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In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […].		PUBLIC VERSION This document is made available for information purposes only.

Subject: State aid SA.36249 (2013/N) – Spain
Restructuring of Banco CEISS through integration with Unicaja Banco

Sir,

1 PROCEDURE

(1) On 20 December 2012, the Commission approved the restructuring plan of Banco CEISS on a standalone basis. As Banco CEISS was formally declared under resolution by the Spanish authorities, the restructuring plan foresees the sale of the bank within a maximum period of […]* ("**the December 2012 Decision**"[1]).

(2) On 6 February 2013, Spain communicated that Unicaja Banco would be interested in acquiring Banco CEISS. Following that communication, a number of meetings and teleconferences took place between the Spanish authorities, Banco CEISS, Unicaja and the Commission services.

(3) On 19 April 2013, Spain notified the amended restructuring plan of Banco CEISS ("**the New Restructuring Plan**"), based on an offer to acquire the bank by Unicaja Banco ("**the Unicaja Offer**") together with a final set of commitments.

(4) Spain exceptionally accepts that the present decision ("**the Decision**") be adopted in the English language.

* Business secret

[1] Commission Decision C(2012) 9878 final of 20 December 2012 in case SA.34536 (2012/N) – Spain: Restructuring and recapitalisation of Banco CEISS. OJ C96, 4.4.2013, p. 1.

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2 FACTS

2.1 Banco CEISS

(5) Caja CEISS is a savings bank, registered with the Bank of Spain ("**the BOS**"), which was created from the merger on 4 October 2010 of two savings banks, namely, Caja Duero and Caja España, which were subsequently dissolved as a result of that merger. Caja Duero and Caja España's main activity was retail banking in the region of Castilla y León and the province of Caceres.

(6) Banco CEISS is a commercial bank, registered with the BoS, and created within the framework of Royal Decree Law 2/2011, pursuant to which Caja CEISS approved on 5 September 2011 the transfer of all of its banking business to a newly established banking entity, Banco CEISS. Banco CEISS operates mainly in the Spanish region of Castilla y León and the province of Caceres ("**the Core Regions**"), where it has around [10 – 20]% market share in terms of loans and [20 – 30]% in terms of deposits. Its market share at a national level is around 1.6% in terms of loans and 1.9% in terms of deposits[2].

(7) Until the adoption of the December 2012 Decision, Caja CEISS held 100% of Banco CEISS. However, following significant losses in 2012, Caja CEISS' equity stake in Banco CEISS is expected to be reduced to zero. Banco CEISS currently exercises the banking activities previously conducted by Caja CEISS and, before that, by Caja España and Caja Duero.

2.2 The aid measures

(8) It should be recalled that, on 20 July 2012, a Memorandum of Understanding on Financial Sector Policy Conditionality between the Kingdom of Spain and the Heads of State and Government of the Euro Area ("**the MoU**") was signed. The MoU sets a strict timeline for the recapitalisation and restructuring of the different groups of banks established on the basis of the results of a comprehensive stress test exercise conducted by independent consultants. In particular, for credit institutions categorised within Group 2[3], such as Banco CEISS, additional public capital will only be provided by the Fondo de Reestructuración Ordenada Bancaria ("**the FROB**") once individual restructuring plans have been approved by the Commission. Furthermore, the MoU indicates that those restructuring plans will incorporate the results of the stress test exercise. Finally, the restructuring plans were to be presented in time to allow the Commission to approve them by the end of December 2012. This is described in more detail in the December 2012 Decision.

(9) Since 2010, Caja CEISS and Banco CEISS have benefitted or will benefit from several State aid measures, namely: a) capital injections by the FROB totalling EUR 1 129 million[4]; b) assets transferred to the Asset Management Company

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[2] Market shares as of December 2012.

[3] On the basis of the stress test results and the recapitalisations plans, the Spanish banks were categorised as follows: Group 0 - banks for which no capital shortfall is identified and no further action is required; Group 1 - banks already owned by the FROB; Group 2 - banks with capital shortfalls identified by the stress test and unable to meet those capital shortfalls privately without having recourse to State aid Group 3 - banks with capital shortfalls identified by the stress test with credible recapitalisation plans and which are, in principle, able to meet those shortfalls privately without recourse to State aid. Group 3 banks will be split into: (i) Group 3a - banks planning a significant equity raise (>2% Risk Weighted Assets - "**RWA**"); and (ii) Group 3b - banks planning a less significant equity raise (<2%RWA).

[4] On 25 March 2010, the FROB decided to support the merger of the two founding savings banks of Caja CEISS by subscribing for EUR 525 million. An additional capital injection by the FROB of EUR 604 million was approved following the MoU stress test in the December 2012 Decision. See that decision for more details.

("**AMC**") amounting to approximately EUR 6.5 billion gross whereas the estimated transfer price is approximately EUR 3.1 billion; c) a guarantee linked to that transfer; and d) State guarantees on senior unsecured debt worth EUR 3 193 million, with an outstanding amount of EUR 2.24 billion. Table 1 below provides an overview of those aid measures.

(10) In the December 2012 Decision, the Commission approved: a) the conversion into ordinary shares of the first FROB capital injection; b) a second FROB capital injection in the form of ordinary shares; c) the transfer of assets to the AMC, and d) the state guarantees on unsecured debt.

(11) The New Restructuring Plan foresees: (i) that, while the overall amount of capital to be injected by the FROB will not change, it will be carried out in the form of contingent convertible securities ("**CoCos**") instead of ordinary shares, and (ii) that a lower amount in value of assets will be transferred to the AMC. Additionally, Spain requests the approval of a guarantee related to the assets transferred to the AMC, aiming at covering possible errors stemming from the categorization, the perimeter or the accounting valuation of the assets transferred. The guarantee results in a possible compensation by the FROB to Banco CEISS for the negative effect which could arise from the aforementioned adjustments in excess of EUR 40 million up to a maximum amount of compensation of EUR 200 million.

(12) **Table 1: Overview of the aid measures**

Measure	Description	Amount (€ billion)	Approved by the Commission	% RWA
A	State Guarantees on senior unsecured debt	3.193[5]	2009 - 2012, final approval 20.12.2012	Not applicable
B	FROB I: convertible preference shares in Caja CEISS	0.525	30.03.2010	1.82%[6]
C	FROB I: conversion of preference shares into ordinary shares of Banco CEISS	0.525	20.12.2012	RWA impact already accounted for in Measure B
D	Recapitalisation Measure by the FROB in the form of CoCos in Banco CEISS	0.604	Re-approved by this Decision; a capital injection in form of shares by equal amount was approved on 20.12.2012	2.6%[7]

5 Currently, the outstanding State guaranteed debt amounts to EUR 2.24 billion, of which EUR 1.97 billion are presently held by Banco CEISS.

6 RWA as of 31 December 2009.

7 RWA as of 31 December 2011.

E	Transfer of impaired assets to the AMC	0.696	Re-approved by this Decision; the amount of assets transferred is lower in value than the amount approved on 20.12.2012	3.0%[8]
F	Second loss guarantee linked to the asset transfer to the AMC	Maximum 0.200	Approved by this Decision	0.84%

2.3 The December 2012 Decision

(13) The approval of State aid measures in the December 2012 Decision was subject to a number of commitments made by Spain and the submission of a restructuring plan.

(14) The restructuring plan approved in the December 2012 Decision ("**the Previous Restructuring Plan**") stated that Banco CEISS on a standalone basis would, as a bank placed under resolution by the Spanish authorities, engage in an in-depth restructuring with a view to being sold as soon as market conditions permit and within a maximum of […] ("**the Restructuring Period**").

(15) To foster viability, the Previous Restructuring Plan stated that Banco CEISS would refocus on its Core Region and cut costs leading to a reduction between 2012 and 2017 of [30 – 40]% in branches and staff, which, if added to previous restructuring measures (2010-2012), represented a total [50 – 60]% closure of branches and [40 – 50]% reduction in staff since the restructuring of Banco CEISS started.

(16) Furthermore, Banco CEISS would also abandon real estate development ("**RED**"), large corporates and capital market activities.

(17) In consequence, Banco CEISS' balance sheet would be reduced by [10 – 20]% between 2012 and 2017, mainly due to a [5 – 10]% decrease in the loan portfolio. If added to previous restructuring efforts (2010-2012), this would represent a total reduction of the balance sheet by [20 – 30]%. Accordingly, Banco CEISS's risk weighted assets ("**RWA**") were expected to fall by [10 – 20]% by the end of 2017 (as compared to 2012), which, if added to previous restructurings, represented a net reduction of [40 – 50]% from 31 December 2010.

(18) As regards its funding structure, Banco CEISS would significantly improve its loan-to-deposit ratio and eliminate its over reliance on Eurosystem funding.

(19) Following the aforementioned restructuring, Banco CEISS projected profits before tax in 2017 of around EUR [200 – 300] million, a cost-of-income ratio of [40 – 50]% (compared to [80 – 90]% in 2012) and capital ratios according to EBA (core tier 1) and Basel III[9] (CET1) rules of [10 – 20]% and [5 – 10]% respectively.

(20) As regards burden-sharing, all existing shareholders would be asked to bear losses in proportion to their stakes prior to any new capital injection under the MoU.

(21) Holders of preference shares and subordinated debt would also contribute to the adequate recapitalisation of Banco CEISS. As a result, there would be no cash outflow from Banco CEISS to the holders of those securities with the sole exception of the holders of dated subordinated debt instrument who decide to convert their shares into new debt securities of the same maturity.

8 RWA as of 31 December 2011.
9 International regulatory framework for banks developed by the Basel Committee on Banking Supervision, to strengthen the regulation, supervision and risk management of the banking sector.

(22) Spain committed that the burden-sharing would generate at least EUR […] billion of capital in Banco CEISS.

(23) As regards possible distortions of competition, the two main measures approved to address this issue were: (i) the material downsizing of Banco CEISS in terms of total assets, RWA, geographical footprint, business segments and staff; and (ii) the eventual sale and or wind-down of Banco CEISS within the restructuring period.

(24) The Previous Restructuring Plan is described in detail in the December 2012 Decision.

2.4 The New Restructuring Plan

(25) The New Restructuring Plan is based on the assumption that the Unicaja Offer is successful (see section 2.4.1 below). The Spanish authorities have submitted a modified term sheet, which is annexed to this Decision ("**the Modified Term Sheet**").

2.4.1 Unicaja's Offer

(26) For the Unicaja Offer to be successful, it is necessary that at least 75% of the existing holders of hybrid instruments and subordinated debt in Banco CEISS accept to exchange the securities they will receive as a result of the Subordinated Liability Exercise[10] to be conducted among those investors in accordance with the MoU, Spanish Law and the December 2012 Decision ("**SLE**") for new securities to be issued by Unicaja Banco.

(27) The 75% acceptance threshold is a condition established by Unicaja Banco in accordance with Spanish Law so that in a corporate acquisition the buyer is able to reap all the benefits as if the two entities would have merged ("**the Acceptance Threshold**").

(28) If the Acceptance Threshold is not met by […], the terms and conditions set out in the December 2012 Decision will be fully implemented. This will, inter alia, imply that the ownership structure of Banco CEISS will be divided between the FROB on the one hand, with at least a 50% equity stake in the bank, and the existing hybrid and subordinated debt holders holding the remaining stake.

2.4.2 Restoration of viability

(29) The New Restructuring Plan still foresees that Banco CEISS refocuses its banking business on the Core Regions. To that end, Section 5 of the Modified Term Sheet specifies, for the Core Regions, the maximum balance sheet and loan book, the loan-to-deposit ratio and the reduction of branches and FTEs, as well as the divestment of the subsidiary portfolios. The New Restructuring Plan also applies to Unicaja's banking business in the Core Regions, if any ("**the Combined Entity in the Core Region**").

(30) For the Combined Entity in the Core Region, the New Restructuring Plan foresees a cut in costs leading to the same reduction in branches, staff, balance sheet and loan

[10] For more details on these securities please see Section 2.4.3.

portfolio as foreseen by the Previous Restructuring Plan.

