EUROPEAN COMMISSION

Brussels, 20.12.2012
C(2012) 9830 final

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 n° SA.35489 (2012/N) – Spain
Restructuring of Banco Grupo Cajatres, S.A

Sir,

1 PROCEDURE

(1) 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 with the objective of increasing the long-term resilience of the Spanish banking sector.

(2) The MoU sets out a strict timeline[1] to recapitalise and restructure credit institutions that will reveal a capital need according to the bottom-up stress test and asset quality review conducted by an independent consultant, Oliver Wyman, in the context of the MoU ("**the MoU Stress Test**"). Banks with capital shortfalls identified by the MoU Stress Test and unable to meet those capital

[1] On the basis of the stress test results and the recapitalisations plans, the Spanish banks are 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).

Excmo. Sr. D. José Manuel García-Margallo y Marfil
Ministro de Asuntos Exteriores y de Cooperación
Plaza de la Provincia 1
E-28012 MADRID

shortfalls privately without having recourse to State aid will be classified in Group 2. The MoU indicates that the Fondo de Reestructuración Ordenanda Bancaria ("**the FROB**")[2] will only provide further financial support once individual restructuring plans have been approved by the Commission. For the Group 2 banks, the restructuring plans will need to be presented on time to allow the Commission to approve them by December 2012.

(3) On 31 October 2012, the Bank of Spain ("**BoS**") announced[3] that Banco Grupo Cajatres, S.A. ("**Cajatres**") is expected to resort to public support within the framework of its capitalisation processes, thereby classifying Cajatres in Group 2 of the MoU stress test results.

(4) On 19 October 2012, the Spanish authorities submitted an outline of the restructuring plan for Cajatres to the Commission, which was discussed in a number of meetings and conference calls. Additional information exchanges took place frequently.

(5) On 12 December 2012, Spain notified the final content of the restructuring plan ("**the Restructuring Plan**"), including the final figures pertaining to the size, composition and valuation of the assets and credit portfolio to be transferred to an Asset Management Company ("**AMC**") in the context of an impaired assets measure. With regards to issues pertaining to the asset valuation methodologies employed in the context of the impaired asset measure, the Commission has drawn on technical assistance provided by independent experts.

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

2 DESCRIPTION OF THE MEASURE

2.1 The beneficiary

(7) Cajatres was created in December 2010 through an Institutional Protection Scheme (IPS) set up by three savings banks (cajas de ahorros)4 holding the following stakes: Caja Badajoz (29%), Caja Círculo de Burgos (29.75%) and Caja Inmaculada de Aragón (41.25%).

(8) In December 2011, all the assets and liabilities of the three saving banks were transferred to Cajatres, with the exception of those assets attached to each of the savings banks' social activities (obra benéfico social, "OBS"). Since 1 January 2012, Cajatres is therefore operating with a business profile based on retail banking located in its traditional geographical areas: Aragon, Burgos and Badajoz ("**the strategic area**").

(9) Cajatres is the sole beneficiary for the purposes of the Decision.

---

2 The FROB was established, in the context of the financial crisis, to provide public support for the consolidation of the Spanish banking sector. After the enactment of Royal Decree Law 24/2012 (Law 9/2012), the FROB has been entrusted with the management of the restructuring and resolution proceedings of Spanish credit institutions. For this purpose, it may provide public support to distressed institutions. The FROB funds are contributed by the State Budget. Additionally, the FROB may obtain other funding (via issuance of securities, loans, credits or other debt transactions) up to the limit annually established in the State Budget. The maximum for 2012 amounts to EUR 120 billion.

3 Ref. Bank of Spain Press Release, 31 October 2012, http://www.bde.es/f/webbde/SSICOM/20121031/presbe2012_49e.pdf

4 Cajas de Ahorros are credit institutions that have no shareholders, but instead are governed by their members. Their legal form is a private charity that holds a banking license and is entitled to provide banking services as commercial or cooperative banks do. Profits are partially used to strengthen their capital and the remainder is used to fund the social activities that each caja de ahorros carries out through its OBS.

(10) The key financial indicators for Cajatres are:

Table 1: Cajatres' main financial figures

CAJA3 KEY INDICATORS AS OF 30.09.2012 (€M)	
Structure	
National market share of loans	[0-5]*%
National market share of deposits	[0-5]%
Branches	578
Employees	[2 000-3 000]
Total assets	20.492
Solvency	
RWAs[5]	[10 000-15 000]
EBA CT1	[900-1 500]
EBA CT1 Ratio	[5-10]%
Existing financial support from FROB	0
Estimated future financial support from FROB	407

2.2 The events triggering the measures

(11) On 28 September 2012, the results of the MoU Stress Test[6] revealed that Cajatres had a capital shortfall of EUR 779 million under the adverse scenario and EUR 188 million in the base case for the three-year time horizon (2012-2014) of that exercise. Capital shortfall in the adverse scenario amount to 6.1% risk weighted assets ("**RWA**") as of 31 December 2011.

(12) Cajatres faces operational challenges stemming mainly from the expansion undergone by the three founding savings banks between 2002 and 2008. That expansion has inter alia resulted in high exposure to the real estate and development ("RED") sector with an overall exposure to the RED sector of 27.5% of its balance sheet on 31 December 2011. Its exposure is much higher than the Spanish banking system as a whole, where the average exposure to RED is 14.9%[7]. The credit quality of Cajatres' RED was also worse than the Spanish banking system as a whole with 45.9% of expected losses compared to average projected losses of 42.8%.

(13) Cajatres is currently rated by Fitch as BB+ long-term and B short-term (non-investment grade).

2.3 The merger with Ibercaja

(14) Founded in 1876 and based in Zaragoza, IbercajaBanco S.A.U. ("**Ibercaja**") is a Spanish bank involved in banking, insurance, pension and asset management activities. Ibercaja operates as a 100% subsidiary of Caja de Ahorros y Monte de Piedad de Zaragoza, Aragón y Rioja.

(15) With EUR 46 billion in assets as of 30 September 2012, Ibercaja is Spain's 13th largest bank. It has more than 2 million customers, a network of 1 052 branches and [4000-5000] employees as of September 2012. Its market share is [0-5]% in loans and [0-5]% in deposits at national level.

---

* Business Secret

5 Risk Weighted Assets ("RWA") and European Banking Authority ("EBA") Core Tier 1 ("CT1") have been calculated as of 30.06.2012.

6 Ref. Oliver Wyman report, Asset Quality Review and Bottom-up Stress test exercise, 28 September 2012, http://www.bde.es/bde/en/secciones/prensa/infointeres/reestructuracion/

7 Ref. Oliver Wyman report, Asset Quality Review and Bottom-up Stress test exercise, 28 September 2012, Figure 9.

(16) Geographically, Ibercaja is particularly strong in Aragón, Rioja and Guadalajara, although it is also present throughout Spain. In Madrid, Ibercaja operates a distribution network with 194 branches.

(17) Ibercaja has shown resilient pre-impairment income (+92.50% year-on-year as of September 2012), despite the crisis of the Spanish banking sector. As of September 2012, its Tier1 capital ratio under Basel II rules was [10-20]%, while its total Basel II capital ratio was [10-20]%.

(18) Ibercaja has a strong liquidity position with approximately EUR [5-10] billion of available liquidity ([10-20]% of assets) and EUR [0-5] billion of additional capacity to issue debt maturities. Its current loan-to-deposits ratio is [100-150]%.

(19) The MoU Stress Test identified a capital excess for Ibercaja of EUR 389 million (1.9% of RWA) in the base scenario and a capital shortfall of EUR 226 million (1.2% of RWA) in the adverse scenario. Ibercaja demonstrated in a recapitalisation plan its ability to overcome the estimated EUR 226 million capital needs without public support, through capital generating actions to be implemented by December 2012. The total expected loss rate for the current credit book was estimated to be below that of the average of the Spanish banking system as a whole (9.7% versus 14.6%), proving Ibercaja's higher credit quality.

(20) On 24 February 2012, Ibercaja and Cajatres signed an initial merger protocol. Liberbank, S.A. ("**Liberbank**") joined them in a new protocol on 28 May 2012.

(21) On 28 September 2012, the results of the MoU Stress Test revealed the situation under the adverse case and the base case for Ibercaja, Cajatres and Liberbank. Following those results, on 9 October 2012, Ibercaja decided not to proceed with the merger negotiations between the three entities.

(22) Following the classification of Ibercaja in Group 3 and Cajatres in Group 2 by the BoS[8], both parties - which are private parties and independent from the State - restarted negotiations leading to the conclusion, on 27 November 2012, of a merger protocol ("**the Merger Protocol**").

(23) According to that Protocol, the parties commit to conclude, no later than 17 December 2012, the final merger agreement which will lead to the merger of Cajatres businesses into Ibercaja, taking into account the Restructuring Plan.

(24) After the acquisition, Ibercaja will have full ownership of Cajatres. In consideration for that stake, the present shareholders of Cajatres will receive a [0-20]% stake of Ibercaja.

(25) The merger of Cajatres into Ibercaja ("**the combined entity**") will create a retail banking entity – the tenth-largest entity by asset volume in the Spanish banking system – with a [0-5]% market share in terms of loans and a [0-5]% market share in terms of deposits at national level.

2.4 Overview of the aid measures

(26) Cajatres will benefit or has benefitted from government guarantees worth EUR 654 million, a capital injection totalling up to approximately EUR 407 million, and a transfer of assets amounting to EUR [0-5] billion gross book

8 Ref. BoS Press Release, 31 October 2012, http://www.bde.es/f/webbde/SSICOM/20121031/presbe2012_49e.pdf

value (transfer price estimated at EUR [0-5] billion) to an asset management company ("**AMC**"). Table 2 provides an overview of those aid measures.

