</sup>
15.	BauContact Immobilien GmbH, Berlin	100.0	1	0	0 <sup>2)4)</sup>
16.	baudata Gesellschaft für bau- und wohnungswirtschaftliche Datenverarbeitung mbH, Hamburg	100.0	46	3,017	0 <sup>2)</sup>
17.	BauSecura Versicherungsmakler GmbH, Hamburg	51.0	46	1,432	1,278 <sup>2)</sup>

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB)	
				31.12.1999 € '000	1999 Profit € '000
18.	BauTec Gesellschaft für Wärmemeßtechnik und gebäudetechnische Planung und Beratung mbH, Hamburg	100.0	16, 46	6,800	1,687 <sup>2)</sup>
19.	BGB-Gesellschaft Friedrichshain Block-A- Nord, Berlin	100.0	41, 44	- 205	- 205 <sup>1)</sup>
20.	BGB-Gesellschaft Friedrichshain Block-A-Süd, Berlin	100.0	41, 44	- 4,346	- 1,023 <sup>1)</sup>
21.	BGB-Gesellschaft Friedrichshain Block-B-Nord, Berlin	100.0	41, 44	- 1,943	- 614 <sup>1)</sup>
22.	BGB-Gesellschaft Friedrichshain Block-B-Süd, Berlin	100.0	41, 44	2,914	3,886 <sup>1)</sup>
23.	BGB-Gesellschaft Friedrichshain Block-E-Nord, Berlin	100.0	41, 44	3,221	4,551 <sup>1)</sup>
24.	BGB-Gesellschaft Friedrichshain Block-E-Süd, Berlin	100.0	41, 44	- 358	- 153 <sup>1)</sup>
25.	BGB-Gesellschaft Friedrichshain Block-G-Nord, Berlin	100.0	41, 44	- 1,790	- 511 <sup>1)</sup>
26.	BGB-Gesellschaft Friedrichshain Block-G-Süd (I), Berlin	100.0	41, 44	- 1,278	- 409 <sup>1)</sup>
27.	BGB-Gesellschaft Friedrichshain Block-G-Süd (II), Berlin	100.0	41, 44	- 1,432	- 614 <sup>1)</sup>
28.	BGB-Gesellschaft Spindlers Hof Berlin, Berlin	100.0	41, 44	- 4,090	- 2,556 <sup>1)</sup>
29.	BGB-Gesellschaft Wohnpark Stralau I, Berlin	98.1	41	- 1,687	- 358 <sup>1)</sup>
30.	BGB-Gesellschaft Wohnpark Stralau IV, Berlin	98.1	41	- 1,176	- 256 <sup>1)</sup>
31.	Centimanen Vastgoed B.V., Rotterdam	100.0	7	NLG '000 - 74,700	NLG '000 - 114,700
32.	Chariton Vastgoed B.V., Velp	100.0	7	- 767	- 409
33.	Delphi Vastgoed B.V., Velp	100.0	34, 73	- 358	- 51
34.	Delphi Vastgoed B.V.-Meteora Vastgoed B.V. GbR, Frankfurt	100.0	7	2,199	- 51
35.	DePfa Bank France S.A., Paris	100.0	1	FRF '000 242,500	FRF '000 24,600
36.	DePfa Bau-, Verwaltungs- und Controlling GmbH, Hamburg	100.0	1	1,943	102
37.	DePfa Capital Japan K.K., Tokyo	100.0	1, 7	JPY '000 325,400	JPY '000 - 112,700

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.1999 € '000	1999 Profit € '000
38.	DePfa Hypotheken-Management GmbH, Mannheim	100.0	1	981	19 <sup>2)</sup>
39.	DePfa Immobilien Beteiligungs GmbH, Wiesbaden	100.0	41	0	0 <sup>1)</sup>
40.	DePfa Immobilien Fonds GmbH & Co. Dresden-Klotzsche C/D KG, Berlin	100.0	41, 44	-3,745	-1,665 <sup>2)</sup>
41.	DePfa Immobilien Management AG, Wiesbaden	100.0	1	15,083	3,681
42.	DePfa Immobilien Projektentwicklungs GmbH, Wiesbaden	50.0	41	0	0 <sup>2)</sup>
43.	DePfa Immobilien-Anlagen GmbH, Wiesbaden	100.0	41	-2,505	-2,505 <sup>2)</sup>
44.	DePfa Immobilienfonds GmbH, Wiesbaden	60.0	41	102	51 <sup>1)</sup>
45.	DePfa Investment Bank Ltd., Nicosia	60.0	1	USD '000 136,700	USD '000 36,700
46.	DePfa IT-Services AG, Mainz	100.0	1	14,697	-153
47.	DePfa IT Services Italia S.r.l., Rome	100.0	46, 51	ITL '000 288,800	ITL '000 261,700 <sup>2)</sup>
48.	DePfa IT Services Polska, Pozna	100.0	46	1,892	k.A.
49.	DePfa Real Estate Romania SRL, Bucharest	100.0	50	ROL '000 -6,609,800	ROL '000 -9,200 <sup>2)</sup>
50.	DePfa Securities Romania S.A., Bucharest	90.0	45	ROL '000 7,522,600	ROL '000 -1,207,800 <sup>2)</sup>
51.	DePfa Systems GmbH, Mainz	100.0	46	22,292	9,561 <sup>2)</sup>
52.	DePfa UK Ltd., London	100.0	53	USD '000 200	USD '000 <sup>5)</sup> 900
53.	DePfa USA Inc., New York	100.0	1	USD '000 2,651,400	USD '000 100 <sup>5)</sup>
54.	DePfa-Financial Service spol sr.o., Prague	100.0	1	Kc '000 1,900	Kc '000 500
55.	Deutsche Bau- und Grundstücks-Aktiengesellschaft, Berlin	50.0	1	9,459	1,585
56.	DOMDATA Sp.z.o.o., Pozna	66.0	51	PLZ '000 1,300	PLZ '000 1,700 <sup>6)</sup>
57.	Dresden-Klotzsche Baufeld B GbR, Berlin	99.0	41, 44	-1,943	-1,125 <sup>1)</sup>
58.	Dresden-Klotzsche Baufeld E-Ost GbR, Berlin	99.0	41, 44	0	0 <sup>1)</sup>

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.1999 € '000	1999 Profit € '000
59.	Dresden-Klotzsche Baufeld E-West, GbR, Berlin	99.0	41, 44	0	0 <sup>1)</sup>
60.	Dresden-Klotzsche Baufeld F GbR, Berlin	99.0	41, 44	- 1,278	- 716 <sup>1)</sup>
61.	Dresden-Klotzsche Baufeld G1 GbR, Berlin	99.0	41, 44	0	0 <sup>1)</sup>
62.	Dresden-Klotzsche Baufeld G2 GbR, Berlin	99.0	41, 44	0	0 <sup>1)</sup>
63.	Dresden-Klotzsche Baufeld G3 GbR, Berlin	99.0	41, 44	0	0 <sup>1)</sup>
64.	Europaforum II, Gesellschaft für Immobilienentwicklung mbH, Grünwald	33.0	15	511	- 562
65.	Friedrich-Ebert-Allee GbR, Bochum	22.5	41	98,219	8,232 <sup>1)</sup>
66.	GbR Melchendorfer Straße, Wiesbaden	100.0	42, 43	- 1,585	- 971 <sup>2)</sup>
67.	Hypotheken Discount Vermittlungs GmbH, Mannheim	90.1	1	716	644 <sup>1)</sup>
68.	ImmobilienScout GmbH, Berlin	28.2	15	- 2,863	- 20,043 <sup>2)4)</sup>
69.	InfraLease Leasinggesellschaft für Infrastruktureinrichtungen mbH, Frankfurt	100.0	1	5,011	138 <sup>2)</sup>
70.	IVC Immobilienverwaltungs- und Controlling GmbH, Hamburg	100.0	36	358	0
71.	Lucascribe Participations S.A.R.L., Paris	100.0	35	0	0 <sup>1)</sup>
72.	Malesherbes François 1er, Paris	50.0	35	k.A.	k.A.
73.	Meteora Vastgoed B.V., Velp	100.0	7	- 153	0
74.	Objektgesellschaft FFA-Wohnungen Freiburg GbR, Wiesbaden	100.0	41, 44	- 2,199	- 307 <sup>1)</sup>
75.	Parkhotel Altenburg GbR, Stuttgart	100.0	7, 1	- 2,301	614
76.	Participation Erste Beteiligungsgesellschaft mbH, Frankfurt	100.0	1	0	0 <sup>2)</sup>
77.	Participation Zweite Beteiligungsgesellschaft mbH, Frankfurt	100.0	1	0	0 <sup>2)</sup>
78.	Real Dritte Grundstücksgesellschaft mbH, Frankfurt	100.0	1	0	0 <sup>2)</sup>
79.	Real Erste Grundstücksgesellschaft mbH, Frankfurt	100.0	1	0	0 <sup>2)</sup>
80.	Real Zweite Grundstücksgesellschaft mbH, Frankfurt	100.0	1	0	0 <sup>2)</sup>
81.	RusBau Tec, Moscow	50.0	18	RUR '000 100	k.A.
82.	RusKomBauConsult GmbH, Moskau	50.0	46	k.A.	k.A.