(31) There is also no change with the Previous Restructuring Plan in that the Combined Entity in the Core Region will virtually abandon lending to RED, large corporates as well as capital market activities. However, under the New Restructuring Plan, there will be no obligation to sell all listed companies and some of the non-listed companies.

(32) As regards the funding structure, Banco CEISS will maintain its commitment to improve its loan-to-deposit ratio and to eliminate its over-reliance on Eurosystem funding. In this regard, Banco CEISS will benefit from the fact that it will be owned by Unicaja, a sound bank, which will facilitate funding at group level.

(33) Following the deep restructuring envisaged in the New Restructuring Plan, Banco CEISS projects to post profits before tax in 2017 of EUR [200 – 300] million, a cost-of-income ratio of [50 – 60]% (compared to [70 – 80]% in 2012) and capital ratios according to EBA (core tier 1) and Basel III (CET1) rules at group level of [10 – 20]% and [10 – 20]% respectively. The plan foresees for the Combined Entity that profits before tax will amount to EUR [500 – 600] million or more in every year until the end of the planning period in 2017. Profits before tax are foreseen to reach EUR [600 – 700] million in 2017.

(34) The New Restructuring Plan also includes the transfer by Banco CEISS of RED loans and real estate related foreclosed assets to the AMC amounting to approximately EUR 6.51 billion in value with a transfer price of about EUR 3.14 billion. The actual transfer of the assets took place on 28 February 2013.

(35) The New Restructuring Plan includes a new aid measure in the form of a guarantee which would come into play in case the AMC were to find certain errors in its audit of assets transferred by Banco CEISS, which could result in Banco CEISS making compensation payments to the AMC. Therefore, the objective of that guarantee would be to protect Banco CEISS against possible costs of compensation to the AMC. To that end, the FROB would compensate CEISS for the negative effect which might arise from the aforementioned adjustments in excess of EUR 40 million up to a maximum amount of EUR 200 million.

2.4.3 The Subordinated Liability Exercise

(36) As regards the implementation of burden-sharing under the New Restructuring Plan, there will be a two-step approach:

- Firstly, all existing shareholder will be asked to bear losses in proportion to their stakes prior to any new capital injection under the MoU. In all likelihood and in view of the significant losses posted by Banco CEISS in 2012, existing shareholders will lose their stake in Banco CEISS.
- Secondly, by performing a mandatory SLE, Spain commits to generate at least EUR […] billion of Core Tier 1 (net of tax effects), through the issuance of capital to the existing holders of hybrid instruments and subordinated debt in Banco CEISS and/or the retention of profits. A key component of the mandatory SLE, pursuant to which burden-sharing is imposed on the holders of preference shares and perpetual subordinated debt, is the full conversion of these securities into

equity[11]. As regards the holders of dated subordinated debt, however, they will be given the choice between conversion into equity or into a senior debt instrument. All conversion rates will be established according to the annexed Modified Term Sheet. Therefore, […], the proposed mandatory SLE will result in no cash outflow from Banco CEISS.

(37) Following completion of the aforementioned mandatory SLE and as part of the Unicaja Offer, Unicaja Banco will launch a public exchange offer with the approval of the Spanish National Securities Commission ("**CNMV**") to the shareholders and the holders of necessarily convertible instruments in Banco CEISS with a view to acquire up to 100% of these instruments.

(38) Under the terms of its public exchange offer, Unicaja undertakes to exchange by […] all ordinary shares and necessarily convertible securities in Banco CEISS for a series of equity, CoCos and necessarily convertible instruments issued by Unicaja Banco under the condition that the Acceptance Threshold is met. Necessarily convertible instruments would convert into ordinary shares of Banco CEISS, at the latest, when the regulatory framework laid down by Basel III enters into force, provided that under that framework these instruments will no longer be considered as core capital. The institutional holders of shares or necessarily convertible instruments in Banco CEISS would be offered ordinary shares in Unicaja Banco, while the retail holders of shares or necessarily convertible instruments in Banco CEISS would be offered a combination of CoCos and necessarily convertible instruments issued by Unicaja Banco as described in Section 7 of the Modified Term Sheet. If all holders of ordinary shares and necessarily convertible instruments decide to accept Unicaja's offer, the equity stake that those investors would hold in Unicaja Banco would not be higher than 30%.

(39) If Unicaja's offer is successful, shareholders and holders of necessarily convertible instruments in Banco CEISS who decide not to accept that offer will be left holding these securities at the level of Banco CEISS, with Unicaja Banco holding at a minimum 75% of the ordinary shares in that bank.

2.4.4 Capital injection and repayment of CoCos

(40) Instead of issuing ordinary shares for an amount of EUR 604 million to the FROB as described in the December 2012 Decision, the Unicaja Offer establishes that Banco CEISS will receive a public capital injection for the same amount but in the form of CoCos also to be issued by Banco CEISS to the FROB. The terms and conditions of the CoCos, including conversion triggers, remuneration, etc. are defined in the Modified Term Sheet.

(41) As regards repayment of the CoCos, Banco CEISS, in the first instance, and the Combined Entity, ultimately, to the extent that Banco CEISS is not capable of doing so, shall aim to repay the CoCos in full within a maximum term of 5 years from the date of their issuance. Furthermore, CoCos will be repurchased in the following way:

- For the fiscal years […] and […]: […]% of the excess regulatory capital, at

[11] Holders of hybrids placed among retail clients could temporarily receive necessarily convertible instruments of Banco CEISS (see recital (38) whilst holders of instruments placed among institutional clients will receive shares in Banco CEISS directly. Nonetheless, should Unicaja's Offer be unsuccessful (i.e. the Acceptance Threshold is not met), the conversion of the necessarily convertible instruments into ordinary shares would be activated. Moreover, the price of conversion of the necessarily convertible instruments into ordinary shares of Banco CEISS, would allow limiting the stake held by all existing hybrid and subordinated debt holders up to 50% of Banco CEISS.

consolidated level, above the applicable minimum capital requirements in 2016 under European (8.625%, including Basel III / CRD IV […]) and Spanish law (CBE 3/2008 and CBE 7/2012), plus a capital buffer of […] basis points.

- For the fiscal year […]: […]% of the excess regulatory capital, at consolidated level, above the applicable minimum capital requirements in 2019 under European (10.5% including Basel III / CRD IV […]) and Spanish law (CBE 3/2008 and CBE 7/2012).
- Thereafter: […]% of the excess regulatory capital, at consolidated level, above the applicable minimum capital requirements in 2019 under European (10.5%, including Basel III / CRD IV […]) and Spanish law (CBE 3/2008 and CBE 7/2012), plus a capital buffer of […] bps.

(42) The repurchase of the CoCos will occur during the fiscal year following the fiscal year used as a reference for the calculation of the excess regulatory capital. That calculation will be carried out once the financial statements of the fiscal year used as a reference are closed, and will then be undertaken without delay.

(43) Without prejudice to the competences of the BoS as the banking supervisor of Banco CEISS, if it is considered that it would endanger the solvency position of the bank in the following years, the repurchase of CoCos shall be totally or partially suspended on the basis of a reasoned request by Banco CEISS, endorsed by the Commission services, based on an opinion by the Monitoring Trustee,

(44) If there is doubt on the capacity to repay the CoCos within the maximum term of five years from the date of the issuance, the Monitoring Trustee can request remedial actions to free up capital of Banco CEISS.

(45) If a conversion occurs, it must be in accordance with the Modified Term Sheet and the holders of the CoCos will receive shares of Banco CEISS.

(46) Furthermore, until the CoCos are repaid in full:

- Banco CEISS will not pay out annual dividends in excess of […]% of its annual distributable profits; and
- Unicaja will not pay out annual dividends in excess of […]% of its annual distributable profits until the new Group becomes publicly traded, and in excess of […]% once the Combined Entity (the group) becomes publicly traded.

If, as a consequence of a pay-out higher than […]% and exclusively for that specific reason, the estimated annual amount of CoCos to be repaid is not achieved, the actual available excess capital to be used to repay the CoCos will be increased by the amount resulting from the difference between the […]% and the percentage actually paid, provided that the statutory regulatory capital ratios are always met.

(47) The repayment of CoCos depends on the capital level of the Combined Entity. CoCos will only be repaid in case a certain minimum capital level (see recital (41)) is achieved. Otherwise, there will be no repayment of CoCos. The capital level itself is determined by the distributable profits of the Combined Entity and the decision about how to use those profits (as dividends or as capital). In case either Banco CEISS and/or Unicaja were to pay out more than […]% of distributable profits as dividends, then the afore-mentioned minimum capital levels will be lowered by the amount surpassing the […]% threshold, thus leading to a repayment of CoCos by the same amount. However, this would only hold until the resulting minimum capital levels

are at the regulatory capital minima. In other words, a pay-out of one additional euro in excess of […]% of distributable profits will lead to a lowering of the capital levels, as described in recital (41), so that this leads to one additional euro of higher CoCos repayment, provided that the regulatory minimum capital levels are met.

(48) The rules described in recital (41) to determine the minimum required capital will be modified to reduce the trigger capital above which CoCos are repaid. Such reduction (in basis points) of the minimum required capital will be carried over to the following years.

2.5 Commitments provided by Spain

(49) Spain commits to the restructuring of Banco CEISS, as described in section 2.4 of the Decision and in the Annex.

(50) Spain commits that Banco CEISS, in the first instance, and the Combined Entity ultimately, to the extent that Banco CEISS is not capable of doing so, shall aim to repay the CoCos in full within a maximum term of five years from the date of their issuance under the terms as described in recitals (41) to (48) of the present Decision.

(51) Banco CEISS will not acquire any stake in any undertaking. This covers both undertakings which have the legal form of a company as well as packages of assets which take the form of a business. That acquisition ban does not apply to acquisitions that must be made in order to maintain financial and/or association related stability, or in the interests of effective competition, provided they have been given prior approval by the Commission by means of a service letter. It also does not apply to acquisitions that belong, in terms of the management of existing obligations of customers in financial difficulty, to a bank's normal on-going business. The acquisition ban will apply until the end of the Restructuring Period.

(52) Banco CEISS may acquire stakes in undertakings provided that the price paid by Banco CEISS for any acquisition is less than […]% of the balance sheet size of Banco CEISS at the date of this Decision and that the cumulative purchase prices paid by Banco CEISS for all such acquisitions over the whole Restructuring Period is less than […]% of the balance sheet size of Banco CEISS at the date of this Decision.

(53) Until the burden-sharing measures provided for in section 6 of the Modified Term Sheet have been implemented, Banco CEISS will not make any payments to holders of preference shares and subordinated debt instruments in so far as those payments are not owed on the basis of a contract or the law.

(54) Spain commits that the Combined Entity in the Core Regions shall avoid engaging in aggressive commercial practices and must not use the aid measures or any advantages arising therefrom for advertising purposes throughout the Restructuring Period.

(55) The combined entity, as defined in the Modified Term Sheet, shall present a credible timeline by June 2014 in order to become publicly traded no later than 31 December 2016.

(56) Finally, Spain commits that the Modified Term Sheet will be implemented in full.

3 ASSESSMENT

3.1 Scope of the decision

(57) The present Decision is based on the New Restructuring Plan, which is in turn based on the assumption that the Unicaja Offer will be successful. The Previous Restructuring Plan, on which the December 2012 Decision was adopted, did not include such an assumption, as there was no firm Unicaja Offer at the time when the December 2012 Decision was adopted. Should the Unicaja Offer fail, in that the Acceptance Threshold is not met by […], the December 2012 Decision, which is still in force, will continue to apply, which means that the Previous Restructuring Plan will have to be fully implemented.

3.2 Existence of State Aid

(58) According to Article 107(1) of the Treaty on the Functioning of the European Union ("**TFEU**"), State aid is any aid granted by a Member State or through State resources in any form whatsoever which distorts, or threatens to distort, competition by favouring certain undertakings, in so far as it affects trade between Member States.

(59) The qualification of a measure as State aid within the meaning of that provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and have the potential to affect trade between Member States.