Table 2: Overview of the aid measures

Measure	Description	Amount (EUR, million)	Approved by the Commission	% RWA[9]
A	Guarantees issued	654	2009 - 2012	Not applicable
B	Recapitalisation measure	407	Approved under this decision	3.2%
C	Impaired asset measure	690[10]	Approved under this decision	5.4%

2.4.1 Measure A: Guarantees on liabilities

(27) Between 2009 and 2012, Cajatres received guarantees on bonds issued under the approved Spanish guarantee scheme worth EUR 654 million[11].

2.4.2 Measure B: Recapitalisation measure

(28) Following the results of the MoU Stress Test and a series of measures forming part of the Restructuring Plan (including (i) subordinated liabilities exercises reducing the capital needs by EUR [30-40] million, (ii) the transfer of impaired assets and loans to the AMC reducing the capital needs by EUR [200-300] million, and (iii) the effect of […] due to the merger with Ibercaja reducing the capital needs by EUR [100-200] million), a State capital injection of EUR 407 million is still needed for Cajatres to meet the new Spanish regulatory solvency levels taking into account the results of the stress test.

(29) Accordingly, the FROB, on the basis of the Restructuring Plan, will subscribe for EUR 407 million in the form of convertible contingent bonds ("**CoCos**") issued by Cajatres. The FROB will contribute bonds issued by the European Stability Mechanism ("**ESM**") for an amount of EUR 407 million in consideration for those new CoCos in Cajatres[12].

---

9 RWA as of December 2011.

10 See recitals (92) - (93) for the calculation of the aid amount of the impaired assets measure.

11 On 23 December 2008, the Commission approved a scheme for the creation of a debt guarantee scheme (State aid case NN 54b/2008 OJ C 122/2009 of 29.05.2009). On 16 April 2009, the Commission approved changes to that scheme. On 23 April 2009, a corrigendum was published in order to correct some translation and stylistic mistakes. The scheme was extended five times for six-month periods (approved by the European Commission on 25 June 2009 (State aid case N 336/2009 OJ C 174/2009 of 28.07.2009), 1 December 2009 (State aid case N 588/2009 OJ C 25/2010 of 02.02.2010), 28 June 2010 (State aid case N 263/2010 OJ C 190/2010 of 14.07.2010), 29 November 2010 (State aid case N 530/2010 OJ C 7/2010 of 12.01.2011), and 1 June 2011 (State aid case SA.32990 2011/N OJ C 206/2011 of 12.07.2011)). On 9 February 2012, the Commission approved the reintroduction a new debt guarantee scheme (State aid case SA.34224 2012/N OJ C 82/2012 of 21.03.2012), which was then prolonged up to 31 December 2012 by decision of 29 June 2012 (SA.34904 2012/N OJ C 232/2012).

12 Measure B will be executed in the following sequence: once the economic valuation is finalized, the general shareholders´ meeting of Cajatres will pass the necessary resolutions in order to implement the execution of the plan, including: […]; […] to be disbursed by investors affected by the […] subordinated liability exercise ("**SLE**") to be implemented by the FROB and the issue of CoCos to be subscribed for by the FROB. The injection of the […] by the holders of preference shares and subordinated debt affected by the mandatory SLE and the new CoCos subscribed for by the FROB would take place before the end of […].

(30) The CoCos will be instruments eligible as Core Tier 1 capital for solvency purposes, with an investment period by the FROB of five years. During or at the end of the relevant period, the CoCos will have to be bought back and redeemed by the beneficiary or converted into ordinary shares by the FROB. The remuneration of CoCos will be, as a minimum, 8.5% per annum for the first year of the investment and will increase, thereafter, through annual step-ups[13].

(31) If Cajatres or the combined entity is unable to pay the remuneration on the CoCos, the payment due will be made in kind via issuance of new ordinary shares or in CoCos if shares are not available (alternative coupon satisfaction mechanism). If the CoCos have not been amortised by Cajatres or the combined entity at the end of the investment period, they will be converted into ordinary shares. The CoCos will be subject to automatic conversion into ordinary shares in the following circumstances: (i) whenever Cajatres or the combined entity presents a ratio of capital, as defined by the BoS, lower than 5.125%; (ii) if the CoCos become ineligible for treatment as Core Tier 1 capital; (iii) if Cajatres or the combined entity goes into dissolution, liquidation, or bankruptcy; or if the Core Tier 1 capital is lower than 7%.

(32) Any conversion of the CoCos into ordinary shares of Cajatres or the combined entity must be approved by the Commission. The rights of the new shares in the combined entity in case of conversion will be allocated following an independent economic valuation of the combined entity.

2.4.3 Measure C: The transfer of impaired assets to the Asset Management Company

a. Objective

(33) Cajatres will benefit from an impaired asset measure whereby it transfers assets to the AMC. The aim of that measure is to remove uncertainty about the future value of its most problematic asset portfolio and allow Cajatres to concentrate on the implementation of the Restructuring Plan.

b. AMC: Set up and characteristics

(34) Under the terms of the MoU, assets related to real estate development of banks needing State aid will be transferred to the AMC, for which a legislative framework[14] was prepared by the Spanish authorities in consultation with the Commission, the European Central Bank ("**ECB**"), the ESM and the International Monetary Fund ("**IMF**").

(35) The overall objective of the AMC will be the management and orderly divestment of the portfolio of assets and loans received, maximising their recovery over a maximum time horizon of 15 years. In pursuing that activity, the AMC contributes to the restructuring of the financial system, while minimising the use of public funds and avoiding market distortions as much as possible.

(36) The design of the AMC (including its legal and financial structure, operational model, and business and divestment plans) was conceived by the FROB in close collaboration with the BoS and the Ministry of Economic Affairs and Competitiveness ("**the MOF**"), as well as with the Commission, the ECB, the

---

[13] Increase by 25 bps for the second year and by 50 bps each year from the third year onward: 8.5% year 1; 8.75 year 2; 9.25% year 3; 9.75% year 4 and 10.25 year 5. Payable on a quarterly basis.

[14] Law 9/2012 on credit institution restructuring and resolution specifies the details of the AMC.

ESM and the IMF.

(37) The volume of assets to be transferred to the AMC – taking into account only the portion corresponding to Group 1 banks following the classification pursuant to the MoU Stress Test – is estimated to be around EUR 45 billion. That amount will increase by approximately EUR 16 billion after the assets of Group 2 banks are transferred to the AMC. However, the maximum volume of impaired assets that Spanish banks can transfer to the AMC will in principle not exceed EUR 90 billion.

(38) The own funds of the AMC, established as a limited liability company, will be approximately 8% of the volume of its total assets, and its capital structure will consist of a non-majority holding of the FROB and a majority holding by private investors. That structure was chosen in order to prevent the consolidation of the overall debt of the AMC with the debt of the Spanish State.

(39) As part of the AMC's governing bodies a so-called "Monitoring Committee" was established as part of the AMC's governing bodies, consisting of four parties (the MOF, the Ministry of Financial Affairs and Public Administration, the BoS and the CNMV[15]), with a mandate to oversee compliance with the general objectives for which the AMC was set up. The Monitoring Committee's functions include the analysis of the business plan and of possible deviations from it, the monitoring of divestment plans and of the repayment of guaranteed debt. The Monitoring Committee will ask the AMC for such periodic information as it considers appropriate for the carrying out of its tasks.

c. Scope of the transfer of impaired assets and loans

(40) As envisaged in the MoU, all banks benefitting from State aid, such as Cajatres, shall transfer, as from December 2012, the following categories of assets to the AMC: a) foreclosed assets whose net carrying amount exceeds EUR 100 000, b) loans/credits to real estate developers whose net carrying amount exceeds EUR 250 000, calculated at borrower, rather than transaction, level and c) controlling corporate holdings linked to the real estate sector.

(41) Based on asset values as of 30 June 2012, the overall portfolio of impaired assets and loans to be transferred by Cajatres to the AMC amounts to EUR [0-5] billion in terms of gross book value. The value of the controlling corporate holdings linked to the real estate sector has been estimated based on the value of the underlying assets held by those holdings.

(42) As a result of the asset transfer, the RWA of Cajatres will be reduced by EUR [0-5] billion and entails a total reduction of capital needs of EUR [200-300] million. Those figures are an estimate based on the situation of those assets as of 30 June 2012. It is possible that the final figures could differ from those levels as the transfer will only take place in the first quarter of 2013.

d. Methodology for the calculation of the transfer value

(43) The transfer value has been established on the basis of two components. First, the economic value of the assets was determined, both for the foreclosed assets and the loans related to the real estate development sector. Furthermore, for calculating the transfer value, the expected losses in the baseline scenario of the MoU Stress Test for Cajatres was used as a reference. The methodology of that valuation was endorsed by a dedicated group composed of the Spanish

15 The Spanish government agency responsible for regulating the securities market.

supervisory authority (the BoS), the Commission and the ECB, with the IMF acting as an observer.

(44) Second, the estimate of the economic value was adjusted by applying a discount due to the characteristics inherent to the transfer of the assets to AMC. That discount is the result of aspects such as: a) the aggregate acquisition of the assets; b) the consideration of certain expenses previously borne by Cajatres, which must now be assumed by the AMC, such as asset management and administration costs, including financial costs and c) the negative short-term outlook for divestment of the assets by the AMC. The methodology of that valuation has been endorsed by a dedicated group composed of the BoS, the European Commission and the ECB, with the IMF acting as an observer.

e. Purchase of those assets by the AMC

(45) The AMC will pay Cajatres the established transfer value by State-guaranteed debt securities issued by the AMC ("**the AMC bonds**"). The AMC bonds have a one-, two- or three-year maturity, with an average weighted life of 1.95 years. The foreseen yield on the AMC bonds will be the lower of: a) the Spanish government bond yield for the same maturity or b) 12 month Euribor plus 200 basis points (bps).

f. The transfer value

(46) Based on the methodology and discounts described in recitals (43) and (44), the transfer value of the assets of Cajatres amounts to EUR [0-5] billion, which is equal to [50-60]% of the gross book value of those assets. Those figures are an estimate based on the situation of those assets as of 30 June 2012. It is possible that the final figures could differ from those levels as the transfer will only take place in the first quarter of 2013.

