

????????? ??? ???????????? (????? ?????)

??? 2?? ??????? 2020 (\*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????  
2006/112/?? – ?????????? – ????? 135, ?????????? 1, ?????????? ?? – ?????????? ??? ??????  
????????????? ?????????? ?????????? – ?????? ?????? ??? ?????????????? ??? ??  
????????????? ?????????? ?????????? ??? ????? ??????????»

???? ??????? C2231/19,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Upper Tribunal (Tax and Chancery Chamber) [?????? ?????????? ??????????  
(????? ?????????? ??? ??????????), ?????? ??????] ?? ?????? ??? 15?? ??????  
2019, ? ?????? ??????? ??? ?????????? ??? 15 ?????? 2019, ??? ?????? ??? ???

**BlackRock Investment Management (UK) Ltd**

????

**Commissioners for Her Majesty's Revenue and Customs,**

?? ?????????? (????? ????),

????????? ??? ??? J.-C. Bonichot (????????), ?????? ???????, M. Safjan, L. Bay Larsen,  
C. Toader ??? N. Jääskinen, ???????,

?????? ??????????: P. Pikamäe

?????????: C. Strömholm, ?????????? ??????????,

?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???  
18?? ?????????? 2019,

?????????? ?????? ??? ?????????? ??? ????????:

- ? BlackRock Investment Management (UK) Ltd, ?????????????? ??? ??? N. Skerrett,  
solicitor, ??? L. Poots, barrister, ??? ??? A. Hitchmough, QC,
- ? ?????????? ??? ?????? ??????????, ?????????????? ??? ?? Z. Lavery ??? ??? F.  
Shibli, ?????????????? ??? ??? R. Hill, barrister,
- ? ?????????? ???????, ?????????????? ??? ??? L. Lozano Palacios ??? ??? R. Lyal,  
???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??? ?? ??????????  
??? 11?? ?????? 2020,

????????? ??? ????????

???????

1, ?????????? ?, ??, ??? ??????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006,  
?????? ?? ?? ????? ??????? ????? ?????????????? ??? (?? 2006, L 347, ?. 1, ??? ????:  
?????? ????.).

2 ? ??????? ??? ???????????? ??? ?????? ???????? ???????? ?????? ??? BlackRock  
Investment Management (UK) Ltd (??? ????: BlackRock) ??? ??? Commissioners for Her  
Majesty's Revenue and Customs (????????????? ??? ?????????????? ?????, ??????? ?????????)  
(??? ????: ???????????? ????) ???????? ?? ??? ?????? ??? ?? ??? ?????? ?? ?????????? ???  
?? ??? ???????? ?? ???????????? ??? ?????????? ??? ?? ??? ????? ?????????????? ????? (???) ???  
??????????? ?? ??? ?????? 135, ?????????? 1, ???????? ??, ??? ?????? ????.

?? ?????? ???

?? ??????? ??? ??????

3 ?? ?????? 1, ??????????? 2, ??????? ??????, ??? ??????? ?????? ??? ?????? ?? ?????;

4      ????? ?? ?????? 2, ?????????????? 1, ??? ?? ??? ??????:

«????? ??? ??????????? ?? ?????????? ????????:

[...]

?) ?? ??????? ??????????, ???. ??????????????????? ???. ??????? ???. ??????? ???. ??????? ???.  
?????? ???. ??????? ???. ??????????? ???. ????? ???. ??????? ???. ??? ???. ??????? ???.

[...]]».

5       ? ?????? IX ??? ?? ??? ????????, ? ?????? ??????????? «?????????», ???????????  
?? ????? 131 ??? 166 ??? ???????

6      ?? ?????? 131 ???. ??????? ???. ??, ?? ?????? ??????????????? ???. ???.  
«???????. ???????» ??????? 1 ???. ???. ???. ??????. ??????. ???. ???:

«?? ?????????? ?? ??????????? ?? ?????????? 2 ?? 9 ?????????? ?? ?? ??????????  
????? ?????????? ?? ?????????? ?? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ?? ?? ??  
?? ?????????? ?? ?? ?? ?? ?? ?????????? ?? ?? ?? ?? ?????????? ?? ?? ?? ??????????  
?? ?????????? ?? ??????????, ?????????? ? ??????????»