No.	Name and registered office of the company	Proportion of capital held %	holding via no.	Equity (as per § 266 HGB) 31.12.1999 € '000	1999 Profit € '000
83.	SEMU Beteiligungsgesellschaft mbH, Frankfurt	33.0	7	3,918	84 <sup>1)</sup>
84.	Suhl I GbR, Wiesbaden	100.0	7, 1	19	-7 <sup>2)</sup>
85.	Terrain Herzogpark und Partner Erschließungs-GmbH, Munich	67.0	86	769	0 <sup>2)</sup>
86.	Terrain-Aktiengesellschaft Herzogpark, Munich	67.0	7	1,380	511 <sup>2)</sup>
87.	Terrain-Verwaltungs-GmbH, Herzogpark, Munich	100.0	86	128	0 <sup>2)3)</sup>
88.	Tower Plaza Ltd., London	67.0	35	0	0
89.	Westhafen-Gelände Frankfurt am Main GbR, Frankfurt	20.0	41	1,941	6 <sup>1)</sup>
90.	ZMP Zentral Messepalast Entwicklungs GbR, Leipzig	100.0	1, 7	-19,020	-4,090 <sup>2)</sup>

1) 1998

2) provisional

3) profit transfer agreement

4) loss transfer agreement

5) profit under US GAAP

6) 1997

## Negotiable securities

	Debtures and other fixed interest securities (assets item 5) € '000	Shares and other non fixed interest securities (assets item 6) € '000	Trade investments (assets item 7) € '000	Shared in associated undertakings (assets item 8) € '000
listed	3,769,173	—	—	—
unlisted	51,221	—	39	—
<b>negotiable</b>	<b>3,820,394</b>	<b>—</b>	<b>39</b>	<b>—</b>

## Trust assets/liabilities (assets item 9/liabilities item 4)

The total amounts are distributed over the balance sheet items as follows:

<b>Assets</b>	<b>€ '000</b>	<b>Liabilities</b>	<b>€ '000</b>
4. Loans to customers including those secured by mortgages	€1,602,489	1. Deposits by banks b) with an agreed term or notice period	1,505,327
6. Shares and other non fixed interest securities	12,015	2. Deposits by customers b) other liabilities bb) with an agreed term or notice period	109,177
	<b>1,614,504</b>		<b>1,614,504</b>

## Other assets (assets item 15)

This includes the following items of major importance:

Land and buildings acquired as a way of salvaging loans in the amount of € 119,509,000, tax refund applications in the amount of € 28,305,000, claims against subsidiaries in the amount of € 16,110,000.

## Deferred items (assets item 16)

This item includes discounts of € 12,668,000 and premiums of € 1,724,000.

## Subordinated assets

Other deposits by banks (assets item 3b) includes € 30,490,000 of subordinated deposits.

### **Other liabilities (liabilities item 5)**

This includes the following significant amounts:

Liabilities in the amount of € 39,876,000 from interest on dormant contributions made, tax liabilities arising from turnover tax and other taxes of € 6,869,000, and adjustments arising from foreign exchange dealings of € 4,832,000.

No major anticipatory items are included here.

### **Deferred items (liabilities item 6)**

At € 53,233,000, this item mainly consists of discounts on claims in respect of loans.

### **Provisions (liabilities item 7)**

Provisions for pensions and other commitments increased by € 2,016,000 over the previous year. Provisions for tax fell by € 4,157,000 compared to the previous year; they include contingent tax provisions amounting to € 9,868,000. Other provisions fell by € 1,364,000 to € 24,564,000. These consist mainly of provisions for expenditure of € 13,584,000 and provisions for expected losses of € 7,770,000 for. The provisions for expenditure were set up mainly for end-of-year bonuses, anniversary bonuses and planned restructuring measures. The guarantee provisions are to cover the risks arising from losses in trust business, judgements by the BGH (Federal High Court) and the resale of land and buildings acquired to salvage loans.

### **Subordinated liabilities (liabilities item 9)**

€ 25,565,000 of the subordinated liabilities, at 6-month Libor plus 0.45% and maturing on 23 July 2008, exceed 10% of the total amount.

Funds raised comply with the conditions of § 10 para. 5a KWG. Interest paid amounted to € 20,941,000.

### **Profit sharing capital (liabilities item 10)**

	T €
.....	
Position on 01.01.1999	72,092
Increase for 1999	—
.....	
Position on 31.12.1999	72,092
Pro rata interest	5,033
.....	
Shown on balance sheet	77,125
.....	

Interest paid on the profit sharing capital amounted to € 5,068,000.

The profit-sharing capital complies with the conditions of § 10 para. 5 KWG.



It is composed of the following tranches:

**1<sup>st</sup> tranche:**

DM 75,000,000 from 1993, consisting of 75,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 7.125% p.a. and the term expires on 31.12.2005.

**2<sup>nd</sup> tranche:**

DM 36,000,000 from 1994, consisting of 36,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 6.5% p.a. and the term expires on 31.12.2005.

**3<sup>rd</sup> tranche:**

DM 10,000,000 from 1994, consisting of 10,000 bearer profit participation certificates each with a par value of DM 1,000. The dividend payment is 8% p.a. and the term expires on 31.12.2003.

**4<sup>th</sup> tranche:**

DM 20,000,000 from 1996, consisting of four registered profit participation certificates, one with a par value of DM 10,000,000, one of DM 6,000,000 and two of DM 2,000,000. The dividend payment is 6.8% p.a. and the term expires on 31.12.2007.

**Paid up capital**

The paid up capital remains at DM 160,000,000.

DePfa Deutsche Pfandbriefbank AG holds 99.68% of the paid up capital directly.

The paid up capital is divided into

- 1,050 shares of DM 100,000
- 53,600 shares of DM 1,000
- 9,000 shares of DM 100
- 10,000 shares of DM 50

The shares are registered shares.

**Capital reserves**

The capital reserves remain unchanged at € 47,140,060.00.

**Profit reserves**

€ 53,174,355.64 was allocated to other profit reserves from the profit for 1998 by the Annual General Meeting, and € 15,621,403.70 from the profit for 1999 by the Management Board.

## **Assets and liabilities denominated in foreign currency**

The total assets denominated in foreign currency amounted to € 2,011,300, while foreign currency liabilities amounted to € 444,500. The difference was almost entirely covered by forward exchange transactions and cross-currency swaps.

## **Contingent liabilities (liabilities item 1 below the line)**

Liabilities under guarantees and indemnity agreements were mainly attributable to loan guarantees. The total amount of assets transferred as collateral for these amounts to € 949,649,000.

## **Other liabilities (liabilities item 2 c below the line)**

Irrevocable loan commitments are divided into credit and loan commitments of € 1,808,273,000 and guaranteed credit commitments of € 323,618,000.

## **Information on transactions subject to market risk**

The following transactions were outstanding and still awaiting settlement on 31.12.1999:

Futures transactions in foreign currencies

- forward exchange transactions
- currency swaps

These were all hedging transactions.

Interest related futures transactions

- forward rate agreements
- interest swaps
- floors
- caps
- swaptions

The transactions were all effected purely for hedging purposes.

There were no futures transactions with other price risks on the balance sheet date. Derivative transactions effected as hedging against interest rate risks have been included in the overall treatment of

this kind of risk and are therefore not dealt with separately. The same applies to derivatives which together with other items constitute one position. No derivative transactions designed to yield a profit on sale due to short-term market price fluctuations (trading) were effected.

### Derivative transaction volumes:

	less than 1 year € m	Nominal amount Residual term 1 to 5 years € m	more than 5 years € m	Total € m	Covering expenditure € m
Interest related transactions (OTC products)					
FRA's	3,518.8	0.0	0.0	3,518.8	0.0
Interest swaps	2,934.7	5,056.8	4,109.6	12,078.9	187.2
Interest options (purchases)	777.2	15.3	56.2	848.7	4.2
Interest options (sales)	35.8	2,000.0	107.4	2,143.2	0.5
Other interest contracts	0.0	0.0	510.2	510.2	0.2
Currency related transactions (OTC products)					
Forward exchange transactions	1,167.2	0.0	0.0	1,167.2	0.3
Cross-currency swaps			22.5	22.5	0.0
Foreign exchange options (purchases)	0.0	0.0	0.0	0.0	0.0
Foreign exchange options (sales)	0.0	0.0	0.0	0.0	0.0
Other foreign-exchange contracts	0.0	0.0	0.0	0.0	0.0

### Counterparties to derivative contracts:

Type of counterparty	Covering expenditure in € m
OECD central governments	—
OECD banks	192.4
OECD financial institutions	—
Other undertakings, private individuals	—
Non OECD central governments	—
Non OECD banks	—
Non OECD financial institutions	—

### **Other financial obligations**

The holding in Liquiditäts- und Konsortialbank GmbH, Frankfurt am Main, with a par value of € 1,141,000, has call commitments of up to € 5,706,000. Furthermore, in the event of non fulfilment of call commitments by other members, whose interests amount to a total of € 55,919,000, a proportional liability similar to a directly-enforceable guarantee exists.