(47) The Spanish authorities have provided a letter from the BoS certifying the detailed results and solvency effects of the asset transfer to the AMC by Cajatres.

g. Market price

(48) According to arguments brought forward by Spain regarding Group 2 banks, the market value of the transferred portfolio is [30-40]% of the transferred nominal amount and thus amounts to EUR [0-5] billion.

h. Independent expert advice for the Commission

(49) The Commission has relied on independent experts in order to assist it in the assessment of the proposed methodology and transfer price in connection with the real economic value of the transferred assets and the quantification of the market price of those assets, as laid down in the **Impaired Assets Communication**[16], which serves as the reference framework for measure C.

3 RESTRUCTURING OF CAJATRES

(50) The Restructuring Plan states that, in accordance with Royal Decree Law 24/2012 (Law 9/2009), Cajatres is able to fully repay the public funds granted through the various measures proposed in that plan, in particular through the full

[16] Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72, 26.03.2009, p. 1.

integration into Ibercaja.

(51) The commitments by the Spanish authorities have been presented in a separate document entitled: "*Term Sheet of the Spanish authorities' commitments for the approval of the restructuring plan of Cajatres by the European Commission"* (hereinafter referred to as "**The Term Sheet**")[17] annexed to the Decision.

3.1 Restoration of viability through the integration of Cajatres into Ibercaja

(52) The Restructuring Plan details the merger of Cajatres into Ibercaja which will be implemented in three successive phases: (i) a first […] concerning the assumption by Cajatres of obligations related to the implementation of the […] under the […]; (ii) a […] with the […], whereby Cajatres becomes a […] of the combined entity, in the course of the […][18]; and (iii) a […] through the […] of Cajatres by Ibercaja no later than […].

(53) With regards to the restructuring of Cajatres, the Restructuring Plan first foresees that the branch network of Cajatres will be rationalised along two criteria: (i) rationalisation in its strategic area and (ii) closure of most of the branches in the rest of Spain ("**the non-strategic area**") taking into account the economic rationale of the integration process.

(54) As a result of the restructuring of its network, Cajatres will close [30-40]% of the 578 branches it had as of 31 December 2011, with closure of [100-200] branches in the strategic area and [50-60] branches in the non-strategic area. As a result, at the end of the restructuring period in 2017, Cajatres' branch network will be reduced to [300-400] branches mainly present in the strategic area.

(55) Although the number of branches slated for closure remains unaffected by the merger with Ibercaja, the selection of which branches will be closed depends on the coordination with Ibercaja's branch network, taking into account the economic rationale of the merger.

(56) Second, the Restructuring Plan and the Merger Protocol foresee a reduction of Cajatres' current workforce. It envisages a reduction of [400-500] staff in the branch network, [50-60] staff in support services and [100-200] staff in central services. As a result, after restructuring, a total of [500-600] employees will be made redundant ([20-30]% reduction of Cajatres' current workforce).

(57) Third, the Restructuring Plan foresees the transfer of Cajatres' RED assets to the AMC, as well as the sale of Cajatres' equity portfolio to significantly improve its risk profile. As a result of that measure, the combined entity will decrease its exposure to the RED sector from [10-20]% to [10-20]% of its total balance sheet. The transfer of assets to the AMC will also lead to a RWA relief of EUR [0-5] billion.

(58) The merger will therefore lead to cost synergies which will improve the profitability and efficiency of the combined entity, leading to a return on equity of [10-20]% at the end of 2017, which is the end of the restructuring period.

---

17 See the Annex to the present decision.

18 Within […] following the endorsement of the annual financial statements on […] of Cajatres by the Shareholders' General meeting.

(59) Table 3 provides the main financial projections for the combined entity.

Table 3 on the main financial projections of the combined entity (in million Euro)

P&L	2011	2012	2013	2014	2015	2016	2017
Profit before tax	93	[...]	[...]	[...]	[...]	[...]	[...]
Cost of Income Ratio	64.7%	[40-50]%	[60-70]%	[50-60]%	[50-60]%	[50-60]%	[40-50]%
FTE (Cajatres stand alone)	2,636	[...]	[...]	[...]	[...]	[...]	[...]
Branch (Cajatres stand alone)	578	[...]	[...]	[...]	[...]	[...]	[...]
FTE (combined entity)**	7,213	[...]	[...]	[...]	[...]	[...]	[...]
Branch (combined entity)**	1,625	[...]	[...]	[...]	[...]	[...]	[...]
ROE	1.8%	[40-50]%	[5-10]%	[5-10]%	[5-10]%	[10-20]%	[10-20]%

Balance sheet	2011	2012	2013	2014	2015	2016	2017
Assets							
Loans to clients (net)	44,924	[37,000 - 39,500]	[37,000 - 39,000]	[37,000 - 39,000]	[37,000 - 39,000]	[37,000 - 39,000]	[37,000 - 39,000]
NPLs	2,760	[1,900-3,400]	[1,900-3,400]	[1,900-3,400]	[1,900-3,400]	[1,900-3,400]	[1,900-3,400]
Total assets	62,271	[56,000 - 62,000]	[56,000 - 62,000]	[56,000 - 62,000]	[56,000 - 62,000]	[56,000 - 62,000]	[56,000 - 62,000]
RWA	34,978	[25,000 - 30,000]	[25,000 - 30,000]	[25,000 - 30,000]	[25,000 - 30,000]	[25,000 - 30,000]	[25,000 - 30,000]
Liabilities							
Central bank	1,891	[...]	[...]	[...]	[...]	[...]	[...]
Liabilities to clients	37,517	[...]	[...]	[...]	[...]	[...]	[...]
Total Liabilities	58,407	[53,000 - 60,000]	[53,000 - 60,000]	[53,000 - 60,000]	[53,000 - 60,000]	[53,000 - 60,000]	[53,000 - 60,000]
Loan to Deposit ratio ("**LTD**")	119.74	[95-115]	[95-115]	[95-115]	[95-115]	[95-115]	[95-115]
EBA CT1	9.9%	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[10-20]%
Basel III CET1 (*)	9.9%	[5-10]	[5-10]	[5-10]	[5-10]	[5-10]	[5-10]

* assuming all deferred tax assets are fully deducted from Common Equity Tier 1 ("**CET1**");
** The reduction is the one estimated for Cajatres – the entity in restructuring process. This does not include any other additional restructuring effort that may be achieved in the context of the integration with Ibercaja;
(Figures for end-December each year.)

3.2 Contribution to the restructuring costs of Cajatres

(60) In accordance with the MoU and Royal Decree Law 24/2012, prior to benefiting from State aid, aided banks shall conduct burden-sharing exercises on existing

shareholders and on holders of preference shares and subordinated (both perpetual and dated) debt instruments so as to, inter alia, maximise the loss-absorption capacity of the aided bank.

3.2.1 Burden-sharing on existing shareholders of Cajatres

(61) In light of the results of the MoU Stress test, Cajatres presents a capital shortfall of EUR 779 million under the adverse scenario to reach a CET1 capital of 6% of its RWA.

(62) The current shareholders of Cajatres (the saving banks) will fully contribute to the measure by taking the projected economic losses amounting to EUR [1000-2000] million for year-end 2012.

(63) The current shareholders of Cajatres will therefore be diluted as a result of the merger with Ibercaja, as they will receive a [0-20]% stake in the combined entity.

3.2.2 Subordinated Liability Exercise in Cajatres

(64) Cajatres holds EUR 95 million of subordinated debt instruments, which are mostly in the form of dated subordinated debt and held by investment funds and other institutional investors. Given the short-term maturity of the instruments[19] and institutional holders' preference for liquidity, Cajatres plans to convert the subordinated debt instruments held by the institutional investors[20] (EUR 94 million) into a senior debt instrument with the same maturity as the instrument being exchanged.

(65) The conversion rate will be equal to the nominal value of the subordinated debt instrument minus a haircut which is equal to [0-5]% multiplied by the number of months to maturity starting at […]. The senior debt instrument will have a zero coupon until maturity.

(66) Consequently, as a result of that burden-sharing exercise, a capital generation of EUR [30-40] million will arise and reduce the aid amount.

4 POSITION OF THE SPANISH AUTHORITIES

4.1 Position of the Spanish authorities on the Restructuring Plan

(67) The Spanish authorities accept that the measures A through C constitute State aid and request the Commission to verify if the proposed measures are compatible with the internal market on the basis of Article 107(3)(b) of the Treaty on the Functioning of the European Union ("the TFEU"), as they are necessary in order to remedy a serious disturbance in the Spanish economy.

(68) In particular, the Spanish authorities submit that the measures are: (i) appropriate and well-targeted; (ii) necessary and limited to the minimum amount necessary; and (iii) proportionate as designed to minimize negative spill-over effects on competitors.

---

[19] EUR 50 million of subordinated debt maturing in June 2014, and EUR 44 million of subordinated debt maturing in May 2016.

[20] The volume of subordinated debt held by retail customers represents a non-significant amount of the total (EUR 1 million) so that the repurchase of such emissions has not been assumed.

(69) *Appropriate and well-targeted*. The Spanish authorities submit that Cajatres is systemically important within the Spanish financial system, especially in its strategic area[21].