7      ?? ?????? 135, ??????????? 1, ??? ?? ??? ???????, ?? ?????? ?????????????????? ???  
????????????? «????????? ??? ??????????????» ??????? 3 ??? ?? ??? ??????,  
????????? ?? ????:

«?? ???? ???? ?????????????? ??? ?????????? ????:

[...]

?) ?? ?????????????? ?? ?????????????? ??????????????, ????. ?????????????? ????. ?? ????????.

[...]».

8 ?? ?????? 196 ??? ????? ???????, ??? ??????????????? ?? ??? ?????? 2008/8/?? ???  
??????????, ??? 12?? ??????????? 2008, ?????? ?? ???:

«? ??? ?????????? ??? ?? ?????????? ??? ???? ???? ? ? ? ?????????? ??? ???? ??? ??????  
????????? ??? ?????????? ?????? ?????? ???, ??? ???? ?????? ?????????? ?? ?????????? ???  
????????? ??? ?? ??? 44, ?????? ?? ?????????? ?????? ?????????? ??? ?????????? ???  
????? ?? ?????????????? ??? ?????????? ??? ?? ??? ?????? ?????? ??????»

**?? ?????? ??? ?????? ??????????**

9 ??? ?? ?????? 31, ??????????? 1, ??? Value Added Tax Act 1994 (????? ?? 1994 ????  
??? ?????? ??????????? ???), «[?] ?????????? ?????? ??? ?? ?????? ?????????? ???  
????????????? ?? ?????????? ?? ??? ??? ??? ?????????? ??? ??? ?????????????? ???  
????????? 9».

10 ? ??????? 5 ??? ?? ???????????, ? ?????? ?????? ?? ???????????, ??????????  
??? ???????, ?????? ????, ??? ?????????? ??????????? ??? ?????? ?????? ????????????  
????????? ?????????? ??? ?????????? ??????????? ??? ?????? ??????. ??????? ?? ???  
????????????? ??? ?????????? ???????????, ?????????? ??? ??? ????? ??????????? ??? ??  
????????? ???, ??? ?????? ???????, ?????????? ?? ?????????? ??????.

**?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????????**  
???????

11 ? BlackRock ??? ?????? ???, ?????????????? ??? ?????????? ??? ?????? ???????, ???  
????? ??? ?????? ?????????? ??? ???? ?????? ?????????? ??? ?????? ??? ?????? ??  
????????????? ??? ?????????? ??????.

12 ? BlackRock ?????????????? ?????????? ?????????? ?????? ??? ?????? ???????, ???  
????????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ?????????? ???????????,  
????? ?? ??? ??? ?????? ??? ?? ??? ??? ??? ?????? ??? ?????? ?????????? ???????????,  
?????????.

13 ??? ?? ?????????? ??? ??????? ??? ?????????? ???, ? BlackRock ?????? ?????? ???  
????????? ??? ?????? ? BlackRock Financial Management Inc. (??? ????: BFMI), ???????  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ????. ?? ?? ??? ?????? ??????????  
????????? ??? ?????? ?????????? ?????????? ?? ??? ?????? ?????? Aladdin ??? ???????????  
??? ??? ?????? ?????? ?????????? ???????????, ?????????? ??? ?????????? ???????????. ?  
Aladdin ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ?????? ???  
????????? ?????????? ??? ?????? ?????????? ?????????? ?? ??? ?????? ?????????? ??? ?????? ??????????  
?????????, ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??????. ??? ??? ??? ??????  
????????? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ??????, ?????? ??? ?? ?????? ?? ???  
????????? ??????.

14 ?????????? ??? ? BFMI ??? ?????? ?????????????? ??? ?????? ?????????? ???, ? BlackRock  
????????? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ???  
?? ?? ?????? 196 ??? ?????? ???.

15 ??? ??? ?????? ??? 1?? ?????????? 2010 ??? 31 ?????????? 2013, ? BlackRock  
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??????????.

?????????? ?????? ?? ??????????????? ??? ?? ??' ?????????? ??? ?????? 135,  
?????????? 1, ??????? ??, ??? ?? ?? ??????, ??? ??????? ??????? ??? ?? ???? ?????  
???? ?? ?? ?? ?? ?????????? ??? ??????????????? ??? ?? ?????????? ??? ?? ???? ??????????  
? ?? ?? ?? ?? ?????????? ??? ??????????????? ?? ?? ?? ?? ?????????? ??? ?? ???? ??  
?????????????? ?? ?? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ???? ??????????.