The Bank is liable for € 13.3 m in connection with measures relating to capital taken by the European Property Beteiligungs GmbH, and for up to € 2.175 m for such measures by DePfa European Property Holding.

Liabilities under leasing agreements exist totalling € 4,499,000.

The Bank will ensure that DePfa Investmentbank Ltd., Nicosia, can meet its contractual obligations.

## Notes to the profit and loss account

### Other operating expenditure (expenditure item 6)

This includes the following items of significance:

Depreciation on land and buildings in the sum of € 14,603,000 and other personnel expenses of € 628,000.

### Taxation on income and earnings (expenditure item 12)

Expenditure on taxation includes taxes for previous years amounting to € 7,570,000 and tax refunds for previous years amounting to € 1,092,000.

### Interest income (income item 1)

Interest income was € 658,034,000 from Germany and € 206,908,000 from the rest of Europe.

### Current income (income item 2)

Current income was € 10,751,000 from Germany and € 1,372,000 from the rest of Europe.

### Commission receivable (income item 4)

Substantial income was received for services for third parties arising from the administration of trust loans.

### Other operating income (income item 8)

Other operating income amounting to € 10,868,000 was received in Germany and € 193,000 in other European countries.

Items of major importance were rent received for property and for heritable building rights amounting to € 4,712,000, trade tax charges of € 2,087,000, and income of € 1,215,000 from providing staff.

Income of € 975,000 was realised from the sale of land.

### Group accounts

As the parent company of the Group, DePfa Deutsche Pfandbriefbank AG in Wiesbaden produces Group accounts, covering both the Bank and its subsidiaries liable to consolidation. Under § 291 para. 1 HGB, the Bank is exempt from the duty to prepare its own Group accounts if the other shareholders give consent under § 291 para. 3 sentence 2 HGB. The Group accounts can be obtained from DePfa Deutsche Pfandbriefbank AG in Wiesbaden.

## **Executive bodies of the Bank:**

### **Supervisory Board**

**DR. JÜRGEN WESTPHAL, Hamburg**

Chairman (from 16.08.1999)

Minister (ret'd.), attorney-at-law, judge at the Hamburg Constitutional Court

**CHRISTIAN GRAF VON BASSEWITZ, Düsseldorf**

Deputy Chairman

General partner and management spokesman of Bankhaus Lampe KG

**LUTZ BRIEGEL<sup>1)</sup>, Frankfurt**

Deputy Chairman

DePfa Bank AG

**GEORG BERRES<sup>1)</sup>, Essenheim**

DePfa IT Systems AG

**DR. RICHARD BRANTNER, Schramberg**

Spokesman of the Board of the Kreditanstalt für Wiederaufbau (ret'd.), Manager of the Gesellschaft für kommunale Altkredite und Sonderaufgaben der Währungsumstellung mbH

**PROF. DR. JOHANN EEKHOFF, Bonn**

State Secretary (ret'd.)

**WOLFGANG FAUTER, Hamburg**

Chairman of the Management Boards of Deutsche Ring Versicherungen

**DR. FRIEDRICH ADOLF JAHN, Münster**

President of the Zentralverband der Deutschen Haus-, Wohnungs- und Grundeigentümer

**RALF KUPKA<sup>1)</sup>, Starnberg**

DePfa Bank AG

**JACQUES LEBHAR, Paris**

Chairman and Managing Director of Comptoir des Entrepreneurs

**KURT PFEIFFELMANN<sup>1)</sup>, Mainz**

DePfa Bank AG

**ROLF PFEIL<sup>1)</sup>, Frankfurt**

**DR. ROLF SCHMID, Ettingen**

President of the Federal and State pensions office

**KLAUS-PETER SELL<sup>1)</sup>, Burkardroth**

DePfa Bank AG

**JÜRGEN STEINERT, Berlin**

Senator (ret'd.),

President of the GdW Bundesverband deutscher Wohnungsunternehmen e.V.

**JÜRGEN STRAUSS, Munich**

General Manager and Principal Agent for Germany of the Schweizerische Lebensversicherungs- und Rentenanstalt a.G

**HELMUT WAGNER<sup>1)</sup>, Hahnheim**

DePfa IT Systems AG

**DR. GEORG FREIHERR VON WALDENFELS, Munich**

Member of the Management Board of VIAG AG

- 
- 1) Member of the Standing Committee
  - 2) Member of the Credit and Market Risks Committee
  - 3) Elected by the employees

**Management Board**

**DR. THILO KÖPFLER**

Chairman

**ULRICH CLASSEN**

**HANS JOCHEN ERLEBACH**

**KARL-HEINZ GLAUNER**

**DR. THOMAS M. KOLBECK**

**MICHAEL A. KREMER**

(from 01.02.2000)

**DR. PETER LAMMERSKITTEN**

**Emoluments to officers**

Total emoluments for the financial year came to € 1,123,059.16 for members of the Management Board; € 305,637.68 for members of the Supervisory Board, € 45,300.46 for the Bank's Advisory Boards and € 449,415.17 for former members of the Management Board and their surviving dependants. Pension reserves of € 3,371,439.75 were set aside for former members of the Management Board and their surviving dependants.

## Loans to officers

The total amount of loans and advances to members of the Supervisory Board came to € 274,504.36; there are no claims of this nature against members of the Management Board. There are no contingent liabilities in favour of these officers.

## Number of employees

The average staff level of 855 employees, derived from the figures at the end of each quarter during the year under review, breaks down as follows:

	Male	Female	Total
Employees	415	434	849
Trainees	3	3	6
Temporary staff	17	13	30
<b>Total</b>	<b>435</b>	<b>450</b>	<b>885</b>

## Proposed allocation of profits

The following proposal for the allocation of the retained profit of € 24,180,670 will be put to the Annual General Meeting:

- payment of a dividend of € 8,180,670 or 10% of the share capital
- allocation of € 16,000,000 to other profit reserves.

Berlin, 28 March 2000

The Management Board

Dr. Köpfler	Claßen
Erlebach	Glauner
Dr. Kolbeck	Kremer
Dr. Lammerskitten	



## Auditors' Report

We have audited the annual accounts, including the books and financial overview of DePfa Bank AG for the financial year from 01.01 to 31.12.1999. The Management Board of the Bank is responsible for the books and the preparation of the annual accounts in accordance with the provisions of German commercial law. It is our task to provide an assessment of the annual accounts, including the books, and the financial overview, based on the audit conducted by us.

We have audited the annual accounts in accordance with Section 317 of the German Commercial Code and in compliance with the principles of proper and correct auditing laid down by the IDW (German Institute of Auditors). In accordance with these principles, our audit must be planned and carried out in such a way that there is sufficient certainty that inaccuracies and infringements which materially affect the true and fair view of the assets, liabilities, financial position and profit or loss presented by the annual accounts, in compliance with the principles of proper accounting, and the financial overview, will be recognised. Audit activities are planned in accordance with our knowledge of the company's business activities and economic and legal framework as well as the anticipated margin of error. Our audit has also assessed the effectiveness of the internal controlling system and assessed the details provided in the books, annual accounts and the financial overview, mainly on the basis of random checks. The audit includes an assessment of the basic accounting principles used and of the material estimates made by the Management Board, as well as an assessment of the overall presentation of the annual accounts and the financial overview. We believe that our audit forms a sufficiently reliable basis for our opinion.

Our auditors' report is unqualified.

We are of the opinion that the annual accounts give a true and fair view of the assets, liabilities, financial position and profit or loss of the Bank, using the principles of proper accounting. The financial overview as a whole provides a true and fair view of the position of the Bank and accurately portrays the risks inherent in future developments.