(70) *Necessary and limited to the minimum amount*. The Spanish authorities submit that the measures are required to bring Cajatres's solvency position in line with the new solvency requirements in Spain in view of its merger into Ibercaja[22]. In addition, the measure is limited in size to what is necessary to ensure that Cajatres meets a solvency ratio of 9% Core Tier 1 capital of its RWA as required by new Spanish solvency requirements[23] and of 6% Core Tier 1 capital under an adverse scenario as determined in the MoU Stress Test.

(71) *Proportionate*. The Spanish authorities submit that the terms and conditions of the proposed measures together with the terms and conditions imposed on Cajatres and on the combined entity as set out in the Term Sheet contain an extensive range of safeguards against possible abuses and distortions of competition.

4.2 Commitments of the Spanish Authorities

(72) The Spanish authorities have undertaken a number of commitments related to the implementation of the Restructuring Plan. The commitments by the Spanish authorities have been presented in the Term-Sheet. The Spanish authorities commit to comply with the commitments listed in the Term-Sheet, if necessary, by ensuring that Cajatres and the combined entity comply with those commitments.

(73) Furthermore, in order to ensure that the various commitments are duly implemented during the implementation of the restructuring plan, the Spanish authorities commit to the appointment of a monitoring trustee in charge of monitoring all the commitments undertaken by the Spanish authorities, Cajatres and the combined entity towards the Commission ("**the Monitoring Trustee**"). The Monitoring Trustee will be appointed by Cajatres and the combined entity, and must be endorsed by the Commission. The Monitoring Trustee must be independent of Cajatres and of the combined entity and be remunerated by Cajatres or the combined entity. The Monitoring Trustee will report to the Commission.

5 ASSESSMENT

5.1 Existence of State Aid

5.1.1 Overview of the measures to be approved

(74) With regards to the Spanish State guarantee scheme approved by the Commission (measure A), the Commission has already concluded that the measure constitutes State aid in favour of Cajatres. As a consequence, it is not necessary to reassess whether it constitutes State aid under the Decision.

21 Cajatres' market share in deposits in the region where it operates is currently approximately [15-25]%.

22 The merger will reduce Cajatres' capital needs. On its own, Cajatres would need approximately EUR°[400-500] million to meet the 9% Core Tier 1 capital ratio.

23 Royal Decree Law 24/2012 on credit institution restructuring and resolution.

(75) The measures which need to be assessed for State aid under the Decision are the recapitalisation measure (measure B) and the impaired assets measure (measure C).

(76) According to Article 107(1) 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.

(77) The qualification of a measure as State aid within the meaning of this 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. The Commission observes that the Spanish authorities do not dispute that measures B and C constitute State aid.

5.1.2 State resources and imputability

(78) The Commission recalls at the outset that the intervening authority providing the measures, the FROB 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 the recapitalisation measure (measure B) is financed by State resources.

(79) As regards the transfer of assets to the AMC (measure C), while the capital structure of the AMC will consist of a majority holding by private investors, the Commission nevertheless considers the impaired assets measure to involve State resources. First, the AMC was set up for a public policy objective, namely to help troubled Spanish banks by transferring their most risky assets off their balance sheet and thus by helping them implement their restructuring plans. That genesis in public policy considerations is also underlined by the fact that the AMC was set-up between the Spanish authorities and its international partners as a result of the MoU and the special legal setting implemented by the Spanish authorities for the AMC. Second, the FROB will be the single largest investor in the AMC and the bonds issued by the AMC will be guaranteed by the State. Without that State guarantee, the measure could not be financed. Indeed, the amount of own funds invested by private investors is very small when compared to the amount of State guaranteed bonds. Third, the Spanish public authorities will keep a high degree of oversight over the AMC's decisions and overall management issues. Therefore, the AMC's shareholding structure does not contradict the fact that the impaired assets measure is imputable to the State and constitutes State resources.

5.1.3 Advantage

(80) As regards the recapitalisation measure (measure B), it allows Cajatres to cover further losses and remain above the minimum solvency ratio in the adverse case. In the current market circumstances, the subscription of CoCos by the FROB allows Cajatres to secure capital on more favourable terms than would otherwise be possible in the light of the prevailing conditions in the financial markets.

(81) As regards the impaired assets measure (measure C), the transfer of assets to the

AMC confers a clear advantage on Cajatres in that its most risky portfolio is transferred off its balance sheet, thus avoiding the consequences (i.e. additional provisions, management of the assets, etc.) of potential future losses on those assets. The gross book value of the transfer of impaired assets will be circa EUR [0-5] billion.

(82) Moreover, point 15 of the Impaired Assets Communication provides that public asset relief measures are considered as State aid if the impaired assets are purchased at a value above the market price. Since the transfer price will be greater than the current market value of Cajatres' portfolio, the measure therefore confers an advantage on Cajatres.

(83) It should also be noted that the AMC cannot be considered as a market investor. The fact that private investors take part in the equity of the AMC does not alter that conclusion. Current market circumstances are such that purchases of such a large amount of assets under market conditions can only happen if the purchaser receives vendor financing, i.e. that the purchase price is financed by the selling entity. In the present instance, Cajatres will not, however, be providing vendor financing as part of the assets transfer. Furthermore, private investors are purchasing such assets only at very low prices (i.e. fire-sale conditions), given the uncertainty surrounding their value. Those low prices are due to liquidity constraints affecting the European financial system, particularly prevalent in Spain at the moment.

(84) In fact, the transfer price of the assets, while conservative and below the real economic value, is still above the market price that a private investor would have been willing to pay for those assets. It can therefore be excluded that a market economy investor would have purchased the proposed assets out of private funds on a comparable scale and on similar terms.

(85) For these reasons, the Commission agrees with Spain that the impaired assets measure would not have been provided by a market economy investor expecting a reasonable return on his investment, particularly in the light of the overall volume of the intervention and given the current market circumstances.

5.1.4 Selectivity

(86) Since measures B and C are exclusively addressed to Cajatres, they should be considered selective in nature.

5.1.5 Distortion of competition and effect on trade between Member State

(87) The Commission finds that the measures potentially distort competition as they allow Cajatres to obtain the capital necessary on a stand-alone basis to avoid technical insolvency (in the adverse case), and thereby be integrated within another legal entity and prevent its exit from the market.

(88) The Commission also considers that the measures are likely to affect trade between Member States because Cajatres' business activities will continue – within the combined entity – to compete on the Spanish retail market, the mortgage lending markets and the commercial lending markets. In all those markets, some of Cajatres's competitors are subsidiaries and branches of foreign banks.

5.1.6 Conclusion

(89) On the basis of the forgoing, the Commission considers that measures B and C fulfil the conditions laid down in Article 107(1) TFEU and that these measures therefore constitute State aid to Cajatres within the meaning of that provision. The Commission also recalls that it had already found measure A to constitute State aid within the meaning of Article 107(1) TFEU in a previous decision.

5.2 Amount of aid

5.2.1 Guarantees of liabilities (measure A)

(90) Cajatres received total guarantees on liabilities worth EUR 654 million.

5.2.2 Recapitalisation (measure B)

(91) Cajatres will receive a recapitalisation of up to EUR 407 million. The Commission considers the aid element in the recapitalisation to be up to 100% of the nominal amount, and hence concludes that the full amount of the recapitalisation up to EUR 407 million (3.2% RWA[24]) constitutes aid.

5.2.3 Impaired asset measure (measure C)

(92) As regards the aid amount included in the impaired asset measure, 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 regard Cajatres, the transfer price is circa EUR [0-5] billion, while the market price is estimated by the Spanish authorities[25] at circa EUR [0-5] billion.

---

[24] RWA as of 31 December 2011.

[25] 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

(93) Consequently, the amount of aid granted to Cajatres as a result of the impaired asset measure amounts to circa EUR 690 million (5.4% of RWA[26]).

5.2.4 Conclusion as regards the amount of aid

(94) On the basis of the foregoing, it should be concluded that Cajatres will receive State aid in form of capital injection and impaired asset measures amounting up to EUR 1.097 million (8,6% of RWA[27]), in addition to the guarantee worth EUR 654 million.

5.3 Legality of the aid

(95) The Commission notes that Spain notified aid measures A, B and C to the Commission for its approval prior to putting them into effect and thus complied with its obligations under Article 108(3) TFEU.

6 COMPATIBILITY OF THE AID WITH THE INTERNAL MARKET

(96) As regards the compatibility with the internal market of the aid provided to Cajatres, the Commission must determine first whether the aid can be assessed under Article 107(3)(b) TFEU, i.e. whether the aid 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.

6.1 Legal basis for the compatibility of the aid

(97) Article 107(3)(b) TFEU empowers the Commission to find that aid is compatible with the internal market if it is intended "to remedy a serious disturbance in the economy of a Member State". 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[28]. The Commission confirmed that view by adopting the 2011 Prolongation Communication[29].

(98) 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[30]. Therefore, the legal basis for the compatibility assessment of the measures is Article 107(3)(b) TFEU.

---

whom the Commission had relied on 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.

26 RWA as of 31 December 2011.

27 RWA as of 31 December 2011.

28 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).

29 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.

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

6.2 Compatibility assessment

(99) Cajatres has benefited and will continue to benefit from the Spanish State guarantee scheme (measure A) which has already been found compatible by the Commission. It will further benefit from a recapitalisation (measure B) and an impaired assets measure (measure C), whose compatibility need to be assessed by the Commission in light of the Banking Communication, the Recapitalisation Communication and the Impaired Asset Communication. Finally, since the three measures have been provided in the context of the restructuring of Cajatres, they will have to be examined as restructuring aid under the Restructuring Communication in light of the Restructuring Plan submitted by the Spanish authorities.