16 ? ?????????? ???, ??????????? ?? ?? ?????????? ???, ??????? ??????? ???????  
????? ??? ?? ?? ?? ??????. ? BlackRock ?????????? ??? ??????? ?????? ?????? ??? First-  
tier Tribunal (Tax Chamber) [????????????? ?????????? ?????? (????????? ???),  
????????? ??????], ?? ????? ??????? ??? ??????? ???.

17 ? BlackRock ?????? ?????? ??? ?? ?? ????? ?????????? ??????? ??? ??????????  
??????????.

18 ?????? ??? ?????????? ???, ? BlackRock ?????????? ??? ? ??  
????? ??? ?? ?? Aladdin ?? ?????, ?? ??? ???????????, ?? ?????????? ??? ?? ???? ??  
???? ?? ?? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???, ?  
?? ?? ?? ?? ?????????? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ?? ?? ?????????? ???  
????????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???  
??????????, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ???  
????????? ??? ?????????? ??? BlackRock ??? ?? ?????????? Aladdin, ?????????? ??? ?  
????????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ???.

19 ??? ?? ????????, ?? Upper Tribunal (Tax and Chancery Chamber) [??????  
?????????? ?????? (????? ?????????? ??? ??????????), ??????? ???????]  
?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??  
????????? ?????????? ???:

«???? ?? ?? ??????? ?? 135, ?????????? 1, ??????? ??, ??? ??????  
[2006/112], ??? ?? ?????? ??????? ??????? ?? ?? ?? ?????? ??????? ??????? ???????  
?????????? ?? ?? ??????? ?? ?? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????????, ?  
?????? ?? ?????????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ?? ?? ?? ??  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? (????? ??????):

?) ??? ?? ?? ?????? ?? ?? ?? ?????? ??? ?????? ?? ??????? ??? ?????????? ???????????, ???  
??? ??, ??? ?????? ?? ?????????? ??? ?????? ?? ??????? ??? ??????????; ?

?) ??? ?? ?? ?????????? ??? ?? ?? ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ??  
?????? ?? ?? ?? ?????? ?????????? ?? ?? ?????? ??? ?????????? ?????????? (????? ?????????? ???????  
?? ?? ?? ?? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?? ?? ??  
????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?? ?? ??  
????????? ??? ???;»

??? ?? ?????????????? ??????????

20     ?? ?? ?????????????? ????????, ?? ?????? ??????????? ??????, ???' ??????, ??  
????????????? ?? ?? ????? 135, ?????????? 1, ??????? ??, ??? ?????? ????? ?? ???? ??  
????? ?? ?? ?????? ?????? ?????????? ??????????????, ??? ?????????? ??????????  
????????? ?? ?????? ??????, ??? ?? ?????? ?????????? ?????????????? ?????????? ? ?????  
????????????? ??? ?????? ?????? ??? ?? ??? ?????? ?????????? ?????????? ?????  
????????????? ??? ?? ?? ?? ??? ?????? ?????????? ??? ?? ??? ?????? ?????????? ???  
????????????? ???????????, ??? ?? ?????? ?? ?????????????? ?????????? ?????????? ??? ?? ???  
?????????.

21      ??????????????? ???, ??? ??????????? ??? ?????? ??????????, ?? ?????????? ??? ??????  
135, ?????????? 1, ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????  
??????, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ??? ??? ??? ?????? ?????? ??? ??? (????????? ??? 25?? ??????? 2018,  
DPAS, C-5/17, EU:C:2018:592, ????? 28 ??? ??? ?????????????? ??????????).

22 ??????????, ?? ??? ???? ?????????????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????  
135, ?????????? 1, ??? ?????? ??? ?????? ??? ?????? ?? ?????????????? ?????, ?????????? ??? ??  
????????? ??? ????? ?????????? ?????????????? ??? ?? ?????? ??? ?????? ??? ???? ?????????????? ??  
???? ?????? ?????????? ??? ?????????????? ??? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ???  
???? (????. ??????? ??? 19?? ?????????? 2018, Mailat, C-17/18, EU:C:2018:1038, ????? 37).  
????????, ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??  
??? ?? ??? ??????, ? ?????? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? 2, ?????????? 1,  
????????? ??, ??? ?? ??? ????? ?????? (?????? ??? 10?? ?????????? 2019, PSM «K», C-214/18,  
EU:C:2019:301, ????? 43).