(60) The Commission has already concluded, in the December 2012 Decision, that measures A to E listed in Table 1 constitute State aid in favour of Banco CEISS. As a consequence, it is not necessary to reassess whether those measures constitute State aid under the present Decision.

(61) Nonetheless, measure D – the recapitalisation measure – differs from that assessed in the Decision 2012 December, in that the financial instrument chosen by the FROB to recapitalise Banco CEISS will be in the form of CoCos instead of ordinary shares. However, should the Unicaja Offer fail to reach the Acceptance Threshold, the CoCos will automatically be converted into ordinary shares as established in the December 2012 Decision.

(62) Notwithstanding the above and taking into consideration the fragile state of Banco CEISS' finances, which was formally declared under resolution by the Spanish authorities, and the overall Spanish and European financial market environment, the Commission doubts that capital, in any form and terms, would have been available to Banco CEISS on the market. Therefore, in spite of the CoCos being adequately remunerated for the purposes of an assessment of compatibility, there is still an economic advantage granted to Banco CEISS through the grant of modified measure D.

(63) The Commission recalls that the FROB, the intervening authority providing the measures, is directly financed through State resources and that its decisions are directly imputable to the State. The FROB essentially acts as the prolonged arm of the State. The Commission therefore considers that measure D is financed by State resources.

(64) The Commission also considers that measure D distorts competition and affects trade between Member States because Banco CEISS will continue to compete in the Spanish retail banking market, the mortgage lending markets and the commercial lending markets. In all those markets, some of Banco CEISS' competitors are subsidiaries and branches of foreign banks. Thus, the recapitalisation measure, even in the form of CoCos, strengthens the capital position of Banco CEISS and thus its competitive position vis-à-vis its competitors in Spain and in other Member States. Given the international nature of the banking business, this aid measure also affects intra-EU trade.

(65) As regards Measure E – the asset transfer measure – it has already been assessed as State aid under the December 2012 Decision. The asset categories transferred to the AMC remain unchanged when compared to the December 2012 Decision. It should also be kept in mind that those assets have been scrutinized by external experts and that the transfer goes to the very same AMC as described in detail by the December 2012 Decision. Nothing in the nature of that measure has changed, with the exception that due to some reclassifications the amount of the assets transferred to the AMC is now lower in value. It is recalled, however, that the December 2012 Decision already specified that the amount of the transfer might be subject to change. Thus, there is no need to re-assess whether the measure constitutes State aid as this has already been concluded in the December 2012 Decision.

(66) Finally, measure F, a guarantee issued by the FROB against future losses deriving from errors found in the due diligence being conducted by the AMC on the assets transferred by Banco CEISS and other Spanish banks in the context of the MoU, is a new measure not previously assessed under the December 2012 Decision. In case the guarantee is triggered because losses do materialise beyond agreed levels, the FROB will compensate Banco CEISS for the resulting losses up to a limited amount. Since the guarantee is provided by the FROB, the same argumentation regarding State resources and imputability set out at recital (63) applies. Since the FROB will not be remunerated for the guarantee, the guarantee cannot be considered to be in line with the market economy investor principle as no market participant would agree to issue such a guarantee without receiving adequate remuneration, so that measure F should be considered to confer a selective advantage on Banco CEISS. The Commission also considers that measure F distorts competition and affects trade between Member States for the same reasons as those set out at recital (64).

3.2.1 Beneficiary of the aid

(67) For the same reasons as those set out in the December 2012 Decision, Banco CEISS should be considered as the sole beneficiary of the State aid granted by the Spanish authorities under the New Restructuring Plan. The fact that Unicaja has offered to acquire Banco CEISS does not change this assessment. As from the date on which the December 2012 Decision was published and the Spanish authorities formally declared Banco CEISS under resolution, along with other Spanish banks, it is general knowledge in the market that Banco CEISS was meant either to be sold or wound down within its restructuring period. In this context, an additional aid in the form of a guarantee amounting to EUR 200 million was granted to the sold activity, i.e. Banco CEISS. Therefore any market participant could have made an offer or a counteroffer for Banco CEISS whereas the fact that this had not happened demonstrates that Banco CEISS is absorbed by a competitor on market terms. The sale is therefore

considered to be in line with point 20 of the Restructuring Competition in that the sales price is considered to be a market price and aid to the buyer is excluded.

(68) Furthermore, the terms of Unicaja's Offer and, in particular, the aid measures granted are to a large extent in line with the terms and aid measures granted to Banco CEISS as a standalone bank in the December 2012 Decision.

(69) As already described in the December 2012 Decision, Banco CEISS is the economic successor of Caja CEISS, which transferred its entire banking business to Banco CEISS and retained only its ownership over its obra benéfico social ("OBS") and a stake in Banco CEISS. It is clear that Banco CEISS benefits from all the measures, as its banking business could not have continued without aid from Spain.

(70) As regards Caja CEISS, it is clear that it derived a benefit from the aid initially granted by Spain (measures A and B). As a result of measures C and D, which will lead Caja CEISS to lose its stake in Banco CEISS, Caja CEISS no longer benefits from aid measures granted to Banco CEISS.

(71) As regards the founding saving banks, Caja Duero and Caja España, their position has evolved significantly since the first State aid measures were granted in 2010. While the saving banks initially maintained full ownership and structural links with the banking activities of Caja CEISS and Banco CEISS, successive legal and corporate changes increasingly broke those links. The founding saving banks have completely exited banking activities. Their activities are currently limited to charitable activities. In terms of burden-sharing, they have relinquished any ownership rights in Banco CEISS and will not recover any in the future. All the assets and resources they maintained stem from and are directed to the exercise of charitable activities by the OBS. As they have lost control over Banco CEISS and completely exited banking activities, they can no longer be seen as beneficiaries of the aid measures.

3.2.2 Conclusion

(72) On the basis of the foregoing, the Commission considers that measures A to F fulfil the conditions laid down in Article 107(1) TFEU for a finding of State aid which is for benefit of Banco CEISS only. The Commission also recalls that it has already found that some of those measure constitute State aid within the meaning of Article 107(1) TFEU in the December 2012 Decision.

3.3 Amount of aid

3.3.1 Introduction

(73) The amount of aid for measures A to C has already been established in the December 2012 Decision and has not changed as a result of the Unicaja Offer. By contrast, measures D (as regards the financial instrument) and E (as regards the amount of the assets in terms of value) have been slightly amended, while measure F is new. The overall amount of aid must therefore be reassessed.

(74) As regards the recapitalisation measures from which Caja CEISS and Banco CEISS have or will benefit (measures B, C and D), these total approximately EUR 1 129 million of which the Commission considers the aid element to be up to 100% of the nominal amount granted. The recapitalisation measures therefore entail aid of an

amount of up to EUR 1 129 million (or 4.8% of Banco CEISS RWA[12]). The fact that the new recapitalisation will now be carried out using another financial instrument does not change the Commission's initial assessment regarding the amount of aid, given the nature of the CoCos (Tier 1 capital) in terms of their loss absorption capacity.

(75) As regards the aid amount included in the impaired asset measure (measure E), namely, the transfer of assets to the AMC, it should be noted that footnote 2 to point 20(a) of the Impaired Assets Communication defines the aid amount in an asset relief measure as the difference between the transfer price of the assets and the market price. As regards Banco CEISS, the slightly modified transfer price is approximately EUR 3.6 billion, while the market price of the assets is estimated at approximately EUR 2.9 billion by the Spanish authorities[13]. Consequently, the aid granted to Banco CEISS as a result of the impaired asset measure amounts to approximately EUR 0.7 billion (or 3% of RWA[14]).

(76) Finally, the guarantee issued by the FROB (measure F), will only be triggered if errors exist in the categorization in the perimeter or in the valuations of the assets transferred to the AMC, which could lead to claims from the AMC against Banco CEISS. Only in that case shall the FROB compensate Banco CEISS for the capital impact in excess of EUR 40 million up to a maximum compensatory amount of EUR 200 million which could arise from the aforementioned adjustments. The BoS estimated that the adjustments under this process will be in the region of EUR […] million, which is well below the amount which would trigger a compensation requirement by the FROB to Banco CEISS in the event of an adjustment (EUR 40 million). However, in an extreme scenario, the maximum amount of aid could total EUR 200 million.

3.3.2 Conclusion

(77) On the basis of the above, it should be concluded that Caja CEISS and Banco CEISS, as a result of measures A to F, have received or will receive State aid in the form of: capital injections and impaired asset measures amounting to EUR 1 846 million (or 7.8% of their RWA[15]) and State guarantees on bank debt issued by Caja/Banco CEISS worth EUR 3 193 million. While all these measures were fully or, in a modified way, already approved in the December 2012 Decision (CoCos instead of ordinary shares, a lower amount of transferred assets for the AMC), the only new aid measure is the FROB guarantee in relation to the possible contingency stemming from the transfer of assets to the AMC amounting to up to EUR 200 million (or 0.84% of Banco CEISS's RWA).

3.4 Legality of the aid

(78) The Commission notes that Spain notified the new measure, namely measure F, to the Commission for its approval prior to putting it into effect and thus complied with

12 RWA as of December 2011.

13 The Commission services have assessed those arguments and agree with the market value as proposed by Spain. While those market values are above the central valuation provided by the independent experts on whom the Commission had relied in relation to the technical aspects of the transfer of the impaired assets to the AMC, they are still within the error range provided by them.

14 RWA as of 31 December 2011.

15 RWA as of 31 December 2011.

its obligations under Article 108(3) TFEU.

4 COMPATIBILITY OF THE AID WITH THE INTERNAL MARKET

(79) As regards the compatibility of the aid granted by the Spain to Banco CEISS, the Commission has already determined in the December 2012 Decision that the aid can be assessed under Article 107(3)(b) TFEU, i.e. aid which remedies a serious disturbance in the economy of Spain. Subsequently, the Commission, using that legal basis, must assess whether the proposed measures are in line with the internal market.

(80) The Commission has acknowledged that the global financial crisis can create a serious disturbance in the economy of a Member State and that measures supporting banks are apt to remedy that disturbance[16.] The Commission confirmed that view by adopting the 2011 Prolongation Communication[17].

(81) In respect of the Spanish economy, that assessment was confirmed in the Commission's various approvals of the measures undertaken by the Spanish authorities to combat the financial crisis[18].. That assessment has furthermore been confirmed in the December 2012 Decision and the nature of the financial and economic conditions have not fundamentally changed since then. Therefore, the legal basis for the assessment of the compatibility of the measures is Article 107(3)(b) TFEU.

4.1 Compatibility assessment

(82) The compatibility assessment for measures A to C was performed in the December 2012 Decision. That assessment remains valid, as neither the measures nor the conditions under which they were granted have changed.

(83) The Commission has already concluded that measure D, despite the change of the capital instrument to be injected into Banco CEISS, also remains substantially unchanged. In consequence, the assessment for measure D as carried out in the December 2012 Decision remains valid and does not need to be re-assessed either.

(84) The Commission thus concludes that measures A to D are appropriate, necessary and, in the light of the deep restructuring foreseen in the New Restructuring Plan, proportionate to the intended objective of remedying a serious disturbance in the Spanish economy.

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16 This has been confirmed in the Banking Communication (Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, OJ C 270, 25.10.2008, p. 8), the Recapitalisation Communication (Communication from the Commission – The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2), the Impaired Asset Communication (Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72, 26.3.2009 p. 1)and the Restructuring Communication (Communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 9).

17 Communication on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis OJ C 356, 6.12.2011, p. 7.

18 See e.g. Reintroduction of the Spanish Guarantee Scheme SA 34224 (2012/N), OJ C82/2012 of 21.03.2012.

(85) As regards the compatibility of the asset relief measure (measure E), the Commission notes that that measure also remains unchanged in all of its qualitative aspects. In that respect, the conclusions from the December 2012 Decision as regards (i) the eligibility of assets, (ii) transparency and disclosure, (iii) the management of assets and (iv) the valuation remain unchanged. It needs to be determined, however, whether the slight modification in the amount of assets transferred to the AMC and the transfer price have any impact regarding burden-sharing and remuneration.

