

RESPONSES TO THE SECOND CONSULTATION ON THE *PRO FORMA* TERMS OF ISSUANCE FOR ELIGIBLE DEBT SECURITIES

Background

1 In order to be able to issue into CREST eligible debt securities (EDSs), the non-material equivalents of negotiable debt securities, issuers will have to execute deeds constituting the debt securities in a form that is compatible with the CREST rules and functionality and with the related legislation, the Uncertificated Securities Regulations as amended.

2 The Bank and CRESTCo have been working with the market, through the Money Markets Liaison Group (MMLG) and several sub-groups, including the *MMLG MMI Reform Next Steps Group*, to produce *pro forma* terms of issuance on which issuers can draw in framing their particular deeds. The main focus has been on the EDS equivalents of money market instruments that can currently be settled in the CMO. The terms are only guidelines and issuers are free to adapt them as they wish, although bearing in mind the need to ensure compatibility with CREST requirements and the general desirability of the market developing fairly standard documentation in this area.

Consultations

3 The first drafts of the *pro forma* terms and related explanatory notes were issued for consultation in November 2002, including to members of the MMLG and to all eligible banks; and in the light of the responses a further draft was issued for consultation in March 2003. The responses to the first consultation were summarised in the cover paper to the second consultation (available on the Bank's website on www.bankofengland.co.uk/markets/money/eligibledebt030325.pdf). One outcome of the first consultation was that two versions of the deed were produced – one for single name securities (eg commercial paper and CDs) and one for two name securities (the EDS equivalents of bankers' acceptances).

4 The Bank only received three letters commenting on the second draft, although these reflected comments from several eligible banks. The Bank has written to the respondents to answer their detailed comments. In addition, the Bank, in consultation with CRESTCo, produced a third draft of the *pro forma* terms and explanatory notes which were discussed at the meeting of the *MMLG MMI Reform Next Steps Group* on 2 June. There were few changes from the previous version. The main change was that the terms were amended to exclude references to Issuing and Paying Agency Agreements being available to holders and they no longer state that holders of EDSs

are deemed to have notice of all the provisions of the Issuing and Paying Agency Agreement and that a copy is available from the Issuing Agent. So the issuer will have to decide what, if any, and how, provisions relevant to the holders should be made available to the holders. Also, the Schedule concerning information fields relating to a Notice of Issue was extensively modified to refer to corresponding fields in the IPA Issuance Message.

Finalisation

5 *The MMLG MMI Reform Next Steps Group* agreed that the third draft of the terms could be finalised on behalf of MMLG, and the *pro forma* terms and the accompanying explanatory notes are now available on the Bank's website.

6 The Bank in conjunction with CRESTCo and MMLG will keep the *pro forma* terms under review and will also consider whether further a version may be needed for MTNs.

Further questions

7 Potential issuers of EDSs should discuss the *pro forma* terms with their legal advisers and with their IPAs. Accepting banks will also need to discuss the terms with drawers, since with the issuance of EDS equivalents of bankers' acceptances the equivalents of drawers will be *participating issuers* in CREST (with the drawer equivalents being *secondary issuers* and the accepting bank equivalents being *primary issuers*).

8 Any questions about, or comments on, the *pro forma* terms may be put to John Rippon (020 7601 4683) or Howard Jones (020 7601 4605).

Bank of England
10 June 2003