23 ????????????????, ???? ????? ?? ??????? ?? ? ?????? ?????????? ??? ?? BFMI ???? ???  
BlackRock ???? ?? ?????????? Aladdin ?????? ?? ?????????? ?? ?????? ??????,  
????????????? ???, ???? ?????????? ??? ?????? ??????????, ?????? ??? ?????? ?????? ?????? ???  
????? ?? ??????????, ??? ??????? ???, ?? ??????? ??? ??????????, ??????????, ???  
????? ??? ?? ?????? 1, ?????????? 2, ??????? ??????, ??? ?????? ??? ?????? ?????? ???, ?????? ?  
?????, ??? ?????????? ??????, ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??  
????????????? ??????, ??? ?? ?? ?????? ? ?????????????????? ??? ?????????? ???  
???. ?????? ??? ?? ??? ?????, ?????? ?????? ?????????? ??? ?????? ??? ? ??????????  
????????? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??????????  
????? ???? ?????? ??? ?????? ?????????????? ?? ?????? ?????? ??? ?????????? ??????????  
?????, ??? ?????? ? ?????????????? ?? (??????? ??? 18?? ??????????)  
2018, Stadion Amsterdam, C-463/16, EU:C:2018:22, ??? 22 ??? ????? ?????????? ???  
?????????).

24     ?? ????????????, ???? ?????? ? ??????? ????????????, ???? ?????? 51 ??? ??????????  
???, ??? ?? ????????, ??? ???????, ??? ????????????, ???? ?????? ??' ??????????  
?????????, ?????????? ?? ? ???? ??? ?????????? ???? ?????? ??? ?????? ?????? ??????  
????????? ??????????, ??? ?? ?????? ??? ?????????? ???, ??? ?????????? ??? ?????? ???  
????????? ????????????, ??? ?????????? ?????????? Aladdin, ??? ?????????? ? ?? ??? ??????  
????????? ?????????? ??? ?????? ?? ????????, ???? ??? ?????????? ??? ?????????? ??? ???  
????????? ??? ????????????, ???? ??? ????????????, ?? ?????????? ??? ??????????  
????????? ???.

25      ??????????, ??? ?????????? ??? ??????????, ?????????????? ?????????? ???  
?????? ?? ???? 267 ???, ?? ?????? ??? ?????????????? ??? ??????????  
????????????? ??? ?????????? ??? ?????? ???, ?????????? ??? ??? ?????? ?????? ??? ???  
????????????? ??? ?????? ??? ??? ?????? ?????????? ? ?????? ??? ??????????????

??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????? ?? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
(????????? ??? 13?? ?????????? 2005, Parking Brixen, C-458/03, EU:C:2005:605, ??? 32, ???  
??? 21?? ????? 2015, Kansaneläkelaitos, C-269/14, ?? ??????????????, EU:C:2015:329, ???  
25).

26 ?? ??????????, ??? ?? ?????? ??? ?????????????? ?????????? ??? ?????????? ??? ??  
?????? ?????????? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? «????? ??????».

27 ??? ??????, ?????????? ?? ?????? ?????????? ??? ?? ?????? ?????????????? ??? ??????, ?  
?? ??? ?????? ?????????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

28 ??????, ?????? ?? ?????? ?????? ??? ?????? ??? ? ?????? ??? «?????????????»  
?????? ?? ??????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???  
????? ?????? ?????????? ??? ?????? 42 ??? ?????????? ???.

29 ??????, ?????? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????? ???  
????????? ?????????? ??? ?????? ???, ?????????? ???, ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???  
?? ?????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ???  
????? ??? ?? ?????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???,  
????? (????????? ??? 25?? ?????????? 1999, CPP, C-349/96, EU:C:1999:93, ??? 30,  
??? ??? 18?? ?????????? 2018, Stadion Amsterdam, C-463/16, EU:C:2018:22, ??? 23 ???  
????? ?????????? ?????? ???).