(86) As regards burden-sharing, section 5.2 of the Impaired Assets Communication repeats the general principle that banks ought to bear the losses associated with impaired assets to the maximum extent so as to ensure equivalent shareholder responsibility and burden-sharing. Thus, the assets should be transferred at or below the real economic value of those assets.

(87) Furthermore, the Impaired Assets Communication explains that burden-sharing is achieved through an adequate remuneration of the aid. Any pricing of asset relief must include remuneration for the State that takes account of the risks of future losses exceeding those that are projected in the determination of the real economic value. Annex V, section II, of the Impaired Assets Communication provides that the pricing of the impaired assets measure must include remuneration for the State that adequately takes account of the risks of future losses exceeding those that are projected in the determination of the real economic value. Such remuneration may also be provided by setting the transfer price of assets well below the real economic value to a sufficient extent so as to provide for adequate compensation for the risk in the form of a commensurate upside.

(88) In relation to measure E, the Commission notes that the assets have been fully written down to their transfer value. The transfer price is, on a relative basis, about […]% lower than their real economic value, the latter being certified by independent experts retained by the Commission. Therefore, the compensation for the risk of the State is embedded in the […] transfer price, which corresponds to a remuneration of EUR […] million.

(89) In addition, Banco CEISS will receive bonds of a maturity of one, two or three-years, rather than cash, in exchange for its assets. The yield on those bonds is set at the lower of the rate for government bonds of the corresponding maturity and 12-month Euribor plus 200 bps. It is very likely that the bonds will be rolled over several times at the request of the AMC, as eventual redemption will depend on the sales of the assets transferred over a 15-year period. As a result, Banco CEISS accepts to forgo revenue which it might otherwise generate in case it would have cash available, which could be invested in higher yielding risk free bonds or a higher yield lend-on.

(90) The Commission, therefore, considers that the requirements regarding burden-sharing in the Impaired Assets Communication have been met.

(91) Measure E can therefore be considered to fulfil the conditions on eligibility of assets, ex ante transparency and disclosure, asset management arrangements, valuation, burden-sharing and remuneration as laid down in the Impaired Assets Communication.

(92) As regards measure F, this measure should be examined in conjunction with the asset transfer itself. This is because the aim of the measure is to compensate Banco CEISS against errors of valuation in conjunction with the asset transfer to the AMC.

(93) While the asset transfer has been carried out with full transparency and disclosure,

such complex transactions can result in errors against which measure F seeks to provide insurance. Under that measure, the maximum amount Banco CEISS can claim from the FROB is EUR 200 million only after bearing a first loss tranche of EUR 40 million. According to BoS estimates, it is unlikely that the first loss tranche will be surpassed and that Banco CEISS will be able to exercise its claim against the FROB. Indeed, the BoS estimates that the impact of any adjustments in conjunction with the asset transfer to the AMC would be in the region of EUR […] million.

(94) Nevertheless, in the unlikely event that the FROB would have to disburse the maximum amount of EUR 200 million under measure F, that would reduce the remuneration of the impaired asset measure by the same amount. Given the amount of scrutiny already applied to this portfolio (as described in the December 2012 Decision), the risk of transferring the portfolio below its real economic value is fairly low. Therefore, the overall remuneration of EUR […] million[19] which would materialise in the event the full amount of the guarantee would employed, would still be an acceptable level of remuneration for the State.

4.2 Compatibility of all aid measures (A-F) with the Restructuring Communication

(95) The Restructuring Communication sets out the State aid rules applicable to the restructuring of financial institutions in the current financial crisis. According to the Restructuring Communication, in order to be compatible with the internal market under Article 107(3)(b) TFEU, the restructuring of a financial institution in the context of the current financial crisis must (i) lead to a restoration of the viability of the bank; (ii) ensure that the aid is limited to the minimum necessary and include sufficient own contribution by the beneficiary (burden-sharing); and (iii) contain sufficient measures limiting the distortion of competition.

4.2.1 Restoration of viability

(96) As explained in the Restructuring Communication[20], the Member State must provide a comprehensive restructuring plan which shows how the long-term viability of the entity will be restored without State aid within a reasonable period of time and within a maximum of five years. Long-term viability is achieved when a bank is able to compete in the marketplace for capital on its own merits in compliance with the relevant regulatory requirements. For a bank to do so, it must be able to cover all its costs and provide an appropriate return on equity, taking into account the risk profile of the bank. The return to viability should mainly derive from internal measures and be based on a credible restructuring plan.

(97) As regards Banco CEISS, it should be noted that the perimeters of the New Restructuring Plan notified by the Spanish authorities to the Commission have not substantially changed when compared to the Previous Restructuring Plan examined under the December 2012 Decision. The main difference in the New Restructuring Plan is that Banco CEISS will be acquired by Unicaja Banco if the Unicaja Offer is successful. Unicaja Banco is a solvent bank with an adequate capital base and access to funding at reasonable terms. Thus, the acquisition by Unicaja Banco provides additional comfort in restoring the viability of Banco CEISS in that Banco CEISS would be able to rely on its expertise and best practices.

[19] EUR […] million is the result of subtracting the full amount of the guarantee totalling EUR 200 million from the impaired asset remuneration amounting to EUR […] million (as described in recital (88)).

[20] Commission communication on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 1.

(98) Point 10 of the Restructuring Communication requires that the proposed restructuring measures remedy the entity's weaknesses. In that regard, the New Restructuring Plan adequately addresses the weaknesses of Banco CEISS.

(99) First, the segregation and transfer of the assets and loans related to the real estate development sector to the AMC (measure E) is an adequate response to the high concentration of Banco CEISS' balance sheet on that sector and the level of non-performing assets, as evidenced by the stress test exercise performed in the context of the MoU. That transfer will allow Banco CEISS to refocus on its core activities, in particular the new production of loans to its clients in the Core Region, such as residential mortgages and SME loans.

(100) Second, Banco CEISS had a cost/income ratio of [70 – 80]% in 2011, one of the highest among its peers. Banco CEISS plans to reduce that ratio via a significant reduction of its branch network and headcount.

(101) Third, the New Restructuring Plan foresees a fundamental change to Banco CEISS's business profile as it intends to concentrate on its core competences and to wind down non-core activities and more risky activities. The Commission notes that the New Restructuring Plan foresees that Banco CEISS will virtually abandon lending to RED, large corporates as well as capital market activities. It will further transfer the RED loans and real estate foreclosed assets to the AMC, thus removing an important factor responsible for its problems stemming from the past. The new business strategy also foresees a significant cost-cutting exercise whereby staff and branches are closed. This will allow Banco CEISS to focus on its strong client base amongst retail and SMEs. At the end of the Restructuring Period, Banco CEISS will be able to cover all its costs and provide an appropriate return on equity of [5 – 10]%, taking into account an adequate cost of risk in view of its new risk profile

(102) Fourth, according to point 13 of the Restructuring Communication, the New Restructuring Plan should address the requirements emerging from a stress test exercise and ensure that the entity is sufficiently and adequately capitalised. Banco CEISS undertook the MoU stress test exercise which included a comprehensive asset quality review as well as an identification of the capital needs over a three-year period (2012-2014). That exercise was well designed for assessing the current challenges of the Spanish banking system, with conservative assumptions and a robust execution under the close monitoring of the international partners. As a result of taking accounting losses following increased loan-loss provisions in December 2012 and deducting the estimated increase in own funds of EUR […] million from the burden-sharing exercise, Banco CEISS will be recapitalised at a level that will allow it to reach a Basel III common equity tier 1 ratio and an EBA core tier I ratio at group level of [10 – 20]% and [10 – 20]% respectively at the end of December 2017, which is the end of the Restructuring Period.

(103) Finally, the New Restructuring Plan provides information on the future funding profile of Banco CEISS. The New Restructuring Plan factors in conservative assumptions in terms of deposits evolution and wholesale and central bank reliance. At the end of the Restructuring Period, Banco CEISS will have an improved loan-to-deposit ratio and reliance on central bank funding will have been reduced to […]. Here too the take-over by Unicaja will benefit Banco CEISS.

(104) The Restructuring Communication specifies further in point 14 that long-term viability requires that any State aid received is either redeemed over time, as anticipated at the time the aid is granted, or is remunerated according to normal market conditions, thereby ensuring that any form of additional State aid is terminated.

(105) While Banco CEISS is primarily responsible for the repayment of the CoCos, Banco CEISS will be backed by Unicaja. Therefore, if Banco CEISS is not able to repay the CoCos within a period of five years, Unicaja will step in. The solvency and financial position of both Banco CEISS and Unicaja Banco (the Combined Entity) will thus be committed to the remuneration and repayment of those instruments in accordance with the terms and conditions established in the Modified Term Sheet attached to the Decision.

(106) The repayment of CoCos depends on the capital level of the Combined Entity. CoCos will only be repaid in case a certain minimum capital level (see recital (41)) is achieved. Otherwise, there will be no repayment of CoCos. The capital level itself is determined by the distributable profits of the Combined Entity and the decision about how to use those profits (as dividends or as capital). In case either Banco CEISS and/or Unicaja were to pay out more than […]% of distributable profits as dividends, then the afore-mentioned minimum capital levels will be lowered by the amount surpassing the […]% threshold, thus leading to a repayment of CoCos by the same amount. However, this would only hold until the resulting minimum capital levels are at the regulatory capital minima. This repayment plan is credible in ensuring that the CoCos will be repaid within the restructuring period and, therefore, the requirement of point 14 of the Restructuring Communication is fulfilled.

(107) The Commission considers that the implementation of the New Restructuring Plan, which involves a significant reduction of the balance sheet funding needs and an exit from central bank reliance, will ensure a conservative funding profile of Banco CEISS.

4.2.2 Own contribution and burden-sharing

(108) The Restructuring Communication states that an appropriate contribution by the beneficiary is necessary to limit the aid to a minimum and to address distortions of competition and moral hazard. To that end, both the restructuring costs and the amount of aid should be limited and a significant own contribution is necessary.

(109) The New Restructuring Plan does not contain any elements that suggest that the aid exceeds what is required to cover the costs resulting from the restoration of viability of Banco CEISS. The capital shortfall covered by the recapitalisation measure (measure D) was determined on the basis of a fully transparent stress test organised by the Spanish authorities in the context of the MoU. Additionally, the transfer of assets to the AMC (measure E) and the implementation of the mandatory SLE further reduce the magnitude of public funds required to ensure that Banco CEISS meets the minimum regulatory capital, even under an adverse scenario.

(110) The Commission notes positively the commitments regarding burden-sharing of hybrid instruments beyond the prerequisites of the Restructuring Communication. As described in Section 2.4.3, all hybrids […] will be converted into equity or necessarily convertible instruments following a material haircut in their nominal value in order to absorb existing losses at Banco CEISS. By doing so, cash outflows

from Banco CEISS to the holders of those securities will be avoided.

(111) As the Commission would normally consider an exchange of hybrids at market price plus a premium into cash to fulfil the requirements of the Restructuring Communication, it welcomes the commitment by the Spanish authorities, adopted in the context of the MoU, which results in greater burden-sharing by hybrid and subordinated debt holders and, consequently, a decrease in the amount of public funds that are necessary to restore Banco CEISS' viability.

(112) As regards the assumptions of the restructuring costs stemming from the New Restructuring Plan by Banco CEISS, the Commission notes that Banco CEISS has carried out and will continue to implement significant cost-cutting measures which, together with its future integration into Unicaja's systems, will result in […] operational costs already by the end of […]. At group level, the reduction in operational costs will reach [90 – 100]% by the end of the Restructuring Period when compared to 2012 levels or [80 – 90]% when compared to 2011 levels. The restructuring costs are also partly borne by the future proceeds from the divestments of subsidiaries and equity stakes held by Banco CEISS in non-core entities, as set out in the Modified Term Sheet.

(113) Spain also committed to several measures that will contribute to the cost of restructuring, such as the limitation on remuneration of Banco CEISS' employees and a ban on aggressive commercial practices.