Frankfurt/Main, 30 March 2000

PwC Deutsche Revision  
Aktiengesellschaft  
Wirtschaftsprüfungsgesellschaft

Rausch  
Auditor

ppa. Hinz  
Auditor

**Balance sheet as at 31 December 1998  
of Deutsche Bau- und Bodenbank Aktiengesellschaft, Berlin**

<b>Assets</b>	<b>DM</b>	<b>DM</b>	<b>1998 DM</b>	<b>Comparative figure 1997 DM</b>
1. Cash reserve				
a) Cash on hand		1,538,316.36		
b) Balances with central banks		151,342,499.85		
Including: with Deutsche Bundesbank— DM 151,342,499.85			152,880,816.21	1,203,091,829.30
2. Debt instruments of public-sector entities and bills of exchange eligible for refinancing at central banks				
a) Treasury bills, non-interest-bearing treasury notes and similar sovereign debt		98,912,870.00		
Including: eligible for refinancing with Deutsche Bundesbank DM 98,912,870				
b) Bills of exchange		nil	98,912,870.00	99,182,992.70
Including: eligible for refinancing with Deutsche Bundesbank— DM nil				
3. Placements with, and loans and advances to, other banks				
a) Payable on demand		1,300,063,703.19		
b) Other placements, loans and advances		5,596,481,257.12	6,896,544,960.31	8,600,096,601.56

Assets	DM	DM	1998 DM	Comparative figure 1997 DM
4. Loans and advances to customers			19,583,115,899.14	16,394,120,932.41
Including: Secured by charges on real property—				
DM 5,483,599,593.79				
Loans to local authorities—				
DM 1,830,664,824.08				
5. Bonds and other fixed-income securities				
a) Money market instruments				
aa) of public issuers				
ab) of other issuers	29,920,274.75	29,920,274.75		
b) Bonds and notes				
ba) of public issuers	1,483,826,306.98			
bb) of other issuers	2,718,860,791.00	4,202,687,097.98		
Including: Securities eligible as collateral with Deutsche Bundesbank				
c) Own bonds		40,178,014.91	4,272,785,387.64	5,081,546,728.66
Nominal amount				
DM 40,000,000.00				
6. Equities and other non-fixed income securities			736,421,000.56	526,935,205.84
7. Participating interests			2,727,751.00	2,727,751.00
Including: interests in banks—				
DM 1,503,750.00				
Interests in financial services providers—				
DM nil				

<b>Assets</b>	<b>DM</b>	<b>DM</b>	<b>1998 DM</b>	<b>Comparative figure 1997 DM</b>
8. Interests in affiliated companies			306,568,351.27	189,818,404.09
Including: interests in banks— DM 137,607,658.18				
Interests in financial services providers— DM 4,355,700.00				
9. Trust assets			2,723,361,657.68	2,414,550,753.91
Including: trustee loans— DM 2,699,861,657.68				
10. Equalisation claims on the public sector including debt securities after conversion			nil	nil
11. Intangible assets			2,323,230.40	2,881,068.77
12. Fixed assets			39,905,982.43	28,068,905.35
13. Unpaid contributions to subscribed capital			nil	nil
Including: called contributions—DM nil				
14. Treasury shares			nil	nil
Nominal value DM nil				
15. Other assets			316,106,795.65	37,907,645.24
16. Deferred items			49,215,384.11	54,337,112.92
17. Deficit not covered by capital			nil	nil
<b>Total assets</b>			<b>35,180,870,086.40</b>	<b>34,635,265,931.75</b>

Liabilities	DM	DM	1998 DM	Comparative figure 1997 DM
1. Liabilities to banks				
a) Payable on demand		1,500,326,976.94		
b) With agreed term or period of notice	4,859,785,331.27		6,360,112,308.21	10,427,587,348.16
2. Liabilities to customers				
a) Savings deposits				
aa) with withdrawal notice of 3 months	1,266,139.52			
ab) with agreed withdrawal notice of more than 3 months	14,291,601.39	15,557,740.91		
b) Other liabilities				
ba) Payable on demand	5,655,005,600.04			
bb) With agreed term or period of notice	9,950,327,447.57	15,605,333,047.61	15,620,890,788.52	12,496,154,316.33
3. Certificated liabilities				
a) Bonds issued		8,116,992,609.77		
b) Other certificated liabilities			8,116,992,609.77	7,449,091,848.24
Including: money market instruments— DM nil				
Own acceptances and promissory notes outstanding— DM nil				
4. Trust liabilities				
Including: trustee loans— DM 2,699,861,657.68			2,723,361,657.68	2,414,550,753.91
5. Other liabilities			292,289,342.32	36,242,230.19
6. Deferred items			133,346,782.25	143,727,645.14

Liabilities			Comparative figure	
	DM	DM	1998 DM	1997 DM
7. Provisions				
a) Provisions for pensions and similar obligations		67,532,815.00		
b) Tax provisions		61,448,863.00		
Including: for deferred taxes— DM 19,300,000.00				
c) Other provisions		50,710,899.50	179,692,572.50	171,583,796.71
8. Special item with partial reserve character			nil	nil
9. Subordinated liabilities			460,845,270.15	425,989,243.07
10. Profit-participation certificates			150,843,750.00	150,843,750.00
Including: maturing within two years— DM nil				
11. Fund for general banking risks			nil	nil
12. Capital and reserves				
a) Subscribed capital	160,000,000.00			
Contributions by silent partners	100,000,000.00			
b) Capital reserve	92,197,944.00			
c) Retained earnings	8,827,056.00			
ca) legal reserve				
cb) reserve for treasury shares	0.00			
cc) statutory reserves				
cd) other retained earnings	661,470,000.00	1,022,495,000.00		
d) Distributable profit/net accumulated losses		120,000,000.00	1,142,495,000.00	919,495,000.00
<b>Total liabilities</b>			<b>35,180,870,086.40</b>	<b>34,635,265,931.75</b>

<b>Liabilities</b>	<b>DM</b>	<b>DM</b>	<b>1998 DM</b>	<b>Comparative figure 1997 DM</b>
<b>1. Contingent liabilities</b>				
a) Contingent liabilities from discounted forwarded bills	50,000,000.00			
b) Liabilities from guarantees and indemnity agreements	1,855,538,051.96			
c) Liability from the pledging of collateral for third-party liabilities		nil	1,905,538,051.96	2,068,285,590.35
<b>2. Other commitments</b>				
a) Repurchase obligations from repurchase and reverse repurchase agreements		nil		
b) Placement and underwriting obligations	3,039,491,968.85	3,039,491,968.85		2,840,573,338.20
c) Irrevocable loan commitments				

**Profit and Loss Account  
of Deutsche Bau- und Bodenbank Aktiengesellschaft, Berlin  
for the period from 1 January to 31 December 1998**

Expenses	DM	DM	1998 DM	Comparative figure 1997 DM
1. Interest paid			1,249,273,064.45	1,074,823,441.65
2. Commissions paid			6,647,896.37	6,386,042.33
3. Net expenditure on financial operations			nil	nil
4. General administrative expenses				
a) Personnel expenditure				
aa) Wages and salaries	69,465,796.70			
ab) Social security costs and expenses for pensions and support	20,822,164.42	90,287,961.12		
Including: Retirement benefits— DM 9,449,954.32				
b) Other administrative expenses		72,473,688.37		
			162,761,649.49	154,415,931.95
5. Depreciation / write-offs of intangible and fixed assets			7,678,910.90	8,678,770.84
6. Other operating expenses			8,924,284.33	4,451,780.10
7. Depreciation / write-offs on claims and certain securities, additions to loan loss provisions			nil	37,498,278.84
8. Depreciation of, and write-downs on participating interests, shares in affiliated companies and securities held as fixed assets			2,500,000.00	762,124.00
9. Expenditure for assumption of losses			3,884,552.37	1,046,554.86
10. Additions to special items with partial reserve character			nil	nil
11. Extraordinary expenses			15,379,388.88	nil
12. Income taxes			104,775,021.96	98,150,438.78
13. Other taxes not reported under item #6			312,589.66	6,043,313.30



Expenses	DM	DM	1998 DM	Comparative figure 1997 DM
14. Profits transferred under a profit-pooling agreement, profit transfer agreement or partial profit transfer agreement			nil	nil
15. Net income for the year			239,000,000.00	100,000,000.00
<b>Total expenses</b>			<b>1,801,137,358.41</b>	<b>1,492,256,676.65</b>

Income	DM	1998 DM	Comparative figure 1997 DM
1. Interest income from			
a) Lending and money market business	1,374,537,921.09		
b) Fixed-income securities and government debt	237,711,751.22		
		1,612,249,672.31	1,427,193,603.14
2. Current income from			
a) Equities and other non-fixed income securities	18,394,228.84		
b) Participating interests	2,601,798.57		
c) Interests in affiliated companies	287,143.00		
		21,283,170.41	13,641,902.10
3. Income from profit-pooling agreements, profit transfer agreements and partial profit transfer agreements		nil	nil
4. Commissions received		50,231,849.96	39,897,562.63
5. Net profit on financial operations		nil	nil
6. Income from amounts written back on claims and certain securities and from the reversal of loan loss provisions		92,768,220.23	nil
7. Income from write-ups to participating interests, shares in affiliated companies and securities held as fixed assets		nil	nil
8. Other operating income		24,604,445.50	11,523,608.78
9. Income from the reversal of special items with partial reserve character		nil	nil
10. Extraordinary income		nil	nil
11. Income from transfer of losses		nil	nil
12. Net loss for the year		nil	nil
<b>Total income</b>		<b>1,801,137,358.41</b>	<b>1,492,256,676.65</b>

	DM	1998 DM	Comparative figure 1997 DM
1. Net income/net loss for the year		239,000,000.00	100,000,000.00
2. Profits/losses carried forward from the previous year		nil	3,000,000.00
		239,000,000.00	103,000,000.00
3. Withdrawals from capital reserves		nil	nil
		239,000,000.00	103,000,000.00
4. Withdrawals from retained earnings			
a) from the legal reserve			
b) from the reserve for treasury shares			
c) from statutory reserves			
d) from other retained earnings		0.00	0.00
		239,000,000.00	103,000,000.00
5. Drawdowns from profit-participation certificates		nil	nil
		239,000,000.00	103,000,000.00
6. Transfer to retained earnings			
a) to the legal reserve			
b) to the reserve for treasury shares			
c) to the statutory reserves			
d) to other retained earnings	119,000,000.00	119,000,000.00	0.00
		120,000,000.00	103,000,000.00
7. Replenishment of profit-participation certificates		nil	nil
8. Distributable profit/net accumulated losses		120,000,000.00	103,000,000.00

## Notes

### Accounting and valuation principles

The financial statements of Deutsche Bau- und Bodenbank AG ("DePfa Bank AG" from 1 January 1999) were prepared in accordance with the provisions of the German Commercial Code (*Handelsgesetzbuch—HGB*) and the supplementary regulations of the German Stock Corporation Act (*Aktiengesetz—AktG*) and the German Accounting Directive for Banks (*Verordnung über die Rechnungslegung der Kreditinstitute—RechKredV*). The accounting and valuation methods remained unchanged from the previous year.