6.3 Compatibility of measure B with the Banking and Recapitalisation Communications: Appropriateness, necessity, proportionality

(100) As recalled in point 15 of the Banking Communication, in order for an aid to be compatible under Article 107(3)(b) TFEU, it must comply with general criteria for compatibility under Article 107(3) TFEU, which imply compliance with the following conditions[31]:

a. *Appropriateness*: The aid must be well-targeted in order to effectively achieve the objective of remedying a serious disturbance in the economy.

b. *Necessity*: The aid measure must, in its amount and form, be necessary to achieve this objective. Thus it must be of the minimum amount necessary to reach the objective, and take the most appropriate form to remedy the disturbance.

*c. Proportionality**:*** The positive effects of the measure must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measure's objectives.

a. Appropriateness of the Measure B

(101) As regards the recapitalisation measure, as described in recitals (28) to (32), the MoU Stress Test revealed a capital deficit for Cajatres of EUR 779 million, which will be reduced by the transfer of assets to the AMC by EUR [200-300] million, the burden-sharing exercise by EUR [30-40] million and the […] as a result of the merger with Ibercaja by EUR [100-200] million. Thus, Cajatres' final capital needs amount to EUR 407 million.

31 See paragraph 41 of Commission decision in Case NN 51/2008, *Guarantee scheme for banks in Denmark*, OJ C 273, 28.10.2008, p. 2.

(102) Owing to the lack of confidence on the markets in Cajatres and the general uncertainty regarding the economic situation of Spain overall, it is virtually impossible for Cajatres to raise the necessary capital from private investors. The Commission therefore considers the recapitalisation measure appropriate to effectively achieve the objective of remedying a serious disturbance in the economy, as it fills the remaining capital deficit of Cajatres.

b. Necessity – limitation of the aid to the minimum

(103) According to the Banking Communication, the aid measure must, in its amount and form, be necessary to achieve the intended objective. That requirement implies that the aid measure must be of the minimum amount necessary to reach the intended objective. With the additional aid entailed in the recapitalisation measure, Cajatres will continue to meet regulatory capital ratios and, thus, the aid amount is limited to the minimum necessary to achieve the intended objective.

(104) In addition, adequate remuneration of any State intervention contributes to ensuring that the aid is limited to the minimum necessary. As regards the required remuneration of the recapitalisation in the form of CoCos, the annual remuneration, which starts at 8.5% for the first year and increases over the five-year period with step-ups, encourages Cajatres and the combined entity to wean itself from State intervention and is in line with points 26 to 29 of the Recapitalisation Communication. Furthermore, an alternative coupon satisfaction mechanism applies to the CoCos pursuant to which unpaid quarterly interest will be paid in the form of new ordinary shares (or CoCos if shares are not available), further ensuring adequate remuneration.

(105) The Commission is therefore of the opinion that the recapitalisation measure is limited to the minimum and adequately remunerated and thus is necessary to achieve the intended objective.

c. Proportionality – measures limiting negative spill-over effects

(106) The Commission considers that, in principle, the proportionality of the recapitalisation measure should be assessed in light of the depth of the Restructuring Plan, taking into account measures to ensure burden-sharing and limiting distortions of competition. It therefore refers to its assessment of the measures under the Restructuring Communication below.

(107) It is, however, worth highlighting that given the significant degree of burden-sharing and the full integration of Cajatres into Ibercaja, whereby the latter will control [80-100]% of the combined entity, results in a disappearance from the market of Cajatres as a stand-alone entity, so that the measure seems prima facie proportionate.

Conclusion

(108) The Commission thus concludes that the recapitalisation measure is appropriate, necessary and, in light of the foreseen restructuring, proportional to the intended objective of remedying a serious disturbance in the Spanish economy.

6.4 Compatibility of measure C with the Impaired Assets Communication

(109) The Impaired Assets Communication defines impaired assets relief as any measure which "free[s] the beneficiary bank from (or compensate[s] for) the need to register either a loss or a reserve for a possible loss on its impaired assets and/or free regulatory capital for other uses" and sets out criteria for the compatibility of such measures with the internal market. Those criteria comprise (i) the eligibility of the assets; (ii) the transparency and disclosure of impairments; (iii) the management of the assets; (iv) the correct and consistent approach to valuation; (v) the appropriateness of the remuneration and burden-sharing.

Eligibility of assets

(110) As regards the eligibility of the assets, section 5.4 of the Impaired Assets Communication indicates that asset relief requires a clear identification of impaired assets and that certain limits apply in relation to eligibility to ensure compatibility. Whilst the Impaired Assets Communication explicitly refers to "toxic assets", it also makes clear that an overtly narrow relief measure would not be advisable. Rather, it notes that a proportionate approach needs to be developed to allow a Member State whose banking sector is affected by factors of such magnitude as to jeopardise financial stability, such as the burst of a bubble in their own real estate market, to extend eligibility to well-defined categories of assets corresponding to the systemic threat[32].

(111) As regards the present case, the impaired assets measure (measure C) is targeted at foreclosed assets related to real estate and real estate and development loans, being the most risky asset class emanating from the recent burst of the Spanish real estate bubble. The Commission notes that those assets are in line with asset categories set out in Annex II to the Impaired Assets Communication and, therefore, are in line with the eligibility criteria of that Communication.

Transparency and disclosure

(112) As regards transparency and disclosure, section 5.1 of the Impaired Assets Communication requires full ex-ante transparency and disclosure of impairments by eligible banks on the assets which will be covered by the relief measures, based on an adequate valuation, certified by recognised independent experts and validated by the relevant supervisory authority. In other words, the Impaired Assets Communication requires that disclosure and valuation should take place prior to government intervention.

[32] See Case N 725/2009, Irish asset relief - NAMA, OJ C 94 of 14 4.2010.

(113) As regards measure C, the Commission notes that independent experts have been engaged to value the assets and that the valuation methodology has been endorsed by the BoS and also by a group including international institutions.

(114) However, while it is accurate that the definitive number of impaired assets falling under measure C is not currently available due to accounting and other changes that may occur between the date of the Decision and the final date of the asset transfers, which may have a minor impact on the values, the asset classes to be transferred have been clearly identified and the transfer will only be performed on the basis of that approved methodology. The Commission therefore considers that the Member State has provided full disclosure on the entirety of impaired assets on the balance sheet of Cajatres.

(115) The requirements for transparency and disclosure of the Impaired Assets Communication are thus met.

Management of the assets

(116) As regards the management of assets, section 5.6 of the Impaired Assets Communication stipulates the necessity of a clear functional and organisational separation between the beneficiary bank and its assets, notably as to their management, staff and clientele. The Communication provides, in that respect, that such a separation should allow the bank to focus on the restoration of viability and to prevent possible conflicts of interest.

(117) As regards measure C, the Commission notes that the assets will be managed by the AMC, which is fully independent from Cajatres. The Commission therefore concludes that the separate asset management is thus in line with the requirements of Impaired Assets Communication.

Valuation

(118) Section 5.5 of the Impaired Assets Communication notes that a correct and consistent approach to valuation is of key importance to prevent undue distortions of competition. The main aim of valuation is to establish the real economic value of the assets. That value constitutes the benchmark level in so far as a transfer of impaired assets at that value indicates the compatibility of aid – it ensures the relief effect by exceeding current market value but keeping the aid amount to the minimum necessary.

(119) As regards measure C, Spain appointed Oliver Wyman to assess the portfolio and has applied a number of haircuts in order to arrive at the transfer value. In addition, Spain has provided a letter from BoS certifying the detailed results of the asset transfer to the AMC.

(120) The Commission has scrutinized the valuation and, in particular, the underlying general methodology in order to ensure a consistent approach at Union level. For that purpose, the Commission has contracted external experts to scrutinize the valuation prepared by Oliver Wyman.

(121) The valuation is therefore in line with the Impaired Asset Communication.

Burden-sharing and remuneration

(122) 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.

(123) 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 asset 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.

(124) As regards measure C, the Commission notes that the assets have been fully written down to their transfer value. The transfer price is, on a relative basis, [0-5]% lower - although not significantly - than their real economic value, the latter being certified by the independent experts retained by the Commission. Therefore, the compensation for the risk of the State is embedded in the low transfer price, which corresponds to a remuneration of EUR [80-90] million, and the payment through bonds.

(125) Moreover, as described in recitals (64)-(66), the amount of burden-sharing in this case goes significantly beyond mere shareholders' loss participation or hybrid coupon bans, as has been considered appropriate in prior cases.

(126) Finally, the Commission notes that it is possible to accept a lower level of remuneration if it is compensated for by a thorough and far-reaching restructuring.[33] In the case at hand, Cajatres will be fully integrated into Ibercaja with the previous owners owning only a [0-20]% stake of the combined entity, and holders of hybrid capital instruments also contributing significantly to the restructuring. As a consequence, Cajatres will cease to exist as a stand-alone entity. The distortions of competition resulting from the aid and from the relatively low remuneration in particular will therefore be very limited.

(127) In addition, Cajatres 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, Cajatres 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.

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

Conclusion on compatibility

(129) In light of the above, the Commission considers measure C – the assets relief measure – 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.

[33] See points 25 and 41 of the Impaired Assets Communication.

6.5 Compatibility of all the measures (A-C) with the Restructuring Communication

(130) 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, or to the orderly winding-up thereof; (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.

6.5.1 Restoration of viability

(131) As the Commission sets forth in its Restructuring Communication, the Member State needs to 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.

(132) In the case at hand, two entities, Ibercaja and Cajatres will merge into a combined entity. The Commission therefore has to assess whether the merger of Cajatres into Ibercaja will ensure the long-term viability of the combined entity. The Spanish authorities have submitted the Restructuring Plan for the combined entity, with a five- year time span, going up to 31 December 2017.

(133) According to point 17 of the Restructuring Communication, the sale of a financial institution to a viable third party with sufficient financial means and the capacity to absorb that institution can help restore its long-term viability. The Commission considers that requirement to be met by Ibercaja.