(114) Accordingly, burden-sharing on equity, hybrid and subordinated debt-holders coupled with cost reductions, divestments and adequate remuneration for the aid represent a sufficient own contribution by Banco CEISS to the costs of its restructuring. For those reasons, the Commission concludes that the New Restructuring Plan provides for an appropriate own contribution and burden-sharing.

4.2.3 Limiting distortion of competition

(115) Finally, section 4 of the Restructuring Communication requires that the New Restructuring Plan contains measures limiting distortions of competition. Such measures should be tailor-made to address the distortions on the markets where the beneficiary bank, Banco CEISS, operates post-restructuring.

(116) The nature and form of such measures depend on two criteria: first, the amount of the aid and the conditions and circumstances under which it was granted and, second, the characteristics of the markets on which the beneficiary will operate. Furthermore, the Commission must also take into account Banco CEISS' own contribution and burden-sharing over the Restructuring Period as part of that analysis.

(117) The Commission recalls that Caja CEISS and Banco CEISS have received or will receive State aid in the form of capital injections and impaired asset measures up to an amount of EUR 1 846 million, plus a guarantee related to the AMC asset transfer of up to EUR 200 million, in addition to the State guarantees on bank debt for EUR 3 193 million.

(118) The aid amount of EUR 1 846 million is equivalent to 7.8% of Banco CEISS' RWA[21] and, if the guarantee were to be fully drawn, that amount would rise to EUR 2 046 million or 8.65% of its RWA. Therefore, as the amount of aid granted is

[21] RWA as of 31 December 2011.

very large, measures are necessary to limit potential distortions of competition.

(119) The two main measures that will limit distortions of competition are: (i) the downsizing of Banco CEISS in terms of total assets, RWA, geographical footprint, business segments and headcount; and (ii) the fact that Banco CEISS will cease to exist as a standalone entity following its acquisition by Unicaja Banco.

(120) Banco CEISS will indeed become a smaller bank. As indicated in the New Restructuring Plan, its total balance sheet will shrink from EUR [30 – 40] billion on 31 December 2012 to EUR [30 – 40] billion by December 2017, whilst its total RWA will be reduced from EUR [10 – 20] billion on 31 December 2012 to EUR [10 – 20] billion by December 2017. In parallel, Banco CEISS will also shrink in terms of branches and headcount.

(121) In addition, Banco CEISS will focus exclusively on retail, SME and public sector banking and will exit the market in all other segments (i.e. real estate development, large corporations and capital market activities). At the same time, it will also reduce its presence both outside and within its Core Region.

(122) All in all, the Commission considers the projected reduction of Banco CEISS' total balance sheet by more than [20 – 30]%[22] and the decrease of market share in its Core Region by [10 – 20]% in terms of deposits and [20 – 30]% in terms of loans to be commensurate with the distortions of competition stemming from the large amount of aid received since 2010.

(123) Should the Unicaja Offer be successful, Unicaja will acquire a controlling interest in Banco CEISS. The sale of Banco CEISS, as the beneficiary of the aid, to another market player which has not been a State aid beneficiary, constitutes a form of mitigation of potential distortions of competition[23]. Through the proposed acquisition, potentially harmed competitors like Unicaja Banco are given the possibility to take over the business of an aided competitor, which resembles the "counterfactual" situation that should have occurred in the absence of State aid, as a company in difficulty will normally often seek a potential buyer in the market or, failing to do so, would be liquidated. As such, the sales/resolution process of Banco CEISS contributes significantly to limiting the distortions of competition resulting from the aid.

(124) In addition to those far-reaching structural measures, Spain also committed to several behavioural constraints as described in more detail in Section 2.5 above. On the one hand, Spain will ensure that the remuneration of all of Banco CEISS' employees is in line with the limitations set forth in Spanish legislation. On the other hand, the Commission welcomes a ban on advertising State support and a ban on aggressive commercial practices for the Combined Entity in the Core Regions preventing it from using the aid granted for anti-competitive market conduct. It also welcomes an acquisition ban, which ensures that the State aid will not be used to take over competitors, but instead that it will serve its intended purpose, namely to restore Banco CEISS' viability and consequently the repaying of the CoCos.

(125) Taking into account the mix of aid measures and commitments and in light of the assessment on the appropriateness of the own contribution and burden-sharing in

[22] From 31 December 2010 to 31 December 2017.

[23] Cf. Case C 10/2008, IKB Commission decision of 21 October 2008, OJ L 278, 23.10.2009, p. 32, recital 113; Cases NN 42/2008, NN 46/2008 and NN/53/A/2008, Fortis Banque & Fortis Banque Luxembourg, Commission decision of 3 December 2008, point 95; Case N 344/2009 and N 380/2009 Kaupthing Luxembourg Decision of 9 July 2009, point 79; and Case NN 19/2009 Dunfermline of 25 January 2010, points 126 and 130.

section 4.2.2, which even goes beyond what the Commission would normally require, the Commission considers that there are sufficient safeguards to limit potential distortions of competition despite the high amount of aid Banco CEISS will receive.

4.3 Monitoring

(126) Pursuant to section 5 of the Restructuring Communication, regular reports are required to allow the Commission to verify that restructuring plans are being implemented properly.

(127) Accordingly, the New Restructuring Plan will need to be properly implemented throughout its duration. To ensure proper implementation, the Spanish authorities will ensure that Banco CEISS, Unicaja Banco and the FROB comply with the commitments listed in the Modified Term Sheet.

(128) Moreover, the correct implementation of the New Restructuring Plan and the full and correct implementation of all commitments contained in the Modified Term Sheet will be continuously monitored by an independent, sufficiently qualified Monitoring Trustee.

(129) The Monitoring Trustee will have unrestricted access to all information needed to monitor the implementation of the Decision. The Commission or the Monitoring Trustee may ask Banco CEISS and/or Unicaja Banco, as the case may be, for explanations and clarifications. The Spanish authorities, Banco CEISS and/or Unicaja Banco, as the case may be, are to cooperate fully with the Commission and the Monitoring Trustee with regard to all enquiries associated with the monitoring of the New Restructuring Plan.

4.4 Conclusions on the existence of aid and compatibility

(130) The Commission concludes that the modified measures (i.e. measures D, E and F), namely, the capital injection in Banco CEISS by the FROB in the form of CoCos instead of ordinary shares, the lower amount in value of impaired assets transferred to the AMC and the guarantee related to that asset transfer offered by the FROB, constitute State aid in favour of Banco CEISS pursuant to Article 107(1) TFEU.

(131) The Commission finds that the restructuring aid granted to Caja CEISS and Banco CEISS pursuant to the aforementioned measures A to F, is – in view of the commitments recorded in the Modified Term Sheet – compatible with the internal market for reasons of financial stability on the basis of Article 107(3)(b) TFEU.

5 CONCLUSION

- The Commission has accordingly decided:

– to consider the aid to be compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The Commission notes that Spain exceptionally accepts that the adoption of the Decision be in the English language

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European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Fax No: +32-2-296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President

ANNEX

TERM SHEET OF THE SPANISH AUTHORITIES COMMITMENTS FOR THE APPROVAL BY THE EUROPEAN COMMISSION OF THE RESTRUCTURING PLAN OF BANCO CEISS IN RELATION TO UNICAJA'S OFFER (CASE SA 36249 (2013/N)

1. BACKGROUND

1.1 This document ("the Term Sheet") sets out the terms ("the Commitments") for the recapitalisation and restructuring of Banco CEISS ("BANCO CEISS" or "the Bank"), which the Kingdom of Spain and BANCO CEISS have committed to implement.

1.2 Whenever appropriate, in response to a request from the Kingdom of Spain showing good cause, the Commission will make changes to the Term Sheet when justified on the merits to (i) grant an extension of the time period of the Commitments or (ii) waive, modify or substitute one or more of the aspects of the Commitments hereunder.

2. DEFINITIONS

2.1 **"SAREB" or "AMC"** (or Asset Management Company) is an independent commercial entity established by the Spanish Law 9/2012. The Spanish Government decision to set up the AMC was introduced on 31 August 2012, through the Royal Decree 24/2012 with a view to addressing in a comprehensive way the problem of the real estate exposure in the Spanish banking system. Assets will be transferred from banks to the AMC to strengthen the banks' balance sheets and ensure that uncertainty over their real estate exposure is reduced.

2.2 **"Banco CEISS"** means Banco de Caja España de Inversiones, Salamanca y Soria, S.A.

2.3 **"Unicaja"** includes Unicaja – Monte de Piedad y Caja de Ahorros de Ronda, Cádiz, Almería, Málaga, Antequera y Jaén, a Spanish savings bank, and Unicaja Banco, a Spanish commercial bank to which all banking business, insurance, pension and asset management activities of Unicaja were contributed and as a consequence operates as its wholly-owned subsidiary.

2.4 **"The Combined Entity"** describes the group formed by Unicaja and Banco CEISS.

2.5 **"The Offer"** describes the offer made by Unicaja in relation to Banco CEISS" according to the terms of the framework approved by the Boards of Unicaja Banco and Banco CEISS, and subjected to compliance with terms and conditions (see section 7).

2.6 **"Core Regions"** means the geographic regions where Banco CEISS developed its core banking activities and in which Banco CEISS will be primarily focused following this Restructuring Plan, which includes the Spanish region of Castilla y León and the province of Cáceres.

2.7 **"Decision"** means the decision of 2013 of the European Commission on the Restructuring of Banco CEISS through the acquisition by Unicaja to which this Term Sheet forms integral part.

2.8 **"FTE"** means full time equivalent employee.

2.9 **"Loan to deposit ratio"** means a ratio calculated with the numerator equal to the net credit loan portfolio (chapter 5.2 of the Bank of Spain's public format balance sheet) and the denominator equal to the customer deposits and debt instruments sold to retail customers net of repo transactions and wholesale funding.

2.10 **"Monitoring Trustee"** is the person who will verify the adherence to the Commitments listed in the Term Sheet, as set out in Appendix V hereto.

2.11 **"RWA"** means risk weighted assets that shall be calculated on a consolidated basis in accordance with Circular 3/2008[24] and with the IRB models approved by Bank of Spain as of 30 June 2012.

2.12 **"Remedial actions"** shall mean action(s) that will allow Banco CEISS to meet the target(s) identified in its Restructuring Plan. The remedial actions need to be submitted within one month by the Combined Entity to the Monitoring Trustee. The Monitoring Trustee will analyse the proposed remedial actions and will report to the Commission on their adequacy to meet the targets in the Restructuring Plan.

2.13 **"Restructuring Period"** is the time-period specified in clause 3.3 below. All Commitments in the Term Sheet apply throughout the Restructuring Period unless otherwise specified.

2.14 **"Restructuring Plan"** means the plan submitted to the European Commission in relation to the recapitalisation and restructuring of Banco CEISS, via the Kingdom of Spain, on 19 April 2013.

2.15 **"Service Locations"** means branches which carry out only transactions, necessary to manage their existing assets and liabilities but that will not engage in new operations nor generating new clients for the Combined Entity.

2.16 **"Universal Succession"** in the event there would be a merger of Unicaja Banco and Banco CEISS, the merged Entity would take over the rights and obligations of both entities.

3. GENERAL

3.1 Spain is to ensure that the Restructuring Plan of Banco CEISS submitted on 19 April 2013, is correctly and fully implemented.

3.2 Spain is to ensure that the Commitments listed below are fully observed during the Restructuring Period.

[24] Circular 3/2008, de 22 de mayo, del Banco de España, a entidades de crédito, sobre determinación y control de los recursos propios mínimos.

3.3 The Restructuring Period will end on 24 April 2018. The Commitments apply during the Restructuring Period, unless otherwise provided.

3.4 The restructuring conditions, *as established in section 5*, that may be derived because State Aid is involved, shall apply to Banco CEISS or to the business condition of the Combined Entity in the core regions and not to Unicaja Banco or Unicaja.