### Loans and advances to customers (Assets—item #4)

These have been allocated in full to current assets, and valued conservatively in accordance with normal banking practice. All recognisable individual risks have been accounted for in full by way of specific loan loss provisions. The general credit risk is covered by forming general loan loss provisions, the amount of which was determined on the basis of the average actual amount of loan defaults over the last five years, and in line with applicable tax regulations, as well as by setting aside general provisioning reserves pursuant to section 340 f HGB. Interest-free and low-interest loans are discounted to their cash value. Where the stated value of the loans differs from their acquisition cost, the amount of the difference is shown under deferred items.

### Bonds and other fixed-income securities (Assets—item #5)

These securities have been allocated in full to current assets and liquidity reserves, and capitalised strictly at the lower of cost or market, at their historical costs or at their lower market price. No simplification methods for valuation were used. Lower valuations from the past were retained.

The book value of assets pledged under repo agreements (bonds) totalled DM 530.726 million as at 31 December 1998.

### Equities and other non-fixed income securities (Assets—item #6)

In addition to the special fund units disclosed under this item, which are valued at their acquisition cost or lower attributable value, this item includes profit-participation certificates totalling DM 33.300 million.

### Participating interests, interests in affiliated companies (Assets—items ##7 and 8)

These have been valued at their acquisition cost, less depreciation pursuant to section 253 (2) HGB.

### Intangible assets, fixed assets (Assets—items ##11 and 12)

Computer software bought from outside manufacturers are carried as intangible assets. This software, as well as office furniture and equipment reported under tangible assets are carried at their acquisition cost less amortisation and depreciation allowed under applicable tax regulations. Low-value commercial goods are written off in full during the year of acquisition. Land and buildings, which are also reported

under tangible assets, are carried at their acquisition or manufacturing costs, less depreciation allowed under applicable tax regulations. These items also include land acquired under foreclosure measures and in the possession of the bank for more than five years—this is carried at acquisition cost.

#### **Other assets (Assets—item #15)**

These are generally carried at their face value.

#### **Deferred items (Assets—item #16 / Liabilities—item #6)**

Premiums and discounts on registered bonds, claims under promissory note loans, and loans have been spread over the term involved, depending on the residual claim in each case.

#### **Liabilities**

These are valued at their repayment amount.

#### **Provisions (Liabilities—item #7)**

Provisions for pensions and similar obligations have been determined using an interest rate of 6% based on the guideline tables issued by Heubeck in 1998 using the cost (*“Teilwert”*) method according to section 6a of the German Income Tax Act (*Einkommenssteuergesetz—“EStG”*). The bank spreads the difference in valuation between these amounts and those stipulated by the 1983 guideline tables over a period of four years. Provisions for taxes and other provisions have been set aside for all recognisable risks and uncertain obligations, at the amount required by prudent commercial judgement.

#### **Currency translation**

Receivables and liabilities in foreign currencies are translated, pursuant to section 340h (1), sentence 2 HGB, using the spot foreign exchange rate on the balance sheet date. The resulting differences are treated in accordance with section 340h (2) HGB. Outstanding hedging transactions are translated using the forward rate prevailing on the balance sheet date.

## Explanatory notes to the balance sheet

### Breakdown of maturities for receivables and liabilities (residual terms)

#### Placements with, and loans and advances to other banks (Assets—item #3b) with a residual term of:

● up to three months	DM	4,267.000 mn
● more than three months up to one year	DM	675.000 mn
● more than one year up to five years	DM	244.845 mn
● more than five years	DM	409.636 mn
	<b>DM</b>	<b>5,596.481 mn</b>

#### Loans and advances to customers (Assets—item #4) with a residual term of:

● up to three months	DM	4,402.880 mn
● more than three months up to one year	DM	3,254.119 mn
● more than one year up to five years	DM	5,918.669 mn
● more than five years	DM	6,007.448 mn
	<b>DM</b>	<b>19,583.116 mn</b>

These figures do not include any receivables with an indefinite term.

#### Bonds and other fixed-income securities (Assets—item #5):

Bonds and debentures with a nominal value of DM 1,070,000 thousand will mature in 1999.

#### Receivables from banks (Liabilities—item #1b) with a residual term of:

● up to three months	DM	2,872.471 mn
● more than three months up to one year	DM	404.609 mn
● more than one year up to five years	DM	567.070 mn
● more than five years	DM	1,015.635 mn
	<b>DM</b>	<b>4,859.785 mn</b>

#### Savings deposits with an agreed notice period of more than three months (Liabilities—item #2aab):

● up to three months	DM	0 mn
● more than three months up to one year	DM	2.508 mn
● more than one year up to five years	DM	11.784 mn
	<b>DM</b>	<b>14.292 mn</b>

#### Other liabilities to customers with an agreed maturity or notice period (Liabilities—item #2bbb):

● up to three months	DM	12,268.173 mn
● more than three months up to one year	DM	753.725 mn
● more than one year up to five years	DM	1,364.749 mn
● more than five years	DM	1,218.686 mn
	<b>DM</b>	<b>15,605.333 mn</b>

Own bonds issued with a nominal value of DM 1,400.000 million will mature in 1999.

<b>Receivables/liabilities to/from affiliated companies and associated companies within the meaning of section 271 (1) HGB</b>	<b>Affiliated companies DM mn</b>	<b>Associated companies (pursuant to section 271 (1) HGB) DM mn</b>
Placements with, and loans and advances to other banks (Assets—item #3)	3,789.463	nil
Loans and advances to customers (Assets—item #4)	376.972	55.990
Bonds and other fixed-income securities (Assets—item #5)	nil	nil
Liabilities to banks (Liabilities—item #1)	484.913	nil
Liabilities to customers (Liabilities—item #2)	62.773	9.046
Certificated liabilities (Liabilities—item #3)	nil	nil
Subordinated liabilities (Liabilities—item #9)	nil	nil

<b>Movements in fixed assets</b>	<b>Participating interests (Assets— item #7) DM mn</b>	<b>Interests in affiliated companies (Assets— item #8) DM mn</b>	<b>Intangible assets (Assets— item #11) DM mn</b>	<b>Fixed assets (Assets—item #12) Office furniture and equipment DM mn</b>	<b>Land and buildings DM mn</b>
Acquisition/historical cost (1 January 1998)	5.097	196.505	6.973	56.074	10.345
Additions	nil	119.250	0.858	5.636	14.700
Write-ups	nil	nil	nil	nil	nil
Transfers	nil	nil	nil	nil	nil
Disposals at acquisition costs	nil	nil	nil	2.236	nil
Amortisation/depreciation (accumulated)	2.369	9.187	5.508	44.458	0.155
Book value (31 December 1998)	2.728	306.568	2.323	15.016	24.890
Amortisation/depreciation during the year	nil	2.500	1.416	6.248	0.015
Book value (31 December 1997)	2,728	189.818	2.881	17.863	10.205

Land and buildings with a book value of DM 791,000 are used in the bank's own operations.

The bank has rented almost all of the other business land and buildings from one of its subsidiaries.

## Fixed assets

The bank (company no. 1) holds interests in the following associated companies within the meaning of section 271 (1) HGB. In contrast to the disclosure on the balance sheet, this list includes companies in which the bank holds an indirect interest (section 285 no. 11 HGB).

