

held such Rated Note for more than one year at the time of disposition. In certain circumstances, U.S. holders that are individuals may be entitled to preferential treatment for net long-term capital gains. The ability of U.S. holders to offset capital losses against ordinary income is limited.

A U.S. holder that purchased its Rated Note at a discount may also recognize gain upon receipt of a principal payment upon retirement (in whole or in part) equal to the difference between the amount received and the portion of its basis that is considered to be allocable to such payment. Such gain may be ordinary income.

*Information Regarding OID.* Further information regarding OID may be obtained by contacting the Issuer at its registered office as described under "Issuer and Co-Issuer."

### **Tax Treatment of U.S. Holders of Subordinated Securities**

The Preferred Shares will be treated as equity interests in the Issuer for U.S. federal income tax purposes.

The Subordinated Notes will be characterized as debt of the Issuer for purposes of Cayman Islands law. However, a strong likelihood exists that the Subordinated Notes will be treated as equity of the Issuer for U.S. federal income tax purposes. The Issuer will treat the Subordinated Notes as equity for U.S. federal income tax purposes. Except where otherwise indicated, this summary also assumes such treatment. No assurance can be given, however, that the IRS will respect this position in light of the Subordinated Notes' status as debt for purposes of Cayman Islands law. In general, the characterization of an instrument for such purposes as debt or equity by its issuer as of the time of issuance is binding on holders (but not the IRS) unless the holder takes an inconsistent position and discloses such position in its tax return.

In general, the timing and character of income under the Subordinated Securities may differ substantially depending on whether the Subordinated Securities are treated for U.S. federal income tax purposes as debt instruments or as equity of the Issuer. Investors should consider the tax consequences of an investment in the Subordinated Securities under either possible characterization.

*Investment in a Passive Foreign Investment Company.* The Issuer will meet the income and asset tests so as to qualify as a "passive foreign investment company" ("PFIC"). In general, to avoid certain adverse tax rules described below that apply to deferred income from a PFIC, a U.S. holder of Subordinated Securities may want to make an election to treat the Issuer as a "qualified electing fund" ("QEF") with respect to such holder. Generally, a QEF election should be made on or before the due date for filing a U.S. holder's federal income tax return for the first taxable year in which it held Subordinated Securities. If a timely QEF election is made, an electing U.S. holder of Subordinated Securities will be required to include in its ordinary income such holder's pro rata share of the Issuer's ordinary earnings and to include in its long term capital gain income such holder's pro rata share of the Issuer's net capital gain, whether or not distributed, assuming that the Issuer is not a "controlled foreign corporation" as discussed below. Under Section 1293 of the Code, a U.S. holder's pro rata share of the Issuer's ordinary income and net capital gain is the amount which would have been distributed with respect to such holder's Subordinated Securities if, on each day during the taxable year of the Issuer, the Issuer had distributed to each holder of Subordinated Securities a pro rata share of that day's ratable share of the Issuer's ordinary earnings and net capital gain for such year. In certain cases in which a QEF does not distribute all of its earnings in a taxable year, its U.S. holders may also be permitted to elect to defer payment of some or all of the taxes on the QEF's undistributed income but will then be subject to an interest charge on the deferred amount. Prospective purchasers of the Subordinated Securities should be aware that the Collateral Obligations may be purchased by the Issuer with substantial original issue discount. As a result, the Issuer may have significant ordinary earnings from such instruments, but the receipt of cash attributable to such earnings may be deferred, perhaps for a substantial period of time. In addition, under certain circumstances, Interest Proceeds may be used to pay principal of the Rated Notes or to purchase additional Collateral Obligations. Furthermore, if the Issuer discharges its debt at a price less than its adjusted issue price (which may include a deemed discharge arising from a significant modification to the terms of the debt), it could recognize cancellation of debt income equal to that difference, although such income may be deferred if the Issuer is insolvent at the time of the discharge. Thus, absent an election to defer the payment of taxes, U.S. holders that make a QEF election may owe tax on a significant amount of "phantom" income.

In addition, if the Issuer invests in obligations that are not in registered form for U.S. federal income tax purposes, it is possible that a U.S. holder making a QEF election (i) may not be permitted to deduct any losses attributable to