4. ADJUSTMENTS TO THE CURRENT PERIMETER OF BANCO CEISS

The Restructuring Plan includes the transfer and/or contribution to SAREB (the AMC) of Banco CEISS real estate exposure at the cut-off date of 31 December 2012, falling within the following parameters:

a) all the loans to developers exceeding a net book value of EUR 250000;

b) the foreclosed real estate assets exceeding a net book value of EUR 100000 and

c) the equity interests in controlled real estate companies (jointly, the "Real Estate Business").

5. RESTRUCTURING OF THE COMBINED ENTITY IN THE CORE REGIONS

5.1 The Restructuring Plan for Banco CEISS consists in particular on the transfer of the majority of the real estate assets and exposures to SAREB (the AMC), the acquisition of Banco CEISS by Unicaja, as well as the restructuring of the continuing business of Banco CEISS according to what it is set below.

5.2 Loan book size

5.2.1 By 31 December 2014, the size of the loan book of the Combined Entity in the Core Regions will not be higher than EUR [10 – 20] billion.

5.2.2 By 31 December 2016, the size of the loan book of the Combined Entity in the Core Regions will not be higher than EUR [10 – 20] billion.

If the above loan book reduction targets are not met, the Combined Entity will not engage in new production in terms of loans to clients in the Core Regions until the targets defined above are not reached.

5.3 Balance sheet size

5.3.1 By 31 December 2014, the balance sheet size of the Combined Entity in the Core Regions will not be higher than EUR [30 – 40] billion.

5.3.2 By 31 December 2016, the balance sheet size of the Combined Entity in the Core Regions will not be higher than EUR [30 – 40] billion.

5.4 Loan to Deposit ratio

The Combined entity commits to achieve a Loan to Deposit ratio of [100 – 150]% in 2014 in the Core Regions.
If the above targets regarding balance sheet size and Loan to Deposit ratio, in the Core Regions, are not met, the Combined Entity shall present remedial actions within a month from the request by the Monitoring Trustee to do so. The Monitoring Trustee will analyse the Remedial Actions proposed and will report to the Commission on their adequacy to meet the targets in the Restructuring Plan.

5.5 Reduction of Branches and FTEs

5.5.1 Spain and Banco CEISS commits that Banco CEISS will reduce the current structure from [800 – 900] to [500 – 600] branches and Service Locations before the end of […] and from [4000 – 5000]to [3000 – 4000] employees (FTE) before the end of […]. Banco CEISS envisages a saving in staff costs in […] of € [100 – 200] million compared to the December 2012 year end. Accordingly, Banco CEISS presence in the Core Regions and Madrid will be limited to [500 – 600] commercial branches and to [20 – 30] Service Locations in the rest of Spain.

5.5.2 The calendar for the execution of these measures

	June 2012	Dec.[…]	Dec. […]	End of the Restructuring period
Branches	[800 – 900]	[600 – 700]	[500 – 600]	[500 – 600][25]
Branch reduction		-[100 – 200]	-[100 – 200]	
FTEs	[4000 – 5000]	[3000 – 4000]	[3000 – 4000]	[3000 – 4000]
FTEs Reduction		-[700 – 800]	-[700 – 800]	

5.5.3 Within one month after the appointment of the Monitoring Trustee, Banco CEISS shall identify those branches that it will close and inform the Monitoring Trustee accordingly.

5.6 Subsidiaries Portfolio Divestment

5.6.1 Unlisted subsidiaries and/or other equity holdings: Banco CEISS commits to sell the portfolio of unlisted companies set out in Appendix II by **[…]**. In particular BANCO CEISS will sell the portfolio under the following divestment calendar:

a) BANCO CEISS will at least divest in accumulative terms [0 – 40]% of the book value of subsidiaries and equity holdings in […], [40 – 70]% in […], [70 – 100]% in […] and [70 – 100]% in […].

5.7 Activities of the Combined Entity in the Core Regions

Banco CEISS shall operate as a commercial retail bank primarily focused on the regions in which it already has a presence. Consequently, Banco CEISS shall not engage in any new business during the Restructuring Period in the investment and corporate banking activities, including, among others, specialised lending related to residential real estate, commercial real estate and commodities, M&A advisory, equity underwriting, equity and debt trading,

[25] Branches plus Service Locations

speculative derivatives, volatility book or positions in currencies (other than client and Banco CEISS' balance hedges).

5.8 Principles which apply to the branches to be closed

5.8.1 Limitation on new lending

a) Contractually committed but not yet paid-out amounts to be limited to the strict minimum.

b) No additional financing to existing customers which is not contractually committed except when it is strictly necessary to preserve the value of the loan collateral, or otherwise related to minimising capital losses and/or enhancing the expected recovery value of a loan.

c) No additional financing to new customers which is not contractually committed except that if the balance of the loan exceeds the value of the property, the branch may facilitate the loan's redemption through selling off the property by way of providing additional finance to a vendor enabling the repayment of the outstanding balance, provided that the branch complies with "management of existing assets" paragraph below.

5.8.2 Management of existing assets: The branches will manage existing assets in a way that maximises NPV of the assets. Specifically, if a client cannot respect the terms of his loan, the branch will only restructure the lending terms (deferral or partial waiver of repayments, conversion of (part of) the claim in capital, etc.) if such a restructuring would lead to enhancing the present value of the loan. As regards mortgage loans this principle also applies. In particular, the branch will be allowed to restructure its mortgage assets via the following variations to the terms of existing mortgages: (a) a change of deal (e.g., by offering a new fixed rate); (b) transferring existing mortgages to new properties; (c) transferring equity (e.g., adding a borrower to the mortgage or removing one); or (d) as otherwise obliged by any law or regulations.

5.8.3 Limitation on new deposits: branches to be closed will not collect deposits from new customers. No limitation will apply until 3 months before the closing of each branch. Deposits of these branches to be closed in […] will be capped to the level of EUR [0 – 5] billion.

5.8.4 Limitation on transactional products: Branches to be closed may provide transactional products (i.e., current accounts, transactions, cards, payments, etc.) to any existing customer (i.e. current accounts, transactions, cards, payments, etc.). For new depositors, basic transactional products (current and deposit accounts, cards, payments) can be provided until 3 months before the closing of each branch.

6. BURDEN SHARING MEASURES ON SUBORDINATED DEBT AND PREFERENCE SHARES HOLDERS

6.1 Key principles

6.2 By performing a mandatory subordinated liability exercise Banco CEISS commits to generate EUR […] billion (net of tax effect) of Core Tier 1 capital through the issuance of capital or capital equivalent instruments and/or the retention of the profits generated as consequence of the exercises no later than 15 July 2013.

6.3 Key principles for mandatory subordinated liability exercises

6.3.1 For holders of preference shares and perpetual subordinated debt, burden sharing will be implemented through conversion of these securities into equity. Temporarily, holders of hybrid instruments issued to retail customers could be given necessarily convertible debt of Banco CEISS whilst holders of hybrid instruments issued to qualified clients will receive shares. The price of conversion of the necessarily convertible debt into shares should allow to limit the stake of the hybrid instrument holders up to 50% in Banco CEISS.

6.3.2 […]

6.3.3 Calculation of the fair value of the different financial instruments subject to burden sharing will be based on the net present value ("NPV") of the instruments according to the methodology set out below.

6.3.4 Consequently, as a result of the burden sharing there will be no cash outflow from BANCO CEISS to the holders of these securities with the sole exception of the holders of dated subordinated debt instrument who decide to convert into new debt securities with the maturity matching that of the subordinated debt being exchanged.

6.3.5 A list of all outstanding preference shares and subordinated debt instruments is set out in Appendix III.

6.4 Methodology for the conversion into capital

6.4.1 For each financial instrument the NPV will be calculated by way of discounting the cash flows of the instrument ("DCM") according to the terms and conditions upon which the instrument was issued, including coupon suspension, deferrals, etc.

6.4.2 The discount factors to be applied to the DCM will be: a) 20% for preference shares and other instruments of the same rank, b) 15% for perpetual subordinated instruments and c) 10% for dated subordinated instruments.

6.4.3 Should coupon payments be discretionary or linked to the profitability of the BANCO CEISS, it will be assumed, for the purpose of the NPV calculation, that no coupon payment will take place for the years that BANCO CEISS is not profit-making, according to the Restructuring Plan submitted by the Spanish authorities in the context of the Decision.

6.4.4 The NPV will be augmented by a take-up premium of 10% and a further 20% premium for those securities for which conversion into equity or equity-like instruments of the issuing institution is envisaged.

6.4.5 The conversion rate will be maximum 90% of the face value.

6.5 Specific provision for dated subordinated debt

6.5.1 The holders of this type of security will be offered the choice between:

a) Conversion into a new senior debt instrument with a maturity matching that of the subordinated debt being exchanged. The conversion rate will be equal to the nominal value of the subordinated debt instrument, minus a haircut that will be equal to 1.5% multiplied by the number of months to maturity. The starting date for the calculation of the number of months will be 1 December 2012. The new senior debt instrument will have a zero-coupon until maturity; and

b) Conversion into core capital of the Banco CEISS. The conversion rate to be applied will be the higher of: i) the amount resulting from the methodology for the conversion into core capital as described in clause 6.3 above and ii) the amount resulting from the calculation in point a) above.

6.6 Shareholder's compositions after the SLE:

6.6.1 After the execution of the mandatory SLE, for the minimum amount of time possible the former holders of preference shares, perpetual and dated subordinated debt will have a stake of 100% in BANCO CEISS.

7. UNICAJA'S EXCHANGE OFFER

7.1 After the mandatory SLE, Unicaja Banco or Unicaja shall submit a public exchange offer in favour of the current holders of hybrid instruments of Banco CEISS (preference shares and subordinated debt) in order to acquire up to 100% of these instruments of Banco CEISS, under the following terms and conditions, provided that the preceptive authorizations, particularly, that of the CNMV, are received:

i. Consideration:

a) For the institutional holders of hybrid instruments of Banco CEISS, shares in Unicaja Banco. Such holders account for approximately 30% of the total nominal value of the hybrid instruments of Banco CEISS;

b) And for the retail holders of hybrid instruments of Banco CEISS, a mix of two types of instruments, computable as CT1, issued by Unicaja Banco: (i) CoCos (contingent convertible instruments) and (ii) necessarily convertible instruments. The overall value of all the instruments offered (in the event of the total conversion into shares upon the total acceptance of the offer) shall be set at the equivalent value in Unicaja Banco share capital of between 20% and 30% (according to the Joint Business Plan, the most probable scenario would amount to 25%). In the event of partial conversion, these percentages would be adjusted proportionally. This is without prejudice to the fact that the corresponding requirements should be met concerning the issue of an independent expert report together with any requirements of a mercantile or regulatory (CNMV) nature which may be requisite as a result of the public exchange offer, although in order to complete the transaction, in no event may the total value of the shares exchanged represent a percentage higher than that indicated at inception and in the future.

ii. Conditions: acceptance of the offer enabling the Unicaja Group to obtain a minimum of 75% of the share capital of Banco CEISS and of the overall value of the present hybrid instruments of Banco CEISS (preference shares and subordinated debt), which as a result of the SLE, are converted into shares or CoCos of Banco Ceiss.

iii. The public exchange offer in favour of current holders of hybrid instruments of Banco CEISS (preference shares and subordinated debt) shall be made to each shareholder for the total of their shares in Banco CEISS. Therefore, the Offer shall be an acquisition offer on Banco CEISS, instead of an integration process with it.

iv. Guarantee that a result of the Offer in no event shall the FROB be a shareholders of Unicaja Banco.

v. One of the conditions of the public exchange offer is that those that accept it shall waive any type of claim or the commencement of any proceedings, in or out of court, in the future against CEISS and/or Banco CEISS and/or against Unicaja Banco and/or Unicaja.

a) As a result of the exchange offered by the latter,

b) As a result of the processing of actions relating to Subordinated Liability Exercises (SLE) carried out by FROB prior to the taking of control of Banco CEISS by Unicaja Banco or Unicaja,

c) And as a result of the potentially inadequate marketing/sale of the hybrid equity and debt instruments by Banco CEISS and/or CEISS.

vi. If, as a consequence of errors in the categorization, in the perimeter or in the valuation of the assets transferred to SAREB, their transfer price was adjusted according to the rules included in clauses 7.6 to 7.10 of the agreement of transfer of assets signed on 25 February 2013 between SAREB of the one part and CEISS and its real estate subsidiaries of the other part, the FROB will compensate CEISS for the negative effect which could arise from the aforementioned adjustments in excess of € 40 M. and with a maximum amount of compensation of €200 M.

vii. The Offer is subject to the obtainment of any administrative authorisations and clearance that may be required on a national and international level, as appropriate (Ministry of Finance, Bank of Spain, National Anti-Trust Commission, National Securities Market Commission, Directorate General for Taxation, external auditors, among others, and the approval of the entities' governing bodies). Prior to the implementation of the Offer, the Restructuring Plan of Banco CEISS (rationalization of activities and functional restructuring of branch office networks and employees) will have a solid binding agreement and have to be approved by all competent parties (inter alia, Governing Bodies of Banco CEISS and if necessary Junta de Castilla y Leon and Ministerio de Empleo y Seguridad Social).