30 ??????, ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????????? ??? ??? ?????? ???, ??? ?????? ?? ??? ??? ?????? ?????? ?? ?????? ??? ??  
????? ?????? ??? ?? ??? ?????? (????. ?????? ??? 19?? ?????? 2012, Deutsche  
Bank, C-44/11, EU:C:2012:484, ??? 27).

31 ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???, ?? ??? ??????  
?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ???  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? 135, ?????????? 1, ?????? ??, ??? ?????? ??? ?????? ???.

32 ??????, ?????????? ???, ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
?? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ??? ?? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Aladdin, ??  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ???.

33 ??????, ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ??????, ?? ?????? ?????? ??? ?????? ?????????? ??? ? ?? ?????????? ???  
????????????? ?????? ??? ?????? ?????? ??????. ??? ??????, ??? ?????? ?????? ?????? ???  
????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ??????.

34 ???????, ?? ?????????? ??? ?????? ??? ? ?????? ?????????? ?????????????? ???  
????????????? ??? ?????? ??????, ??? ?????????? ??? ? ?? ?????? ?????? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ? ?? ?????? ?????? ??? ?????? ???  
?????, ??? ?????? ?????????? ?????? ?????????? ??? ? ?? ?????? ?????? ??? ?????? ???  
????? (????. ?????? ??? 19?? ?????? 2012, Deutsche Bank, C?44/11, EU:C:2012:484,  
????? 26 ??? 27).

35 ???????, ??? ?????? ?????????? ??? ?????????????? ?? ?????? ?????? ??? ?????? ???  
??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ? ?? ?????? ??? ?????? ??? ?????? ???  
?? ??? ??? ??? ??? ?????????? ??? . ???????, ?? ?????????? ??? ?????? ??? ? ?? ?????? ???  
?? ?????????? ??? ?? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ???  
????????????? ?????????? ??? ?? ?????? ?????? ??? ? ?? ?????? ??? ?????? ??? ?????? ???  
???? ?????? ?????????????? ??? ?????? ??? ? ?? ?????? ??? ? ?????? ??? ?????? ???  
????????????? ??? ?????????? ??? (????? ??? 18?? ?????? 2018, Stadion  
Amsterdam, C?463/16, EU:C:2018:22, ??? 26 ??? ?????? ?????????? ??? ??????).

36 ??????, ? BlackRock ?????????? ??? ? ?????? ?????? ?????? ?????? ?????? ???  
????? ??? ?????? ????. ???????????, ??? ? ?? ?????? ???, ?????????? ? ?? ???  
????? ??? ?????????? ?? ?????????? ?????? ?????????? ?????????? ??? ?????????? ??????????  
???? ?????? ??? ??????, ??? ??????, ??? ?????? ?? ?????????? ?????????? ??? ?????????? ??????????  
???? ?????? ??? ?????? ?????? ??? ?????? ????. ???????, ? ?????????? ?????? ??????????  
????????? ?????? ??? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ???, ???  
??? ?????? ??? ?? ?????? ??????, ??? ? ?? ?????? ??? ? ?? ?????? 53 ??? 54 ???  
????????? ??? 4?? ?????? 2017, ?????? ??? ?????? (C-274/15, EU:C:2017:333).

37 ???????, ? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
?????.

38 ???????, ?? ??? ? ??? ??????, ?? ?????????? ?????????? ??? ??????????  
????????? ??? ?????? 132, ?????????? 1, ?????????? ???, ??? ?????? ???  
???. ?? ?? ??? ?????, ???, ??????? «??? ?????? ?????? ?? ?????? ???  
????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????????  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ??? ?????????? ?????». ?? ?? ??????, ? ?????? ???  
????? ?? ?????? ?????? ??? ?????????? ?????? ?????????? ??? ??? ?? ?????????? ?? ???  
????????? ??? ?????? ?????? ?????? ?????? ??????, ?????? ?????? ?????????? ??? ??????  
????????? ??? ?????? ??? ??? ?????? ???, ?????? ?????? ?? ?????????? ??? ???  
????????? ??? ?????? ???.