No.	Company name and registered office	Interest held (in % of capital)	Held via company no.	Capital and reserves (section 266 HGB) 31/12/1998 DM 000's	Profit/loss 1998 DM 000's
1.	Deutsche Bau- und Bodenbank AG. Berlin				
2.	Aufbaugesellschaft Prager Straße mbH, Dresden	100.0	50	76	1,671
3.	Barnimer Grundstücksgesellschaft mbH & Co, Erste KG, Munich	100.0	7, 83	- 195	- 434
4.	Barnimer Grundstücksgesellschaft mbH & Co Zweite KG, Munich	100.0	7, 83	821	- 660
5.	Barnimer Grundstücksgesellschaft mbH, Frankfurt/Main	100.0	7	46 <sup>(4)</sup>	- 4 <sup>(4)</sup>
6.	Bau- und Bodenverwaltungsgesellschaft GbR, Frankfurt/Main	100.0	1, 7	4,632	- 318
7.	BauBo Bau- und Bodenverwertungs- und -verwaltungsgesellschaft mbH Berlin, Berlin	100.0	1	98,668	- <sup>(1)</sup>
8.	BauBo-Immobilien Projekt GmbH, Frankfurt/Main	100.0	7	43 <sup>(4)</sup>	- 7 <sup>(4)</sup>
9.	BauConsult DV- und Unternehmensberatung Bayern GmbH, Munich	50.0	42	1,070	53
10.	BauConsult DV- und Unternehmensberatung Berlin GmbH, Berlin	100.0	42	3,240	954
11.	BauConsult DV- und Unternehmensberatung Hamburg GmbH, Hamburg	100.0	42	2,487	7.7
12.	BauConsult DV- und Unternehmensberatung Hanover GmbH, Hanover	51.0	42	6,896	386
13.	BauConsult DV- und Unternehmensberatung Mainz GmbH, Mainz	51.0	42	5,627	729
14.	BauConsult DV- und Unternehmensberatung Stuttgart GmbH, Stuttgart <sup>(3)</sup>	74.0	42	1,747	745
15.	BauContact Immobilien GmbH, Berlin	100.0	1	- <sup>(5)</sup>	- <sup>(5)</sup>
16.	baudata Gesellschaft für bau- und wohnungswirtschaftliche Datenverarbeitung mbH, Hamburg	100.0	42	5,895	85
17.	BauSecura Versicherungsmakler GmbH, Hamburg	51.0	42	3,039	2,790
18.	BauTec Gesellschaft für Wärmemeßtechnik und gebäudetechnische Planung und Beratung mbH, Hamburg	100.0	16, 42	10,983	2,371



No.	Company name and registered office	Interest held (in % of capital)	Held via company no.	Capital and reserves (section 266 HGB) 31/12/1998 DM 000's	Profit/loss 1998 DM 000's
19.	BBV Grundstücksentwicklungs-Aktiengesellschaft, Munich	25.0	81	— <sup>(5)</sup>	— <sup>(5)</sup>
20.	BGB-Gesellschaft Friedrichshain Block-A-Nord, Berlin	100.0	48, 50	— 46	671
21.	BGB-Gesellschaft Friedrichshain Block-A-Süd, Berlin	100.0	48, 50	— 6,560	— 2,866
22.	BGB-Gesellschaft Friedrichshain Block-B-Nord, Berlin	100.0	48, 50	— 2,618	— 732
23.	BGB-Gesellschaft Friedrichshain Block-B-Süd, Berlin	100.0	48, 50	— 1,881	— 573
24.	BGB-Gesellschaft Friedrichshain Block-D-Süd/E-Süd, Berlin	100.0	48, 50	— 716	— 309
25.	BGB-Gesellschaft Friedrichshain Block-E-Nord, Berlin	100.0	48, 50	— 2,466	— 800
26.	BGB-Gesellschaft Friedrichshain Block-F-Nord, Berlin	100.0	48, 50	— 2,099	— 826
27.	BGB-Gesellschaft Friedrichshain Block-F-Süd, Berlin	100.0	48, 50	— 1,378	— 408
28.	BGB-Gesellschaft Friedrichshain Block-G-Nord, Berlin	100.0	48, 50	— 2,512	1,163
29.	BGB-Gesellschaft Friedrichshain Block-G-Süd (I), Berlin	100.0	48, 50	— 1,695	— 519
30.	BGB-Gesellschaft Friedrichshain Block-G-Süd (II), Berlin	100.0	48, 50	— 1,659	— 539
31.	BGB-Gesellschaft Spindlers Hof Berlin, Berlin	100.0	48, 50	— 2,973	—
32.	Catalina Real Estate S.R.L., Bucharest <sup>(3)</sup>	100.0	41	TROL 10,000	— <sup>(5)</sup>
33.	Catalina Securities S-A., Bucharest <sup>(3)</sup>	90.0	41	TROL 2,960,000	— <sup>(5)</sup>
34.	Centimanen Vastgl,d B V, Rotterdam	100.0	7	—	—
35.	Chariton Vastgoed B.V. Velp	100.0	7	— 713	— 56
36.	DEDI Projektentwicklung Alexanderplatz GmbH, Berlin	50.0	49	50	— <sup>(5)</sup>
37.	Delphi Vastgoed B.V., Velp	100.0	7	— 820	10,590
38.	Delphi Vastgoed B.V.-Metora Vastgoed B V. GbR, Frankfurt/Main	100.0	37, 70	4,442	2,010
39.	DePfa Bau-, Verwaltungs- und Controlling GmbH, Hamburg	67.0	1	3,847	595

No.	Company name and registered office	Interest held (in % of capital)	Held via company no.	Capital and reserves (section 266 HGB) 31/12/1998 DM 000's	Profit/loss 1998 DM 000's
40.	DePfa Capital Japan K.K., Tokyo <sup>(3)</sup>	66,7	1	JPY 438.081 mn	JPY 338.081 mn
41.	DePfa Investment Bank Ltd., Nikosia <sup>(3)</sup>	60.0	1	USD 74.885 mn	USD 115,000
42.	DePfa IT-Services GmbH, Mainz <sup>(6)</sup>	100.0	1	28,744	3,208
43.	DePfa Systems GmbH, Mainz <sup>(7)</sup>	100.0	42	29,053	5,783
44.	DePfa USA Inc., New York <sup>(3)</sup>	100.0	1	USD 2.563 mn	USD 63,000
45.	DePfa UK Ltd., London	100.0	44	GBP 1,000	– <sup>(5)</sup>
46.	DePfa-Bank France S.A., Paris	66.7	1	FRF 242.896 mn	FRF 19.056 mn
47.	DePfa-Immobilien Anlagen GmbH, Wiesbaden	100.0	50	4	42
48.	DePfa-Immobilienfonds GmbH, Wiesbaden	60.0	50	98	22
49.	DePfa-Immobilien Projektentwicklungs GmbH, Wiesbaden	50.0	50	– 1	49
50.	DePfa Immobilienmanagement AG, Wiesbaden	66.7	1	22,294	6,214
51.	Deutsche Bau- und Grundstücks-Aktiengesellschaft, Berlin	50.0	1	18,305	3,755
52.	DOMDATA Sp.z.o.o., Posen	66.0	43	PLN 1.322 mn <sup>(4)</sup>	PLN 1.696 mn <sup>(4)</sup>
53.	Dresden-Klotzsche Baufeld C/D GbR, Berlin	99.0	48, 50	– 2,899	– 2,855
54.	Dresden-Klotzsche Baufeld E-Ost GbR, Berlin	99.0	48, 50	0	0
55.	Dresden-Klotzsche Baufeld E-West GbR, Berlin	99.0	48, 50	0	0
56.	Dresden-Klotzsche Baufeld F GbR, Berlin	99.0	48, 50	– 1,071	– 1,052
57.	Dresden-Klotzsche Baufeld G 1 GbR, Berlin	99.0	48, 50	– 3	0
58.	Dresden-Klotzsche Baufeld G 2 GbR, Berlin	99.0	48, 50	– 3	0
59.	Dresden-Klotzsche Baufeld G 3 GbR, Berlin	99.0	48, 50	– 3	0
60.	Friedrich-Ebert-Allee Bonn GbR, Bonn	22.5	50	– <sup>(5)</sup>	– <sup>(5)</sup>
61.	GbR Melchendorfer Straße, Wiesbaden	75.0	47, 49	– 16	– 23
62.	GbR Wohnpark Stralau 1, Berlin	98.1	50	– 2,671	– 1,537
63.	GbR Wohnpark Stralau IV, Berlin	98.1	50	– 1,808	– 1,109
64.	GbR Wohnpark Stralau VI, Berlin	47.0	42.3	– 3,675	– 945
65.	Hypotheken Discount Vermittlungs GmbH, Mannheim	56.8	1	1,372	1,260