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

(135) First, the segregation and transfer of the assets and loans related to the real estate development sector to the AMC (measure C) is an adequate response to the high concentration of Cajatres' balance sheet on that sector and level of non-performing assets[34] and its past expansion outside its core retail banking business and historical strategic regions. That transfer will allow the combined entity to focus on its core retail activities, in particular the new production of loans to its clients, such as residential mortgages and SME loans.

(136) Second, the Commission views positively the impact of the merger on the

[34] 45.9% of projected losses in Cajatres' RED portfolio compared to 42.8% system wide. Source: Oliver Wyman analysis.

corporate governance management of Cajatres, most notably on risk management practices and controls. The Commission notes that the quality of Ibercaja's credit portfolio presents a level of non-performing loans ("**NPL**") which is below the sector's average[35]. Following the transfer of assets to the AMC, the NPL ratio of the combined entity will be brought under control, reaching [0-5]% in 2017. Also, the total expected losses rate identified in the MoU Stress Test for the current credit book of Ibercaja was estimated to be below the average of the Spanish banking sector (9.7% versus 14.6%), proving Ibercaja's higher credit quality and prudent origination practices.

(137) Third, the Commission notes that Cajatres will be integrated into a bigger group. In terms of assets, Ibercaja is larger than Cajatres. The merger will therefore strengthen the group as a whole. The combined entity will be the tenth-largest bank by asset volume in the Spanish banking system, with a [0-5]% market share in terms of loans and a [0-5]% market share in terms of deposits at national level.

(138) Fourth, the integration will lead to cost synergies which will improve profitability and efficiency of the combined entity. In 2011, Cajatres had a cost/income ratio of 64%. The combined entity plans to reduce that ratio via a significant reduction in the branch network and other rationalisation measures. As a result, the Restructuring Plan projects a cost/income ratio for the combined entity of [40-50]% in 2017, which is in line with the appropriate cost/income ratio for a retail bank in Spain.

(139) Fifth, the Restructuring Plan foresees to position the combined entity as a regional entity, focused on retail banking and sustained by a self-funding structure. Furthermore, it intends to reduce its presence in more risky activities, such as the RED sector and equity participations.

(140) Cajatres will mainly keep branches in its strategic area and rationalise its existing branch network. As a result, there will be a total reduction of [30-40]% of its branch network, with a large reduction in its non-strategic area. It will also divest a […][36] of its equity participations portfolio amounting to a reduction of EUR [100-200] million of its current balance sheet.

(141) In terms of viability, the Commission notes that the Restructuring Plan uses underlying conservative assumptions in terms of market share evolution in the strategic areas, net margins on the pricing of new productions of loans, and cost of funding. In particular, the combined entity plans to focus its activities on the business segment where growth rates are higher and in which it intends to apply a more careful selection of borrowers, in particular, by increasing the percentage of higher-rated borrowers. Overall, the re-pricing of new production (which has already been put in effect this year) will improve the profitability of the combined entity. Hence, the combined entity will gradually become a more balanced entity with a balance sheet side of EUR [50-60] billion by 2017. Those measures will ensure a clean-up of its lending book, allowing the combined entity to focus on its strong client base amongst retail and SMEs.

(142) At the end of the restructuring period, the combined entity will be able to cover all its costs and provide an appropriate return on equity of [10-20]%, taking into account an adequate cost of risk in view of its new risk profile. According to the

[35] Ibercaja's NPL ratio: [5-10] % as of September 2012.

[36] The combined entity will keep a […] of its listed equity participations accounted in the available for sale portfolio, therefore at fair value and having already incorporated latent capital gains or losses. It will divest the portfolio in appropriate market condition.

Restructuring Plan, over the projected period 2013 to 2017, the combined entity will generate net cumulated profits after tax of EUR [1 000-2 000] million. That level of profitability will be more than sufficient to repay in full the State aid provided in the form of CoCos without endangering its viability. The repayment will occur according to the following schedule: [5-10]% in 2014, [40-50]% in […] and [50-60]% in […].

(143) Sixth, according to point 13 of the Restructuring Communication, the restructuring plan should address the requirements emerging from a stress test exercise and ensure that the entity is sufficiently and adequately capitalised. Both Ibercaja and Cajatres 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 time 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.

(144) In terms of solvency, the combined entity will comply with the regulatory solvency requirements after the integration of Cajatres. As a result of taking accounting losses following increased loan-loss provisions in December 2012 and deducting the estimated amounts described in recital (28) from the burden-sharing exercise, the asset transfer to the AMC and the […], the combined entity plans to be recapitalised at a level that will allow it to reach a Basel III CET1 ratio of [5-10] % at the end of December 2017, which is the end of the restructuring period.

(145) Finally, the Commission acknowledges Cajatres' strong liquidity position due to its favourable loan-to-deposit ratio ("**LTD**") ratio. Moreover, Ibercaja's liquidity position is equally strong with approximately EUR [5-10] billion in available liquidity ([10-20]% of assets) and EUR [0-5] billion of additional capacity to issue debt maturities, which means the combined entity will have a robust funding profile. The Restructuring Plan factors in conservative assumptions in terms of deposits evolution and wholesale and central bank reliance. At the end of the restructuring period, the combined entity will have a LTD ratio below [90-120]% ([90-120]%) and reliance on central bank funding will have been reduced to EUR [0-5] billion from its current EUR [0-5] billion level[37].

[37] End of 2012 forecast.

(146) The Commission therefore considers that the implementation of the Restructuring Plan, which involves a reduction of the balance sheet and hence funding needs, as well as its LTD target of [90-120]% and reduction of central bank reliance, will ensure a conservative funding profile of the combined entity.

(147) The Commission believes that, on the basis of the information provided by the Spanish authorities, Ibercaja has the capacity and the required know-how to integrate and manage Cajatres' business in compliance with regulatory and prudential requirements.

(148) In light of the above, the Commission considers that the merger of Cajatres into Ibercaja, after the intended restructuring operations, adequately ensures the long-term viability of the combined entity.

6.5.2 Own contribution and burden-sharing

(149) The Restructuring Communication indicates 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, it provides that (i) both the restructuring costs and the amount of aid should be limited and (ii) a significant own contribution is necessary.

(150) The Restructuring Plan does not contain any elements that suggest that the aid exceeds the means required to cover the costs resulting from the restoration of viability of Cajatres. As described in recital (28), the capital shortfall which needs to be covered by the recapitalisation measure (measure B) was determined on the basis of a stress test. In addition to the transfer of assets to the AMC (measure C), a number of elements reduce the magnitude of public funds[38] that are required to ensure that Cajatres will remain above the regulatory minimum capital requirements, even in an adverse scenario:

(151) First, the Commission notes positively that the commitments regarding the burden-sharing of hybrid instruments go beyond the prerequisites of the Restructuring Communication. As described in recitals (64) to (66), all institutional holders of dated subordinated debt instrument will be offered the option to convert their debt instruments, – subject to a [0-5]% monthly haircut - into new senior debt securities with the same maturity as the original instrument with a zero coupon, and thereby lead to significant haircuts of [20-30]% for the hybrids instruments maturing in 2014 and [60-70]% for the hybrids instruments maturing in 2016. As a result, there will be no immediate cash outflow which will decrease the capital shortfall by EUR [30-40] million. 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 in that respect, it welcomes this commitment by Spain which results in a greater burden-sharing by hybrid capital holders and, consequently, a decrease in the amount of public funds that are necessary to restore Cajatres' viability.

[38] See recital (28).

(152) Second, point 24 of the Restructuring Communication provides that an adequate remuneration of State capital is also a means of achieving burden-sharing. As explained in recital (30), the annual remuneration for the CoCos subscribed by the FROB will start at 8.5% for the first year and increases over time with a 25 bps step-up the second year, and a 50 bps in the following years. That step-up clause encourages the combined entity to wean itself from State intervention and is in line with the Recapitalisation Communication. Furthermore, an alternative coupon satisfaction mechanism applies to the CoCos pursuant to which unpaid quarterly interest will be paid in the form of ordinary shares or new CoCos if shares are not available. The Commission therefore considers the level of remuneration associated with the State's injection of CoCos into Cajatres as appropriate.

(153) Third, the combined entity has committed to repay the CoCos subscribed by the FROB in full according to the following repayment schedule: [5-10]% by the end of […], [40-50]% by the end of […] and [50-60]% by the end of […]. If there is any doubt on the ability of the combined entity to repay that aid six months before the dates of the repayment schedule, the Monitoring Trustee can request remedial actions to free up capital. In case of no repayment, the CoCos will automatically convert into equity and will trigger a new notification to the Commission.

(154) Fourth, as regards covering the restructuring costs stemming from the Restructuring Plan through internal measures by Cajatres, the Commission notes that the combined entity will carry out cost-cutting measures amounting to around EUR [100-200] million in […] and […], and resulting in a recurring net annual savings of around EUR [100-200] million as from […]. Furthermore, the merger will give rise to a […] for a net amount of EUR [100-200] million, which will reduce the final aid amount by that same amount. The Restructuring Plan also foresees the divestment of […] Cajatres' participation portfolio amounting to a book value of EUR [100-200] million.

(155) Fifth, in addition to those structural measures, Spain also committed to a behavioural measure entailing a ban on coupon which will ensure that Cajatres and the combined entity will not make any payment to holders of Cajatres' subordinated instruments.

(156) Finally, the restructuring will take place through the merger of Cajatres into Ibecaja. Cajatres' incumbent shareholders will hold a stake of around [0-20]% in the combined entity and will therefore experience a very significant dilution of their shareholdings as part of the restructuring effort.

(157) Accordingly, burden-sharing on equity, hybrid and subordinated debt-holders; cost reductions; divestments and adequate remuneration for the aid represent a sufficient own contribution by Cajatres to the costs of its restructuring. The imposition of losses for holders of dated subordinated debt that convert into senior debt instruments and the large dilution of the original shareholders of Cajatres ensure appropriate burden-sharing. For those reasons, the Commission concludes that the Restructuring Plan provides for an appropriate own contribution and burden-sharing.