7.2 The amounts relating to the SLE of those hybrid holders that accept the Offer would be closed to any arbitration process or any other procedure as set out in Section 7.1 v) above. The effects of any arbitration or court proceedings over the rest of the hybrid holders that do not accept the Offer shall not be able to decrease the generated capital under the EUR […] billion aforementioned.

8. PROVISIONS IN THE EVENT THAT THE OFFER IS NOT ACCEPTED

8.1 Holders of preference shares, perpetual and dated subordinated debt conduct the burden sharing exercise in line with Section 6 of this Term Sheet.

8.2 Cocos injected as FROB III (described in section 9) would be converted into shares at a price that enables the dilution of all the holders of preferential shares, perpetual subordinated and dated subordinated (hybrids) down to 50% of the stake in Banco CEISS.

8.3 The trigger of conversion of the necessarily convertible debt mentioned in sections 6.2.1 and 6.2.2. will be activated and those securities would be immediately converted into shares. The holders of securities subject to burden sharing will receive an equity stake in BANCO CEISS in the form of new ordinary shares according to sections 6.2.1, 6.2.2 and 8.2. above of up to 50%.

8.4 Should Unicaja's Offer be successful, the necessarily convertible debt of CEISS of those hybrid holders that do not accept the Offer, will remain as necessarily convertible debt, unless in the final regulatory framework of Basel III, those instruments would not be considered as core capital. In that case those necessarily convertible debt will be converted into shares when the new regulation comes into force.

9. PUBLIC CAPITAL INJECTION

9.1 After the transfer of assets to SAREB ("the AMC") and before the implementation of the burden sharing measures described above, Banco CEISS will receive a capital injection through the issuance of contingent convertible securities ("the CoCos"), in the amount of EUR 604 million to be solely subscribed by the FROB in accordance with the term sheet attached hereto as Appendix IV.

9.2 Banco CEISS, in the first instance, and the Combined Entity *t ultimately*, to the extent that Banco CEISS is not capable of doing so, shall aim at repaying the CoCos in full within a maximum term of 5 years from the date of their issuance. Furthermore, CoCos will be repurchased according to the following way

a) For the fiscal year […] and […]:[…]% of the excess regulatory capital, at consolidated level, above the applicable minimum capital requirements in 2016 under European (8,625%, including Basel III / CRD IV […]) and Spanish law (CBE 3/2008 and CBE 7/2012), plus a capital buffer of […]basis points.

b) For the fiscal year […]:[…]% of the excess regulatory capital, at consolidated level, above the applicable minimum capital requirements in 2019 under European (10,5%, including Basel III / CRD IV […]) and Spanish law (CBE 3/2008 and CBE 7/2012).

c) For the following fiscal years: […]% of the excess regulatory capital, at consolidated level, above the applicable minimum capital requirements in 2019 under European (10,5%, including Basel III / CRD IV w[…]) and Spanish law (CBE 3/2008 and CBE 7/2012), plus a capital buffer of […] basis points.

9.3 With regards to section 9.2, the repurchase of the CoCos will occur during the fiscal year following the fiscal year used as a reference for the calculation of the excess regulatory capital. This calculation will be carried out once the financial statements of the fiscal year used as a reference are closed, and will then be undertaken without delay.

9.4 Without prejudice to the competences of the Bank of Spain as the banking supervisor of Banco CEISS, the repurchase of the CoCos shall be, totally or partially, suspended if, on the basis of a reasoned request by Banco CEISS [for instance, the regulatory framework be significantly modified and/or should the actual economic situation be significantly worse than the one forecast in the Business Plan] endorsed by the Commission Services based on an opinion of the Monitoring Trustee, it is considered that it would endanger the solvency position of the bank in the following years.

9.5 If there is doubt on the capacity to repay the CoCos within the maximum term of 5 years from the date of their issuance, the Monitoring Trustee can request remedial actions in order to free up capital of Banco CEISS.

9.6 If the conversion occurs in accordance with the term sheet attached as Appendix IV, the holders of the CoCos (described in section 9.1) will receive shares of Banco CEISS.

10. BEHAVIOURAL MEASURES AND CORPORATE GOVERNANCE

10.1 Ban on acquisitions

Banco CEISS will not acquire any stake in any undertaking. This covers both undertaking which have the legal form of a company and also packages of assets which form is a business.

This does not apply to acquisitions that must be made in order to maintain financial and/or association related stability, or in the interests of effective competition, provided they have been approved beforehand by the Commission in a service letter. This does not apply either to acquisitions that belong, in terms of the management of existing obligations of customers in financial difficulty, to a bank's normal on-going business. The obligation is to apply until the Restructuring Period ends.

Banco CEISS may acquire stakes in undertakings provided that the price paid by Banco CEISS for any acquisition is less than […]% of the balance sheet size of Banco CEISS at the date of this Decision and that the cumulative purchase prices paid by Banco CEISS for all such acquisitions over the whole Restructuring Period is less than […]% of the balance sheet size of Banco CEISS at the date of the Decision.

10.2 Ban on Coupon

Until the burden sharing measures provided for in section 6 of this Term Sheet will have been implemented Banco CEISS will not make any payments to holders of preference shares and subordinated debt instruments in so far as those payments are not owed on the basis of a contract or the law.

10.3 Dividend restriction

Until the CoCos have been repurchased in full from the FROB:

a) Banco CEISS shall not pay out annual dividends in excess of […]% of its annual distributable profits.

b) Unicaja Banco will not pay out annual dividends in excess of […]% of its annual distributable profit until the Combined Entity becomes publicly traded, and in excess of […]% once the Combined Entity becomes publicly traded. If, as a consequence of a payout higher than […]%, and exclusively for this specific reason, the estimated annual amount of CoCos to be repaid is not achieved, the actual available excess capital to be used to repay the CoCos will be increased by the amount resulting of the difference between the […]% forecast and the percentage actually paid, provided that the statutory regulatory capital ratios are always met.

   The rules described in section 9.2 to determine the minimum required capital will be modified to reduce the trigger capital above which CoCos are repaid. Such reduction (in basis points) of the minimum required capital will be carried over to the following years.

10.4 Ban on Advertising

The Combined entity must not use the granting of the aid measures or any advantages arising there from for advertising purposes.

10.5 Remuneration of bodies, employees and essential agents

The Spanish Authorities undertake to ensure that Banco CEISS meets the legislation applicable at the time in all salary and compensation matters, especially regulation related to remuneration limits applicable to credit institutions (primarily currently regulated by Spanish law through Royal Decrees Law 2-2012 of February 3rd and 3-2012 of February 11th; RD 771/2011 of June 3rd; Orden ECC/1762/2012 of August 3rd and Bank of Spain Circular 4/2011 of November 30th). Likewise, it commits to ensure that Banco CEISS complies scrupulously with the conditions specifically imposed by the European Commission in this subject within the EU framework for State aid.
The Spanish Authorities also undertake to ensure the most efficient use of public resources, regarding compensation and salaries issues, as inspiring principle of RDL 24/2012 of August 31st, on restructuring and resolution of banks. Therefore, it will oversee that the restructuring process is very demanding, seeking that severance pays approach to the legal minimum, but with some flexibility to avoid delaying the process; it will also assess, if appropriate, to propose general and personnel expenses reductions in Banco CEISS if: the actual net margin at the end of each year is 20% below the projected target; or the actual pre-provision profit at the end of each year is 25% below the projected target; and always when losses are reported in the income statements at the end of each year or the entity do not comply with minimum solvency regulatory requirements on the same date.

10.6 Listing of the Combined Entity

The Combined Entity shall present a credible timeline by June 2014 in order to become publicly traded no later than 31.12.2016.

10.7 Ban on commercial aggressive practices

The Combined entity shall avoid engaging in aggressive commercial practices in the Core Regions throughout the duration of the Restructuring Period.

11. MONITORING TRUSTEE

11.1 Spain is to ensure that the full and correct implementation of the Restructuring Plan and the full and correct implementation of all Commitments within this Term Sheet are continuously monitored by an independent, sufficiently qualified Monitoring Trustee (who is obliged to maintain confidentiality).

11.2 The appointment, duties, obligations and discharge of the Monitoring Trustee must follow the procedures set out in the "Monitoring Trustee" Appendix V.

11.3 Spain and Banco CEISS are to ensure that, during the implementation of the Decision, the Commission or the Monitoring Trustee have unrestricted access to all information needed to monitor the implementation of this Decision. The Commission or the Monitoring Trustee may ask Banco CEISS for explanations and clarifications. Spain and Banco CEISS are to cooperate fully with the Commission and the Monitoring Trustee with regard to all enquiries associated with monitoring of the implementation of this Decision.

Appendix I - Holdings on listed companies to be divested

Appendix II - Holdings on unlisted companies to be divested

[…]

Appendix III - List of hybrid capital issues

Emission	Date of emission	Maturity	Balance	Interest rate (%)
Preferred shares	29/12/2003	Perpetual	48,1	3,3%
Preferred shares	11/11/2004	Perpetual	112	5,2%
Preferred shares	19/05/2009	Perpetual	200	8,3%
Preferred shares	25/05/2009	Perpetual	100	9,2%
Preferred shares	29/10/2010	29/10/2015	525	8,1%
Subordinated Debt	30/10/2008	29/12/2018	16,6	1,9%
Subordinated Debt	30/06/2005	30/06/2015	147,4	2,3%
Subordinated Debt	07/12/2005	07/12/2015	96,2	2,4%
Subordinated Debt	28/08/2008	28/08/2018	200	7,5%
Subordinated Debt	19/12/2008	19/12/2018	124,7	5,4%
Subordinated Debt	30/06/2009	28/09/2019	200	5,5%
Subordinated Debt	23/02/2010	23/02/2020	98,7	5,9%
Subordinated Debt	29/06/2010	29/06/2020	83,3	3,5%
Subordinated Debt	21/06/1990	Perpetual	6,6	0,0%
Total			1.958,5	

Appendix IV – Term Sheet of the CoCos to be injected by the FROB

Terms and Conditions of the capital injection of contingent convertible securities (“CoCos”) to be subscribed by the FROB in Banco CEISS[26]