No.	Company name and registered office	Interest held (in % of capital)	Held via company no.	Capital and reserves (section 266 HGB) 31/12/1998 DM 000's	Profit/loss 1998 DM 000's
66.	InfraLease Leasinggesellschaft für Infrastruktureinrichtungen mbH, Frankfurt/Main	100.0	1	9,404	270
67.	IVC Immobilienverwaltungs- und Controlling GmbH, Hamburg	100.0	39	750	— <sup>(2)</sup>
68.	Lucascribe Participations S.A.R.L., Paris	100.0	46	— <sup>(5)</sup>	— <sup>(5)</sup>
69.	Malesherbes François 1er, Paris	50.0	46	— <sup>(5)</sup>	— <sup>(5)</sup>
70.	Meteora Vastgoed B.V., Velp	100.0	7	302	—472
71.	Objektgesellschaft FFA-Wohnungen Freiburg GbR, Wiesbaden	100.0	48, 50	—3,616	—1,904
72.	Participation Erste Beteiligungsgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
73.	Participation Zweite Beteiligungsgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
74.	Participation Dritte Beteiligungsgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
75.	Parkhotel Altenburg GbR, Stuttgart	100.0	1, 7	—3,239	—1,328
76.	Real Erste Grundstücksgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
77.	Real Zweite Grundstücksgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
78.	Real Dritte Grundstücksgesellschaft mbH, Frankfurt/Main	100.0	1	48	—2
79.	RusKomBauConsalt GmbH, Moskau <sup>(3)</sup>	50.0	42	— <sup>(5)</sup>	— <sup>(5)</sup>
80.	SEMU Beteiligungsgesellschaft mbH, Frankfurt/Main	33.0	7	— <sup>(5)</sup>	— <sup>(5)</sup>
81.	Terrain Herzogpark und Partner Erschließungs-GmbH, Munich	67.0	82	1,504	5
82.	Terrain-Aktiengesellschaft Herzogpark, Munich	99.8	7	1,688	0
83.	Terrain-Verwaltungs-GmbH Herzogpark, Munich	100.0	82	250	— <sup>(2)</sup>
84.	Tower Plaza Ltd., London	67.0	46	— <sup>(5)</sup>	— <sup>(5)</sup>
85.	ZMP Zentral Messepalast Entwicklungs GbR, Leipzig	100.0	1, 7	—29,140	—2,174

(1) Profit and loss transfer agreement entered into with the bank

(2) Profit and loss transfer agreement entered into with an affiliated company

(3) Company established in 1998

(4) Capital/reserves and profit/loss as at 31 December 1997

(5) Not available

(6) Formerly known as BauBoden-EDV-Holding GmbH, Mainz

(7) Formerly known as BauBoden-Systemhaus Informationssysteme für die Immobilienwirtschaft GmbH, Mainz

## Securities negotiable at a stock exchange

	Bonds and other fixed-income securities (Assets—item #5) DM mn	Equities and other non-fixed income securities (Assets—item #6) DM mn	Participating interests (Assets—item #7) DM mn	Interests in affiliated companies (Assets—item #8) DM mn
Listed	4,076.884	nil		nil
Unlisted	195.901	nil	0.076	nil
Negotiable	4,272.785	nil	0.076	nil

## Trust assets/trust liabilities (Assets—item #9/Liabilities—item #4)

The total amounts are distributed across balance sheet items as follows:

Assets	DM mn	Liabilities	DM mn
4. Loans and advances to customers including: Secured by charges on real property DM 2,699.862 mn	2,699.862	1. Liabilities to banks b) with an agreed maturity or notice period	2,630.624
6. Equities and other non-fixed income securities	23,500	2. Liabilities to customers b) Other liabilities bb) with agreed maturity or notice period	92.738
	<b>2,723.362</b>		<b>2,723.362</b>

## Other assets (Assets—item #15)

This includes the following major items:

Land and buildings acquired to salvage loans (DM 262.111 million), tax refund claims (DM 34.741 million), receivables from subsidiaries related to prepayment of taxes (DM 6.821 million), and premiums receivable from derivatives (DM 3.473 million). This item does not include any major accruals.

## Deferred items (Assets—item #16)

This item includes discounts totalling DM 30.017 million, and premiums totalling DM 16.471 million.

### **Subordinated assets**

Other loans and advances to banks (Assets—item #3b) includes subordinated assets totalling DM 59.636 million.

### **Other liabilities (Liabilities—item #5)**

This includes the following major items:

Liability for residual purchase prices from assets acquired under foreclosure measures (DM 239.300 million), purchase price liability for additional interest in Hypotheken Discount (DM 14.600 million), accrued interest payable (DM 12.000 million), unpaid capital gains tax (DM 11.501 million), VAT payable (DM 4.151 million), and liabilities from the assumption of losses (DM 3.485 million). This item does not include any major accruals.

### **Deferred items (Liabilities—item #6)**

This item mainly includes DM 123.696 million in discounts for claims arising under loan agreements.

### **Provisions (Liabilities—item #7)**

Provisions for pensions and similar obligations increased by DM 137,000 on the previous year. Provisions for taxes fell by DM 4.427 million year-on-year; this item includes provisions for deferred taxes totalling DM 19.300 million. Other provisions increased by DM 12.399 million, to DM 50.711 million. This mainly includes provisions for possible future operating expenses (DM 23.143 million) and provisions for impending losses (DM 12.899 million). Provisions for possible future operating expenses were formed in particularly for end-of-year bonuses, anniversary bonuses and planned restructuring measures. Warranty provisions take into account the risks from defaults for trust transactions, rulings by the Federal Court of Justice and from the resale of land and buildings acquired under foreclosure measures to salvage loans.

### **Subordinated liabilities (Liabilities—item #9)**

Interest expenses totalled DM 25.957 million. The bank raised DM 50 million in new funds during the year under review. A DM 50 million issue at 6-month LIBOR plus 0.45% maturing on 23 July 2008 exceeded 10% of the total amount of subordinated liabilities. Early redemption was excluded for this issue. The funds raised comply with the provisions of section 10 of the German Banking Act (*Gesetz über das Kreditwesen—“KWG”*).

## Profit-participation certificates (Liabilities—item #10)

1 January 1998	DM	141.000 mn
New issues in 1998	DM	—
31 December 1998	DM	141.000 mn
Pro rata interest	DM	9.844 mn
Carried on balance sheet	DM	150.844 mn

The terms and conditions of the profit-participation certificates outstanding comply with the requirements of section 10 (5) KWG.

It is composed of the following tranches:

### Tranche #1:

DM 75 million issued in 1993, comprising 75,000 bearer profit-participation certificates, each with a nominal value of DM 1,000. The distribution rate is 7.125% p.a.; the maturity is 31 December 2005.

### Tranche #2:

DM 36 million issued in 1994, comprising 36,000 bearer profit-participation certificates, each with a nominal value of DM 1,000. The distribution rate is 6.5% p.a.; the maturity is 31 December 2005.

### Tranche #3:

DM 10 million issued in 1994, comprising 10,000 bearer profit-participation certificates, each with a nominal value of DM 1,000. The distribution rate is 8% p.a.; the maturity is 31 December 2003.

### Tranche #4:

DM 20 million issued in 1996, comprising four bearer participation certificates with nominal values of DM 10 million each, one certificate of DM 6 million, and two certificates with a nominal value of DM 2 million each. The distribution rate is 6.8% p.a.; the maturity is 31 December 2007.

The bank is authorised, by virtue of a resolution passed by the Annual General Meeting held on 17 June 1994, to issue additional profit-participation certificates with a total nominal amount of DM 230 million, up to 17 June 1999.

## Assets and liabilities in foreign currencies

The aggregate amount of assets denominated in foreign currencies is DM 765.508 million, while liabilities total DM 30.556 million. The difference has almost entirely been hedged using foreign exchange forwards and currency swaps.

### **Contingent liabilities (Liabilities—item #1 below the line)**

Liabilities from guarantees and indemnities mainly comprise loan guarantees. The total amount of assets transferred as collateral for these amounts to DM 2,275.306 million.

### **Other liabilities (Liabilities—item #2c below the line)**

Irrevocable loan commitments comprise credit and loan commitments totalling DM 2,424.478 million, and an aggregate DM 615.014 million in guarantee credit commitments.

### **Transactions subject to market risks**

The following types of transactions were outstanding as of 31 December 1998:

Forward transactions in foreign currencies:

- Foreign exchange forwards
- Currency swaps

These were entered into exclusively for hedging purposes.

Forward transactions based on interest rates:

- Forward Rate Agreements
- Interest rate swaps
- Floors
- Caps
- Swaptions

These transactions were entered into exclusively for hedging purposes.

There were no forward transactions subject to other price risks on the balance sheet date. Derivatives transactions entered into to hedge against changes in interest rates have been included in the overall analysis of this type of risk and have thus not been dealt with separately. This also applies to derivatives that form single valuation units together with other items. No derivative transactions were concluded with a view to achieve profits from short-term fluctuations in market prices.

## Derivative transaction volumes:

	less than 1 year DM mn	Nominal amount Residual term 1-5 years DM mn	more than 5 years DM mn	Total DM mn	Replacement cost DM mn
Interest rate instruments (OTC products)					
FRA's	6,790.0			6,790.0	5
Interest rate swaps (single currency)	9,440.0	10,425.0	6,725.0	26,590.0	823
Interest rate options bought	nil	nil	520.0	520.0	3
Interest rate options sold	nil	nil	220.0	220.0	
Other interest rate contracts	20.0	1,080.0	320.0	1,420.0	3
Currency-related instruments (OTC products)					
Foreign exchange forwards	422.0	nil	nil	422.0	3
Cross-currency swaps	nil	nil	45.0	45.0	0
Currency options bought	nil	nil	nil	nil	
Currency options sold	nil	nil	nil	nil	
Other foreign exchange contracts	nil	nil	nil	nil	

## Counterparty structure for derivatives transactions:

Type of counterparty	Replacement cost (DM mn)
OECD sovereign governments	nil
OECD banks	817
OECD financial services providers	20
Other companies, private individuals	nil
Non-OECD sovereign governments	nil
Non-OECD banks	nil
Non-OECD financial services providers	nil

## Other financial commitments

The bank's interest in Liquiditäts- und Konsortialbank GmbH, Frankfurt/Main, with a stated value of DM 2.232 million, has call commitments of up to DM 11.160 million. In addition, the bank has a pro-rata



principal liability in the event of non-fulfilment of call commitments by other co-shareholders, who hold aggregate interests of DM 109.368 million.