6.5.3 Limiting distortion of competition

(158) Finally, section 4 of the Restructuring Communication requires that the

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 operates post-restructuring. 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 take into account the extent of the beneficiary's own contribution and burden-sharing over the restructuring period.

(159) The Commission recalls that Cajatres has received State aid in the form of capital injections and impaired asset measures up to an amount of EUR 1.097 million in addition to guarantees worth EUR 654 million.

(160) The aid amount of EUR 1.097 million is equivalent to 8.6% of Cajatres's RWA[39]. The Commission notes that, despite the adequate remuneration of the aid[40], the measures are necessary to limit potential distortions of competition in view of the relatively large amount of aid.

(161) The main measure that will limit distortions of competition is the full integration of Cajatres into Ibercaja, with its downsizing in terms of size, geographical footprint and staff. It should further be noted that the merger between Cajatres and Ibercaja stems from a bilateral agreement between two private entities, as the FROB does not have any stake in either of those entities.

(162) As a result of the merger, Cajatres will disappear as a stand-alone entity as it will be fully integrated into Ibercaja, with its current shareholders holding only [0-20]% of the combined entity. The Commission finds that the disappearance of Cajatres as a stand-alone entity is a clear indication that moral hazard is addressed.

(163) In parallel, Cajatres's footprint will also shrink in terms of branches from [500-600] branches in […] to [300-400] in […] (which represents a [30-40]% reduction), and in terms of headcount from [2 000-3 000] in […] to [1 000-2 000] in […] (which represents a [20-30]% reduction).

(164) Furthermore, as a consequence of the reduction of the branch network reduction and the loss of business due to the merger (resulting from the transfer of business between branches and customer sharing […]), the plan envisages a total loss of business of EUR [0-5] billion. Therefore, the Restructuring Plan foresees a reduction of the combined entity's pro-forma balance sheet by [5-10]% from 2011 (peak) to 2017 (end of the restructuring period), and a reduction of RWA of [10-20]% (from EUR [30-40] billion at the end of 2011 to EUR [20-30] billion at the end of 2017).

(165) The combined entity will also divest Cajatres' RED and non-RED participation portfolio of equity holdings which amount to EUR [100-200] million of its gross book value. Should a sale not succeed, the combined entity will fully write down its portfolio for a net amount of EUR [50-60] million.

(166) In addition to those structural measures, Spain also committed to behavioural constraints. On the one hand, Spain will ensure that the remuneration of Cajatres' 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, thus preventing Cajatres and the combined entity from using the

[39] RWA as of December 2011.
[40] See recitals (123) and (133).

aid for anti-competitive market conduct.

(167) Taking into account that mix of measures and commitments and in view of the above assessment that the own contribution and burden-sharing are appropriate and go beyond what the Commission would normally require, the Commission considers that there are sufficient safeguards to limit potential distortions of competition in view of the amount of aid Cajatres will receive.

6.6 Monitoring

(168) Pursuant to section 5 of the Restructuring Communication, regular reports are required to allow the Commission to verify that the restructuring plan is being implemented properly

(169) The Restructuring Plan will need to be properly implemented throughout its duration. To ensure proper implementation, the Spanish authorities will make sure that Cajatres and the combined entity comply with the commitments listed in the Term Sheet.

(170) Moreover, the correct implementation of the Restructuring Plan and the full and correct implementation of all commitments contained in the Term Sheet will be continuously monitored by an independent, sufficiently qualified Monitoring Trustee. 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 Cajatres or the combined entity for explanations and clarifications. Spain and Cajatres or the combined entity are to cooperate fully with the Commission and the Monitoring Trustee with regard to all enquiries associated with monitoring.

6.7 Conclusions on the existence of aid and compatibility

(171) The Commission concludes that the notified measures (measures B and C), namely the capital injection in the form of CoCos and the transfer of impaired assets to the AMC, constitute State aid in favour of Cajatres pursuant to Article 107(1) TFEU.

(172) The Commission finds that the restructuring aid, namely measures A through C referred to above, in favour of Cajatres is compatible with the internal market for reasons of financial stability on the basis of Article 107(3)(b) TFEU, in light of the commitments of the Term Sheet.

7 CONCLUSION

- The Commission has accordingly decided:

  – to consider the aid to be compatible with 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

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/competition/elojade/isef/index.cfm.
Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue Joseph II 70
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 OF THE RESTRUCTURING PLAN OF BANCO CAJA 3 BY THE EUROPEAN COMMISSION

(CASE SA.35489, Restructuring of Banco Grupo Cajatres, S.A)

1. BACKGROUND

1.1. This document (the "term sheet") sets out the terms (the "commitments") for the recapitalisation and restructuring of BANCO CAJA 3 ("CAJA3"), which the Kingdom of Spain and the combined entity 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 when justified on the merits either 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 Commission.

2. DEFINITIONS

2.1 "AMC (Asset Management Company)" is an independent commercial entity established by the Spanish Law 8/2012. The Spanish Government decision to set up 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 state exposure in the Spanish banking system. Assets will be transferred from banks to AMC to strengthen the bank's balance sheets and ensure that uncertainty over real state exposure is reduced.

2.2 "Integration protocol" describes the agreement signed by Ibercaja Banco and CAJA3 November 27, 2012.

2.3 "Combined entity" describes the entity formed by Ibercaja and CAJA3.

2.4 Ibercaja describes the legal entity IBERCAJA BANCO, a Spanish saving bank involved in banking business, insurance, pension and asset management activities. Ibercaja operates as a 100% subsidiary of Caja de Ahorros y Monte de Piedad de Zaragoza, Aragón y Rioja.

2.5 CAJA3 describes the legal entity BANCO CAJA 3 until the merger with Ibercaja or the management, assets, loan book, employees, branches etc. of the former CAJA3 (legacy entity) which continue their activity in the combined entity following the merger.

2.6 “FTE” means full time equivalent employee

2.7 “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.

2.8 “Monitoring Trustee” is the person who will verify the adherence to the commitments listed in this term-sheet, as set out in Appendix III to this term sheet.

2.9 RWA means risk weighted assets that shall be calculated on a consolidated basis in accordance with Bank of Spain Circular 3/2008.

2.10 “Remedial actions” shall mean action(s) that will allow the combined entity to meet the identified target(s). The remedial actions need to be submitted within one month by the combined entity to the monitoring trustee. 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.

3. GENERAL

3.1. Spain is to ensure that the Restructuring Plan (“the Restructuring Plan”) for CAJA3 submitted on December 2012 is correctly and fully implemented.

3.2. Spain is to ensure that the commitments listed below (“Commitments”) are fully observed during the Restructuring Period.

3.3. The restructuring period will end on 31 December 2017. All commitments in the term sheet apply throughout the restructuring period unless specified otherwise.

4. ADJUSTMENTS TO THE CURRENT PERIMETER OF THE BANK

The Restructuring Plan includes the execution of the following adjustments to the current perimeter of CAJA3:

4.1. The transfer and/or contribution to the Asset Management Company (SAREB) ("AMC") of CAJA3 real estate exposure at the cut-off date of 30/06/2012 falling within the following parameters:

a) all the loans to developers exceeding a net book value of €250,000;

b) the foreclosed real estate assets exceeding a net book value of €100,000; and

c) the equity interests in controlled real estate companies

The gross book value of these assets at CAJA3 amounts to EUR [4 000-5 000] million (net value amounts to EUR […] million) and the transfer value amounts to EUR [2 000-3 000] million at 30 June 2012.

The above mentioned figures on the impact of the assets transferred to the AMC, are an estimate based on the situation of those assets as of 30 June 2012. Although this estimate can be considered as rather accurate, the final impact could differ from this as it could be affected by the events happening during the interim period from 30 June 2012 to the date when the assets transfer will become effective, such as changes in accounting classification and assets inflows and outflows, as well as the final definition of the perimeter to be transferred.

5. RESTRUCTURING OF CAJA3

5.1. The Restructuring Plan for CAJA3 consist in particular on the transfer of the majority of the real estate assets and exposures to the AMC, the integration of CAJA3 into Ibercaja in line with the Integration Protocol signed on 27 November 2012, as well as the restructuring of the continuing business of CAJA3 in the combined entity according to what it is set below.

5.2. Reduction of Branches and FTEs

5.2.1. The combined entity will reduce CAJA3's current structure from [500-600] to [300-400] branches before the end of […] and from [2 000-3 000] as of […]to [1 000-2 000] employees (FTE) before the end of […].

5.2.2. The calendar for the execution of these measures will be as follows:

	Initial	2013	2014	2015	2016
Branches	[…]	[…]	[…]	[…]	[…]
FTE bank	[…]	[…]	[…]	[…]	[…]

5.2.3. By […] CAJA3 shall identify those branches that it will close and inform the Monitoring Trustee. The remaining [300-400] Caja3's branches will be mainly located in the regions of […].

5.3. Balance sheet size:

5.3.1. By 31 December 2013, the balance sheet size of CAJA3 will not be higher than EUR [20 000-25 000] million.

5.4. Loan to Deposit ratio:

5.4.1. CAJA3 commits to achieve a Loan to Deposit ratio of [50-100]% in 2013.

5.5. If these targets regarding balance sheet size and loan to deposit ratio are not met, CAJA3 shall present remedial actions.

5.6. Participations Portfolio Divestment

5.6.1. The combined entity commits to divest CAJA3's participation portfolio amounting to [100-200] million Euros of book value at 31 December 2011 set out in Appendix I.