1. Emisor:	Banco CEISS, S.A.
2. Suscriptor:	Fondo de Reestructuración Ordenada Bancaria (“FROB”).
3. Base normativa:	Ley 9/2012, de reestructuración y resolución de entidades de crédito / Ley 13/1985 / Ley de Sociedades de Capital
4. Finalidad:	Apoyo financiero en el marco de lo dispuesto en la Ley 9/2012.
5. Importe total de la emisión:	Hasta un total de EUR 604 millones.
6. Instrumento:	Obligaciones contingentemente convertibles en acciones de nuevaemisión (“Cocos”).
7. Valor nominal unitario:	El valor nominal EUR 100 000
8. Precio de emisión:	Emisión a la par
9. Fecha de desembolso:	Los Cocos se desembolsarán el 30 abril de 2013.
10. Vencimiento:	Salvo que previamente se hayan recomprado y amortizado o bien se hayan convertido, los instrumentos tienen carácter perpetuo, sin que tengan una fecha de amortización.
11. Compromiso de recompra y amortización anticipada:	Conforme a lo establecido en la Ley 9/2012, el emisor deberá recomprar o amortizar los títulos suscritos por el FROB tan pronto como esté en condiciones de hacerlo en los términos comprometidos en el plan de reestructuración. El emisor reembolsará los instrumentos a su valor nominal,junto con la remuneración devengada no satisfecha.
12. Representación:	Anotaciones en cuenta o títulos físicos
13. Remuneración:	La remuneración será fija, del 8,5% anual, con incrementos anuales en las siguientes condiciones, mientras el FROB sea el tenedor de los instrumentos: a) La remuneración se incrementará en 25 puntos básicos tras el primer aniversario de la suscripción por el FROB (2º año) b) A partir del segundo aniversario (3er año) de la suscripción por el FROB, la remuneración se incrementará anualmente en 50 puntos básicos
14. Periodos de remuneración:	[…]
15.Devengo de laremuneración:	(i) No discrecional, predeterminada, de carácter noacumulativo. (ii) El devengo de la remuneración en efectivo estará condicionado en todo caso a: La existencia de elementos distribuibles, entendidos como la suma de beneficios y reservasdistribuibles. El cumplimiento de los requerimientos de recursospropios de acuerdo con la normativa aplicable en cada momento. (iii) Adicionalmente, el Banco de España podrá exigir lacancelación del pago en efectivo de la remuneraciónbasándose en la situación financiera y de solvencia de la entidad o su grupo consolidable. (iv) En caso de decisión de no pago en efectivo de laremuneración fija por cualquiera de las razones mencionadas anteriormente, y mientras el FROB sea el tenedor de los valores, la entidad abonará al FROB laremuneración mediante la entrega de un volumen de CoCoso acciones de la entidad

[26] As established in the resolution of the FROB of 30 July 2012

	equivalente, en valor económico, alimporte de la remuneración que debiera haberse abonado.
16. Fechas de pago de la remuneración:	Al final de cada periodo de remuneración.
17. Supuestos de conversión obligatoria a instancia del FROB:	El FROB podrá solicitar instar la conversión de los Cocos en acciones ordinarias del emisor en los supuestos establecidos en la Ley 9/2012.
18. Supuestos de conversión automática:	[…]
19. Comunicación de laocurrencia del evento deconversión:	[…]
20. Relación de conversión ydeterminación del valoreconómico:	a) Mientras el FROB sea el tenedor de los instrumentos, larelación de conversión será variable. En este caso, ladeterminación de la relación de conversión se realizarátomando el valor nominal de los CoCos y aplicando undescuento al valor de mercado de las acciones de la entidad emisora en el momento de la conversión, de conformidadcon las directrices de la Unión Europea aplicables. A estosefectos, con carácter previo a la conversión, se solicitaráautorización a la Comisión Europea para garantizar lacompatibilidad de la relación de conversión con la normativade ayudas de Estado de la Unión Europea. El valor demercado de las acciones de la entidad se determinará deacuerdo con el valor económico de la entidad emisora en esemomento, de conformidad con lo dispuesto en la Ley 9/2012y los criterios establecidos por la Comisión Europea. En elcaso de que, a raíz de la valoración del emisor en la fecha deconversión, al FROB debiera corresponderle un porcentajedel capital del emisor que no pueda alcanzarse medianteuna operación mercantil de reducción y ampliación decapital, los accionistas significativos de la entidad secomprometen a transmitir al FROB, a cambio de un preciosimbólico y en función de su % de participación en el capital,un número de acciones tal que permitan que el FROBalcance la participación en el capital que le corresponderíaconforme a la valoración económica efectuada. b) En el caso de que, en la fecha de conversión, lostenedores de los CoCos fueran terceros ajenos al FROB, laecuación de canje se definirá de acuerdo con los estándaresde mercado para instrumentos similares de tal forma que losinstrumentos mantengan su calificación regulatoria(ecuación de canje fija o con rango de conversión).
21. Conversiónparcial	Permitida en caso de ocurrencia del “evento contingente”señalado en el punto 19 anterior por un importe tal quepermite alcanzar el nivel de solvencia allí estipulado(5,125% o el que resulte).
22.Orden de prelación:	Por detrás de todos los acreedores, subordinados o no; Por detrás de los tenedores de participaciones preferentesy/o acciones preferentes; En el mismo orden de prelación(*paripassu*) que las demás emisiones de participacionespreferentes convertibles u otros valores convertiblesequiparables a éstos; Por delante de los accionistas ordinarios.
23. Admisión a negociación:	No. Aunque se contemplará expresamente la posibilidad desolicitar su admisión a negociación en cualquier momentomientras el FROB sea el tenedor de los instrumentos.

24. Sindicato de titulares:	En caso de transmisión a terceros, se constituirá el sindicatode titulares cuyo funcionamiento quedará regulado en laescritura de emisión. Mientras el FROB sea el único tenedor,gozará de todas las facultades que legalmente correspondenal sindicato de obligacionistas.
25.Derechos de voto:	Los Cocos no tendrán derechos de voto
26. Transmisibilidad:	Sí.
27.Derechos de suscripción preferente:	No.
28. Tratamientoregulatorio:	Computan ilimitadamente como recursos propios básicos de acuerdo con la Circular 3/2008 e ilimitadamente como capital principal conforme al RDL 2/2011.

Appendix V - Monitoring Trustee

(A) Appointment of the Monitoring Trustee

(i) Spain undertakes to ensure that Banco CEISS appoints a Monitoring Trustee to carry out the duties of a Monitoring Trustee, as set out in paragraph C below. The mandate of the Monitoring Trustee applies to the entire duration of the Restructuring Plan. At the end of the mandate, the Trustee shall submit a final report to the European Commission.

(ii) The Trustee must be independent of Banco CEISS. The Trustee must possess, for example, as an investment bank, consultant or auditor, the specialized knowledge that is required in order to carry out its mandate as described here below, and must at no time be exposed to any conflict of interest. The Trustee is to be remunerated by Banco CEISS in a way that must not impede the independent and effective fulfillment of its mandate.

(iii) Spain undertakes to ensure that Banco CEISS submits the names of two or more persons to the Commission for approval as Monitoring Trustee no later than four weeks after notification of the Decision.

(iv) These proposals must contain sufficient information about those persons to enable the Commission to verify whether the proposed Monitoring Trustee fulfills the requirements set out in paragraph A(ii), and must in particular include the following:

(a) the full terms of the proposed mandate with all the provisions which are necessary to enable the Monitoring Trustee to fulfill its duties; and

(b) the draft of a work plan describing how the Monitoring Trustee intends to carry out its assigned duties.

(v) The Commission has the discretion to approve or reject the proposed Trustees and to approve the proposed mandate subject to any modifications that it deems necessary in order to enable the Trustee to fulfill its obligations. If only one name is approved, Banco CEISS will appoint the person or institution concerned as Monitoring Trustee or cause that person or institution to be appointed, in accordance with the mandate approved by the Commission. If more than one name is approved, Banco CEISS is free to decide which of the approved persons should be appointed as Trustee. The Trustee will be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

(vi) If all the proposed Monitoring Trustees are rejected, Spain undertakes to ensure that Banco CEISS submits the names of at least two further persons or institutions within two weeks of being informed of the rejection, in accordance with the requirements and procedure set out in paragraphs A(i) and A(iv).

(vii) If all further proposed Monitoring Trustees are also rejected by the Commission, the Commission will nominate a Monitoring Trustee which Banco CEISS will appoint or cause to be appointed, in accordance with a Trustee mandate approved by the Commission.

(B) General duties and obligations

(viii) The Monitoring Trustee is to assist the Commission to ensure Banco CEISS compliance with the Commitments and to assume the duties of a Monitoring Trustee specified in the Commitments document. The Trustee is to carry out the duties under this mandate in accordance with the work plan, as well as revisions of the work plan that have been approved by the Commission. The Commission may, on its own initiative or at the request of the Monitoring Trustee or Banco CEISS, issue orders or instructions to the Trustee in order to ensure compliance with the Commitments. Banco CEISS is not entitled to issue instructions to the Trustee.

(C) Duties and obligations of the Trustee

(ix) The duty of the Trustee is to guarantee full and correct compliance with the obligations set out in the Commitments, and full and correct implementation of Banco CEISS's Restructuring Plan. The Commission may, on its own initiative or at the request of the Monitoring Trustee, issue any orders or instructions to the Monitoring Trustee or Banco CEISS in order to ensure compliance with the Commitments attached to the Decision.

(x) The Monitoring Trustee:

(a) is to propose to the Commission in its first report a detailed work plan describing how it intends to monitor compliance with the Commitments attached to the Decision;

(b) is to monitor the full and correct implementation of Banco CEISS's Restructuring Plan.

(c) is to assume the other functions assigned to the Trustee in the Commitments attached to the Decision;

(d) is to propose measures to Banco CEISS that it considers necessary to ensure that Banco CEISS fulfills the Commitments attached to the Decision; and

(e) is to take into account any regulatory changes on solvency and liquidity when verifying the evolution of the actual financials with respect to the projections made in the Restructuring Plan.

(f) is to submit a draft written report to the Commission, Spain and Banco CEISS within thirty days after the end of each six-month period. The Commission, Spain and Banco CEISS can submit comments on the draft within five working days. Within five working days of receipt of the comments, the Trustee is to prepare a final report, incorporating the comments as far as possible and at its discretion, and submit it to the Commission and to the pertinent Spanish Authorities. Only afterwards the Trustee is also to send a copy of the final report to Spain and Banco CEISS. If the draft report or the final report contains any information that may not be disclosed to Banco CEISS, only a non-confidential version of the draft report or the final report is to be sent to Banco CEISS. Under no circumstances is the Trustee to submit any version of the report to Spain and/or Banco CEISS before submitting it to the Commission.

The report is to focus on the duties set out in the mandate by the Trustee and compliance with the obligations by Banco CEISS, thus enabling the Commission to assess whether Banco CEISS is being managed in accordance with the obligations. If necessary, the Commission may specify the scope of the report in more detail. In addition to these reports, the Trustee is to report promptly in writing to the Commission if it has reasons to suppose that Banco CEISS is failing to comply with these obligations, sending a non-confidential version to Banco CEISS at the same time.

(D) Duties and obligations of Banco CEISS

(xi) Banco CEISS is to provide and to require its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks under this mandate. The Trustee is to have unrestricted access to any books, records, documents, management or other personnel, facilities, sites and technical information of Banco CEISS or of the business to be sold that are necessary to fulfill its duties under the mandate. Banco CEISS is to make available to the Trustee one or more offices at its business premises and all employees of Banco CEISS are to be available for meetings with the Trustee in order to provide it with all the information it needs to perform its duties.

(xii) Subject to Banco CEISS' approval (this approval may not to be unreasonably withheld or delayed) and at its expense, the Trustee may appoint advisors (in particular for corporate finance or legal advice), if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the mandate, provided that any costs and other expenses incurred by the Trustee are reasonable. Should Banco CEISS refuse to approve the advisors proposed by the Trustee, the Commission may approve their appointment instead, after hearing Banco CEISS' reasons. Only the Trustee is entitled to issue instructions to the advisors.

(E) Replacement, discharge and reappointment of the Trustee

(xiii) If the Trustee terminates its functions under the Commitments or if there are any other significant grounds, such as a conflict of interest on the part of the Trustee:

(a) the Commission can, after hearing the Trustee, require Banco CEISS to replace it, or

(b) Banco CEISS, with the approval of the Commission, can replace the Trustee.

(xiv) If the Trustee is removed in accordance with paragraph E(xiii), it may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full handover of all relevant information. The new Trustee is to be appointed in accordance with the procedure referred to in paragraphs A(i) to A(vi).

(xv) Besides removal in accordance with paragraph E(xiii), the Trustee is to cease its activities only after the Commission has discharged it from its duties. This discharge is to take place when all the obligations with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Trustee if it is subsequently found that the relevant remedies have not been fully and properly implemented.