39 ???????, ? ?????? ??? ?????? 135, ?????????? 1, ?????????? ??, ??? ?????? ???  
??? ?????????? ??? ?? ?????? ?? ? ?? ?????? ??? ?????? ??????, ?? ?????????? ???  
????? ?????????? ?????? ?????? ?????? ???????. ???????, ?? ?????? ??? ?????????? ???  
??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ???  
????? ??? ??? ?????? ???.

40 ??? ?? ??????? ?????????? ???, ???' ?????????? ??? ?????? ??? ?????????? ???  
????? 35 ??? ??????? ??????????, ??? ?????? ?????? ??? ? ?????? ??? ?????? ???  
????? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ??????????.

41 ??????, ?????? ?? ???????? ?? ? ?????? ?????????? ?????????? ??? ?????? ??????  
????? ?????? ?? ?????????? ?? ?????????? ?? ? ?????? ??? ?????????? ??? ??????????,  
????? ??????????, ?????????? ?????????? ??????????. ???????, ?? ?????? ?????????? ??????????  
?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ? BlackRock ??? ??  
????????? Aladdin, ?????????? ?? ?????? ?????? ?????????????????? ?? ??? ???  
????????? ?? ?? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ??????????  
?????????, ?????? ?? ??? ??? ??????, ?? ? BlackRock ?????????????? ?????? ??????  
????????, ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ??? ??? ???.

42 ????????, ??????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ???????  
?? ?????????? ?? ?????? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???????,  
?? ?????? ?????????? ?? ?????? ?????? ?????????? ??? ???????, ??? ??? ??????????  
????????, ?????????? ?????????? ?? ?? ?????? ?????? ???????, ??? ?????? ??????? ??  
????? 32 ??? ?????? ?????????, ??? ???????, ?? ?????????, ??? ?????????, ?????? ?????? ???  
????????? ?? ?????????? ??????.

43 ????????, ??? ?? ??? 13, ?, ????????, ??, ??? ?????? ?????? 77/388/?? ??  
?????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????? ???????, ??  
?? ?????? ?? ?????? ?? ?????? ?????? ?????? – ??? ?????? ?????? ?????? ??????????????  
?????: ?????????? ?????????? ??? (?? ??? . ??? . 09/001, . 49), ??? ?????? ?? ??????????,  
????? ?????? ?????????, ?????????? ?? ?????? 135, ?????????? 1, ?????????? ??, ??? ???????  
???? ??, ?? ?????????? ??? ?????? ??? ? ?????????? ??? ?????????? ??????????, ??? ??  
????? ?? ?????????? ???, ?????????? ?? ?????? ?? ?? ?????? ??? ?????? ??? ?????????? ???  
????????? ?? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
(????? ??? 4?? ??? 2006, Abbey National, C-169/04, EU:C:2006:289, ??? 66).

44 ????????, ?? ?????????? ?????? ?????? ?????????? ?? ?????????? ?? ??? ?? ???  
????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ? ?????????? Aladdin,  
????? ?? ?????????? ?? ?????????? ??? ?????????? ??, ?? ?????? ???????, ??? ?????????? ??  
????? ?????????? ?? ?????????? ?? ?????? ?????????? ?????? ?????????? ???, ???  
????????????? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????? ??? ??????????  
?? ?????? ?? ?? ?????? ??? ?????????????? ??? ?????????? ?? ?? ?????????? ??? ?????????? ???,  
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ??????????.

45 ??? ?????? ?????????? ?? ??? ?????? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????????? ???  
????????? ?? 135, ?????????? 1, ??????? ??, ??? ?????? ???, ??? ??? ??, ??? ?????? ???  
????? ?????????? ?? ?????? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ???, ???  
????????? ?? ??? ?????? 22 ??? ?????? ??????.

46 ????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????????? ??????????  
?? ?????? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?? ?????? ??? ??????????  
?? ?????? ?????????? ??? ?????? ??????.

47 ????????, ?????????? ??? ?? ?????????? ??? ?????? ?????? ???, ??? ??  
????????? ?? ?????????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?? ??? ?????????? ??,  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?????????? ??? ??????????  
????????? ??? ?????????? ??? ?????????? ?????? ?????????? (????. ?????????? ??? 4?? ???).

2006, Abbey National, C?169/04, EU:C:2006:289, ??????? 70 ??? 71, ??? ??? 7?? ???????  
2013, GfBk, C-275/11, EU:C:2013:141, ????? 21).