5.6.2. CAJA 3 or the combined entity commits to the following :

- Regarding real estate participations, CAJA3 or the combined entity commits to divest its participation portfolio according to the following schedule during […] and […]:

    - [40-60]% of the portfolio‘s book value per year and,

    - [50-60]% of the total number of participations per year.

- Regarding non-real estate participations, CAJA3 or the combined entity commits to divest according to the following schedule:

    - [20-50]% of the porfolio’s book value in […], [20-50]% in […] and [20-50]% in […] and,

    - [20-50]% of the number of participations in […], [20-50]% in […] and [20-50]% in […].

5.6.3.. If CAJA 3 or the combined entity does not sell the participations in the deadlines set out above, CAJA 3 or the combined entity will proceed to the impairments and write down its stakes, and terminate any financial and operational involvement in the companies. CAJA 3 or the combined entity will offer each participation to the market in a competitive auction with no minimum price.

6. BURDEN SHARING MEASURES ON DATED DEBT HOLDERS

6.1. Key principles

6.1.1. By performing […] subordinated liability exercises CAJA3 commit to generate [30-40] million Euros of Core Tier 1 capital through the retention of profits generated as consequence of the exercises.

6.1.2. CAJA3 will conduct a […] exercise on these kind of instruments not later than […].

6.1.3. If the result of such exercise is not sufficient for achieving the target set out in point 6.1.1 or the exercises would result in an acceptance lower than [70-80]% the FROB will adopt not later than […] the necessary measures for ensuring the entity will perform a […] exercise on the holders of such securities on the basis of the sections below.

6.2. Key principles for mandatory subordinated liability exercises

6.2.1. For holders of dated subordinated debt, burden sharing will be implemented during the […] conversion period through conversion into a senior debt instrument with the same maturity as the subordinated debt being exchanged. After closing the […] conversion period, the […] period shall start. In the […] period, the holders of dated subordinated debt they will be given the choice between conversion into equity or into a senior debt instrument.

6.2.2. 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.

6.2.3. Consequently, as a result of the burden sharing there will be no cash outflow from CAJA3 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.

6.2.4. A list of all outstanding subordinated debt instruments is set out in Appendix II.

6.3. **Methodology for the conversion into capital**

6.3.1. 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.

6.3.2. The discount factors to be applied to the dcm will be: a) [20-30]% for preference shares and other instruments of the same rank, b) [10-20]% for perpetual subordinated instruments and c) [10-20]% for dated subordinated instruments.

6.3.3. Should coupon payments be discretionary or linked to the profitability of the CAJA3, it will be assumed, for the purpose of the npv calculation, that no coupon payment will take place for the years that CAJA3 is not profit-making, according to the restructuring plan submitted by the Spanish authorities in the context of the Decision.

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

6.3.5. The conversion rate will be maximum [90-100]% of the face value.

6.4. **Specific provision for dated subordinated debt**

6.4.1. The holders of dated subordinated debt 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 [0-5]% multiplied by the number of months to maturity. The starting date for the calculation of the number of months will be […]. The new senior debt instrument will have a zero-coupon until maturity; and

b) Conversion into core capital of CAJA3. 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.

6.5. **Equity stake for the holders of securities subject to burden sharing**

6.5.1. In the case of conversion into core capital of CAJA 3, the holders of securities subject to burden sharing will receive an equity stake in CAJA 3 in the form of new ordinary shares or equity-equivalent instruments which shall be proportional to value of CAJA 3 resulting from the restructuring plans, as determined by a due diligence and three economic valuations carried out in accordance with RDL 24/2012 and the methodology put forward by the FROB in liaison with the Commission.

7. REPAYMENT OF PUBLIC AID

7.1. The combined entity shall repay the capital injection of contingent convertible securities (CoCos) subscribed by the FROB amounting to EUR 407 million in full according to the following repayment schedule: [5-10]% by […], [40-50]% by […] and [50-60]% by […].

7.2. If there is doubt on the capacity to repay the CoCos according to the above repayment schedule, the combined entity shall inform in advance the Monitoring Trustee and propose remedial actions.

8. BEHAVIOURAL MEASURES AND CORPORATE GOVERNANCE

8.1. Ban on Coupon

CAJA3 and the combined entity will not make any payments to holders of CAJA3's preference shares and subordinated debt instruments in so far as those payments are not owed on the basis of a contract or the law.

8.2. Advertising

CAJA3 and the combined entity must not use the granting of the aid measures or any advantages arising therefrom for advertising purposes.

8.3. Remuneration of bodies, employees and essential agents

The Spanish Government undertakes to ensure that for CAJA3's FTE, CAJA3 and the combined entity meet 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 the bank complies scrupulously with the conditions specifically imposed by the European Commission in this subject within the EU framework for State aid.

The Government also undertakes 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 the Group […]. The former will apply to the combined entity's consolidated financial statements.

9. MONITORING TRUSTEE

9.1. 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).

9.2. The appointment, duties, obligations and discharge of the monitoring trustee must follow the procedures set out in the “ Monitoring Trustee” Appendix III

9.3. Spain and the combined entity 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 trustee may ask the combined entity for explanations and clarifications. Spain and the combined entity 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 participations to be divested

[…]

Appendix II - List of hybrid capital issues

The bank currently has outstanding issues of subordinated debt amounting to 95,649,660 euros. About 94,150,000 euros Caja3 intends to undertake the actions set forth herein. The 2 issues have been placed among […].

The actions foreseen in the restructuring plan would be developed on the following issues of the entity:

ISIN	Issue amount (euros)	Own portfolio (euros)	Outstanding amount (euros)	Maturity
ES0214845010	100.000.000	21.800.000	50.200.000	06/29/2014
ES0214845028	50.000.000	1.450.000	43.950.000	05/25/2016
Total			**94.150.000**	

Evaluation instruments to redeem

ES0214845010		**ES0214845028**	
Outstanding nominal value:	[…]	Outstanding nominal value:	[…]
Rate (Euribor […]M+[…]%):	[…]	Rate (Euribor […]M+[…]%):	[…]
Discount rate:	[…]	Discount rate:	[…]
Method 'Core Capital'		**Method 'Core Capital'**	
Net present value	[…]	Net present value	[…]
+ premium […]%	[…]	+ premium […]%	[…]
+ aditional premium […]%	[…]	+ aditional premium […]%	[…]
	[…]		[…]
Maximum […]% nominal:	[…]	Maximum […]% nominal:	[…]
Method'senior debt'		**Method 'senior debt'**	
Haircut:	[…]	Haircut:	[…]
From:	[…]	From:	[…]
Up:	[…]	Up:	[…]
Remainning months:	[…]	Remainning months:	[…]
Haircut total:	[…]	Haircut total:	[…]
Final value:	[…]	Final valuel:	[…]

Therefore, using the above methodology, the instruments would have the following discounts on their valuations, depending on the methodology used:

	Discount on valuation	
	ES0214845010	**ES0214845028**
Core Capital	[…]	[…]
Senior debt	[…]	[…]

Entity assumes the conversion of both issues into new senior debt instrument with a maturity matching that of the subordinated debt being exchanged.

Million Euros	Nominal value	Effect on debt	Haircut	Plusvalue	Effect on CT1
Subordinated debt (ES0214845010)	[…]	[…]	[…]	[…]	[…]
Subordinated debt (ES0214845028)	[…]	[…]	[…]	[…]	[…]
Total	[…]	[…]	[…]	[…]	[…]

During the month of September, it has been realized net capital gains of […] €, so the overall effect on CT1 on repurchase of hybrid instruments amount to […] €.

Appendix III - Monitoring trustee

(A) Appointment of the monitoring trustee

(i) Spain undertakes to ensure that the combined entity appoints a Monitoring Trustee to carry out the duties of a monitoring trustee "Trustee" as set out in paragraph C (x) of this Annex. The mandate applies to the entire duration of the Restructuring Plan; i.e. until 31 December, 2017. At the end of the mandate, the Trustee must submit a final report.

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

(iii) Spain undertakes to ensure that the combined entity 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 Trustee fulfils 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 Trustee to fulfill its duties; and

(b) the draft of a work plan describing how the 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, the combined entity will appoint the person or institution concerned as 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, the combined entity 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 Trustees are rejected, Spain undertakes to ensure that the combined entity 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 Trustees are also rejected by the Commission, the Commission will nominate a Trustee which the combined entity will appoint or cause to be appointed, in accordance with a Trustee mandate approved by the Commission.

(B) General duties and obligations

(viii) The Trustee is to assist the Commission to ensure the combined entity's 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 Trustee or the combined entity, issue orders or instructions to the Trustee in order to ensure compliance with the Commitments. the combined entity 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 CAJA3' Restructuring Plan. The Commission may, on its own initiative or at the request of the Trustee, issue any orders or instructions to the Trustee or CAJA3 in order to ensure compliance with the Commitments attached to the Decision.

(x) The 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 CAJA3'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 the combined entity that it considers necessary to ensure that the combined entity fulfils 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 the combined entity within thirty days after the end of each six-month period. The Commission, Spain and the combined entity 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 the combined entity. If the draft report or the final report contains any information that may not be disclosed to the combined entity, only a non-confidential version of the draft report or the final report is to be sent the combined entity. Under no circumstances is the Trustee to submit any version of the report to Spain and/or the combined entity 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 the combined entity, thus enabling the Commission to assess whether the combined entity 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 the combined entity is failing to comply with these obligations, sending a non-confidential version to the combined entity at the same time.

(D) Duties and obligations of the combined entity

(xi) the combined entity 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 the combined entity or of the business to be sold that are necessary to fulfil its duties under the mandate. The combined entity is to make available to the Trustee one or more offices at its business premises and all employees of the combined entity 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 the combined entity’s 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 the combined entity refuse to approve the advisors proposed by the Trustee, the Commission may approve their appointment instead, after hearing the combined entity ’s 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 the combined entity to replace it, or

(b) the combined entity , 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.