

# PERSBERICHT

## FORTIS CAPITAL COMPANY LIMITED

**Amsterdam, Thursday 25 June 2009. Today the court in Amsterdam delivered judgement in the summary hearing brought by Fortis Capital Company Ltd. ('FCC') against Fortis N.V. and Fortis SA/NV (the 'Fortis Holdings'). FCC is pleased to report that the court has ruled in its favour.**

### **Ruling**

The court ruled in favour of FCC and ordered the Fortis Holdings to pay €362,511,000 (three hundred and sixty two million five hundred and eleven thousand euros) by 29 June 2009 at the latest. The Fortis Holdings were also ordered to give FCC partial access to the transaction file compiled in 1999. The court rejected the counterclaim for compensation made by the Fortis Holdings against FCC, as well as the claim for compensation made by the Fortis Holdings against Fortis Bank Nederland (Holding) N.V. ('FBN(H)'). Finally, the court has not yet ruled on the Fortis Holdings' request to levy attachments on the assets of Fortis Capital Company held by FBN(H).

### **Claim and counterclaim**

FCC is pleased that the court has ruled in its favour. The Fortis Holdings have expressly stated that they will act in accordance with the court's ruling, so that the holders of the preference shares issued by FCC, which have been tendered as part of the Cash Settlement, will receive their repayment on 29 June 2009. It goes without saying that this repayment needs to be made on time. The capital markets operate on the basis of trust. FCC has never doubted that the Fortis Holdings are under an (unconditional and absolute) obligation to pay. In a case such as this, where one of the parties fails to fulfil its indisputable, unconditional and absolute obligations, judicial intervention is not just appropriate, but necessary. Holders of securities must be able to assume that all obligations, including payment obligations, will be fulfilled without fail. The court's decision has confirmed this view.

### **Attachment order**

The Fortis Holdings had requested permission to levy attachments against FBN(H) at the expense of FCC in order to protect their right of recourse against FCC. FCC and FBN(H) had already made the commitment to the Fortis Holdings that, while the dispute is pending, FCC would not do anything to frustrate the Fortis Holdings in exercising their alleged rights. Before making any further decisions, the judge has asked FCC – together with FBN(H), if possible – to inform him whether FCC and FBN(H) share his interpretation of the meaning of this commitment.

### **For more information, please contact:**

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### **Background information**

In 1999, Fortis Capital Company Ltd. (FCC), a wholly-owned subsidiary of Fortis Bank Nederland (Holding) N.V. (FBN(H)), issued 450,000 preference shares with a total nominal value of €450,000,000.00 in order to strengthen the capital structure of FBN(H). The net proceeds of this issue were made available by FCC to FBN(H) in the form of a subordinated loan. The preference shares were placed with the public and listed on the Euronext Amsterdam stock exchange. The preference shares were issued in order to strengthen the bank's Tier 1 capital on a permanent basis. Tier 1 capital is a bank's strongest asset category and is also referred to as 'core capital'. A large portion of these preference shares (valued at €362,511,000) are due for cash conversion (the Cash Settlement) on 29 June 2009.