48     ?? ????????????, ????, ?? ?????????? ?? ?????? ?????? ?????? ?????????? ??? ? ???????  
????????? ?????????????? ?? ?????? ?? ?????????? ?????????? ?????????? ?????? ??? ??,  
???????????, ??????? ?? ?????????????? ?????????? ?? ?????? ?? ?????????? ??????????  
????????? ?? ?? ?? ?? ?????????? ?????? ??????. ???????, ? ???????? ??? ?? ??????  
?? ??????? ?? ??? ?????? ?????????? ?? ?????????? ?????????? ?????????? ??????????.

49      ????? ????????, ?????? ?????????? ????? ? ?????? ?????? ????? ?????? ??? ?????? ?????? ???  
 ?????? ??? ?????????? ????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? 135,  
 ?????????? 1, ??????? ??, ?? ?????? ?????? ????.

50     ?? ?????????? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? BlackRock ??? ???????  
?? ?? ?? ?? ???? ?? ?????????? ?? ????????????, ??????? ?? ?????? ?? ?????????? ?? ??????????????  
?????? ?? ??????? ?? ?????????? ?? ?????????? ????? ?? ??????, ??? ?????? ??????????  
?????, ??? ?????????? ???????, ????? ?? ?????????? ??? ??????? ?? ?????????? ?? ??????????? ??  
?????? ?? ??? ?? ?????????? ??? ??????? 135, ?????????? 1, ?????????? ??, ???  
?????? ?? ??? ??????? (????. ??????? ?? 4?? ????? 2006, Abbey National, C-169/04,  
EU:C:2006:289, ??? 68).

51 ????????, ????????, ??? ? ???, ??? ?????????????? ?????????????? ?????????? ??????  
????????? ??? ??????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?? ?????? ?? ???  
????????? ??? ??????? ???, ? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????  
????????? ??? ?????????? (???. ??????? ?? 19?? ??????? 2012, Deutsche Bank, C?44/11,  
EU:C:2012:484, ??? 45) ???, ????????, ??? ?????? ?? ?????????? ?????????? ?? ???  
135, ?????????? 1, ??????? ?, ??? ?????? ?????? ??? ?? ??????, ??? ? ?????? ???  
?????? ??? ?????? ??????, ? ??? ?????? ??? ?????? ??? ?????????? ??????????????.

52 ??????? ?? ???? ??? ??????? ????????, ??? ?????????????? ??????? ??????? ?? ?????? ?  
?????? ?? ???? ?? ?????? 135, ??????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ??  
?????? ?? ???? ?????? ?????? ?????????? ??????????????, ??? ?????????????? ??????????  
????????? ?? ????? ??????, ??? ?? ?????? ?????????? ?????????????? ?????????? ? ??????  
????????????? ?? ????? ?????????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????????? ??? ??????????  
?? ??????????? ? ?? ??? ??????????.

???? ???? ?????????????? ????????

53      ?????????? ?? ? ??????? ?????????? ?? ???? ?? ???? ????? ?????????? ?? ???? ?????? ?????  
???? ?????????? ?????????????? ?? ???? ??????? ?????????? ?? ???? ?????????? ?????????? , ?' ????  
????????????? ?? ???? ??????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? . ?? ???? ?? ???? ????? ??????????  
???? ?????????? ?????????????? ?? ???? ?????????? . ?? ???? ?? ???? ?????????? . ?? ???? ??????????.

??? ??? ???? ?????? ??????. ?? ?????????? (????? ?????) ???????????;

?? ?????? 135, ?????????? 1, ??????? ?, ?? ?????? 2006/112/?? ?? ??????????,  
?? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ???????????????, ???,  
????? ?? ???? ?????? ?? ?? ?????? ?????? ?????????? ???????????????, ?? ???? ??????????  
?????????? ?????????? ?? ?????? ??????, ???? ?? ?????? ?????????? ??????????????  
????????? ? ?????? ?????????????? ???? ?????? ?????? ?????????? ???? ??? ?????? ??????  
?? ?????????? ???? ?????? ?????????? ?? ?? ??? ??????.

(???????????)

\* ???? ??? ??????????; ? ???????.