Total liabilities arising from leasing contracts amount to DM 8.800 million. The bank ensures that DePfa Investment Bank Ltd., Nikosia/Cyprus, can fulfil its contractual obligations.

## **Explanatory notes to the profit and loss account**

### **Other operating expenses (Expenses—item #6)**

This includes the following major items:

Additions to the provision for future tax liabilities (DM 4.900 million), expenses for land and buildings (DM 1.664 million), and additional personnel expenditure (DM 1.090 million).

### **Extraordinary expenses (Expenses—item #11)**

DM 6.850 million of this item relate to restructuring costs, will DM 6.096 million represent the costs of the social compensation plan as well as expert opinions and relocation costs. This item also includes the costs of issuing employee shares and the celebrations for Deutsche Bau- und Bodenbank AG's 75<sup>th</sup> anniversary.

### **Income taxes (Expenses—item #12)**

The tax expenses include taxes for previous years totalling DM 10.251 million, and tax refunds for previous years totalling DM 2.397 million.

### **Interest income (Income—item #1)**

DM 1,040.148 million of total interest income was generated within Germany, while DM 572.102 million related to the rest of Europe.

### **Current income (Income—item #2)**

DM 18.980 million of total current income was generated within Germany, while DM 2.303 million related to the rest of Europe.

### **Commissions received (Income—item #4)**

Notable income from services for third parties was generated by managing trustee loans.

### **Other operating income (Income—item #8)**

DM 24.427 million of other operating income was generated in Germany, DM 179,000 in the rest of Europe.

This includes the following major items:

Income from providing staff (DM 1.870 million), income under agency contracts for affiliated companies (DM 2.652 million), income from rental and ground rent (*Erbbauzins*) (DM 7.949 million), as well as income from prior periods, mainly from the reversal of provisions (DM 1.557 million).

Book profits realised upon the sale of land (DM 1.246 thousand) and trade tax levies for 1998 (DM 4.086 million) and 1997 (DM 4.116 million), respectively.

### **Subscribed capital**

The subscribed capital remains unchanged, at DM 160,000,000, of which 99.68% is directly held by Deutsche Pfandbrief- und Hypothekenbank AG, Wiesbaden (now Deutsche Pfandbriefbank AG).

The subscribed capital is composed of

1,050 shares of	DM	100,000;
53,600 shares of	DM	1,000;
9,000 shares of	DM	100;
10,000 shares of	DM	50.

The shares are registered shares.

### **Capital reserve**

The capital reserve remains unchanged, at DM 92,197,944.

### **Retained earnings**

A total of DM 47,000,000 from net income for 1997 was transferred to other retained earnings by virtue of a resolution passed by the General Meeting, with an additional DM 119,000,000 transferred from net income for 1998 by the Management Board.

### **Consolidated financial statements**

In its capacity as the parent company of the Group, Deutsche Pfandbrief- und Hypothekenbank AG, Wiesbaden, prepares consolidated financial statements which include the bank and its subsidiaries which must be consolidated. In accordance with section 291 (3) sentence 2 HGB and section 291 (1) HGB, and as a result of authorisation by other shareholders, the bank is exempt from preparing its own consolidated financial statements. The consolidated financial statements can be obtained from Deutsche Pfandbrief- und Hypothekenbank AG in Wiesbaden.

## **Executive Bodies**

### **Supervisory Board**

**Dr. THILO KÖPFLER**

Chairman (until 9 December 1998)  
(until 31 December 1998)

**Dr. KLAUS-DIETER SCHWEICKERT**

Chairman (from 9 December 1998)

**CHRISTIAN GRAF VON BASSEWITZ**

Deputy Chairman (from 9 December 1998)

**LUTZ BRIEGEL**

Deputy Chairman

**GEORG BERRES**

**Dr. RICHARD BRANTNER**

(from 1 January 1999)

**GERHARD E. BRUCKERMANN**

(until 20 July 1998)

**Prof. Dr. JOHANN EEKHOFF**

**WOLFGANG FAUTER**

(from 1 January 1999)

**HEINRICH FROMMKNECHT**

(until 31 December 1998)

**Dr. HELMUT GEIGER**

(until 20 July 1998)

**KARL-HEINZ GLAUNER**

(until 31 December 1998)

**Dr. FRIEDRICH ADOLF JAHN**

(from 1 January 1999)

**RALF KUPKA**

**KLAUS LANDOWSKY**

(until 20 July 1998)

**JACQUES LEBHAR**

(from 20 July 1998)

**KURT PFEIFFELMANN**

**ROLF PFEIL**

**DIETER PÜTZHOFEN**

**Dr. ROLF SCHMID**

**KLAUS-PETER SELL**

**JÜRGEN STEINERT**

**JÜRGEN STRAUSS**

**CHRISTA THOBEN**  
(until 31 December 1998)

**HELMUT WAGNER**

**Dr. GEORG FREIHERR VON WALDENFELS**  
(from 1 January 1999)

**Dr. JÜRGEN WESTPHAL**  
(from 20 July 1998)

### **Management Board**

**Dr. THILO KÖPFLER**  
Chairman (from 1 January 1999)

**Dr. PETER LAMMERSKITTEN**

**ULRICH CLASSEN**

**HANS JOCHEN ERLEBACH**

**Dr. THOMAS M. KOLBECK**

**KARL-HEINZ GLAUNER**  
(from 1 January 1999)

### **Remuneration of the Executive Bodies**

Total emoluments for members of the Management Board amounted to DM 2,202,792.94; for members of the Supervisory Board these amounted to DM 402,076.80. Emoluments paid to the bank's advisory council amounted to DM 73,915.00, and for former members of the Management Board and their surviving dependants this totalled DM 896,004.00. Pension provisions amounting to DM 6,981,157.00 have been set aside for former members of the members of the Management Board and their surviving dependants.

## Loans to officers

The total amount of loans and advances granted totals DM 2,338.28 for members of the Management Board, and DM 914,896.50 for members of the Supervisory Board. There are no contingent liabilities in favour of these officers.

## Number of employees

The average number of 706 employees was calculated using the figures from the end of the quarters in the year under review, and is broken down as follows:

	Male	Female	Total
Salaried employees	334	340	674
Vocational trainees	10	11	21
Temporary staff	7	4	11
	<b>351</b>	<b>355</b>	<b>706</b>

## Proposal on the appropriation of profits

We shall make a proposal to the Annual General Meeting to attribute the net profit of DM 120,000,000.00 as follows:

- to distribute a dividend of 10%, or DM 16,000,000.00, on the issued share capital; and
- to allocate DM 104,000,000.00 to other retained earnings.

Berlin, 17 March 1999

The Management Board

Dr. KÖPFLER

CLASSEN

GLAUNER

Dr. LAMMERSKITTEN

ERLEBACH

Dr. KOLBECK

## **Auditors' opinion**

The accounting and the annual financial statements which we have audited in accordance with professional standards comply with the legal regulations. The annual financial statements give, with due regard to the generally accepted accounting principles, a true and fair view of the financial position of the Company and the results of its operations. The management report is in agreement with the financial statements.

Frankfurt/Main, 19 March 1999

C & L DEUTSCHE REVISION  
Aktiengesellschaft  
Wirtschaftsprüfungsgesellschaft

RAUSCH  
Wirtschaftsprüfer  
(German Chartered Accountant)

ppa. HINZ  
Wirtschaftsprüfer  
(German Chartered Accountant)

## PRINCIPAL PLACE OF BUSINESS OF THE BANK

**DePfa Bank AG**  
Paulinenstrasse 15  
D-65189 Wiesbaden

REGISTERED OFFICES OF:

### THE COMPANY

**DePfa Bank Capital Funding LLC**  
c/o RL&F Service Corp.  
One Rodney Square, 10<sup>th</sup> Floor  
Wilmington  
Delaware 19801

### THE TRUST

**DePfa Bank Capital Funding Trust**  
Bankers Trust (Delaware)  
E.A. Delle Donne Corporate Center  
Montgomery Building  
1011 Center Road, Suite 200  
Wilmington, Delaware 19805-1266

### PAYING AGENT

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Winchester House  
1 Great Winchester Street  
London EC2N 2DB

### NETHERLANDS PAYING AGENT

**Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.**  
Croeselaan 22  
3500 HG Utrecht  
The Netherlands

### PROPERTY TRUSTEE

**Bankers Trust Company**  
Corporate Trust & Agency Services  
4 Albany Street  
New York, New York 10006

### DELAWARE TRUSTEE

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### LEGAL ADVISORS

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*To the Bank, the Trust and the LLC with regard to Delaware law*

**Richards, Layton & Finger**  
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### LISTING AGENT

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