

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

??? 10?? ??????? 2014 (*)

«????????????? ?????????? — ?????????? ?????????????? — ?????????? ?????????????? ???
????????? — ??? 63 ??? 65 ??? — ??? ?????????????? ?????????? ?????????? —
????????????? ?????????????? ?????? ??? ?????????? ??? ?????????????? ?? ??????????
????????????? ?????????????? ??? ?????????? ??? ?????????????? ?? ?????????????? ??????????????
????????? — ?????????? ??? ? ?????????? ?????? — ?????????????? ??????????»

???? ?????? C?190/12,

?? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
????? ?? Wojewódzki S?d Administracyjny (???????) ?? ?????? ??? 28?? ??????? 2012, ?
????? ?????? ??? ?????????? ??? 23 ??????? 2012, ??? ?????? ??? ????

Emerging Markets Series of DFA Investment Trust Company

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Dyrektor Izby Skarbowej w Bydgoszczy,

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

????????? ??? ??? A. Tizzano, ?????? ???????, A. Borg Barthet, E. Levits (????????), M.
Berger, ??? S. Rodin, ???????,

?????? ??????????: P. Mengozzi

?????????: K. Malacek, ??????? ???????????,

?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
5?? ?????????? 2013,

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

– ? Emerging Markets Series of DFA Investment Trust Company, ?????????????? ??? ???
M. Rudnicki, ?????? ????????,

– ? ?????????? ????????, ?????????????? ??? ??? B. Majczyna ??? M. Szpunar ???
??? ??? ??? A. Kramarczyk,

– ? ?????????? ????????, ?????????????? ??? ??? T. Henze ??? ??? K. Petersen,

– ? ?????????? ????????, ?????????????? ??? ??? A. Rubio González,

– ? ?????????? ????????, ?????????????? ??? ??? G. de Bergues, J.-S. Pilczer ??? D.
Colas,

– ? ?????????? ????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? A.
De Stefano, avvocato dello Stato,

- ? ?????????? ???????, ?????????????? ??? ??? M. Pere,
- ? ?????????? ???????, ?????????????? ??? ??? K. Herrmann ??? ??? W. Roels,
???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? 6?? ??????? 2013,
?????? ??? ??????

??????

1 ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? 49 ????, 63 ????
??? 65 ???.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??????????
????????? Emerging Markets Series of DFA Investment Trust Company, ? ?????? ??????
???? ?????? ??? ?????????? ??? ?????????, ??? ??? Dyrektor Izby Skarbowej w Bydgoszczy
(????????? ??? ?????????? ??? ?????????? ??? Bydgoszcz), ?????? ?? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?????????? ?????? ??? ?? ??????
????????? ??? ?????? ??? ???' ?????????? ?????? ?????????? ??? ??? 2005 ??? 2006 ???
????????? ??? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??? ?????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??? ?????? ???.

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

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

3 ?? ???? 6, ?????????? 1, ??? ???? ??? ??? ????? ?????????? ?????? (ustawy o
podatku dochodowym od osób prawnych), ??? 15? ?????????? 1992 (Dz. U. ????. 54, ???
654), ??? ???? ??? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???, ???
??? ?? ??? 2005 ??? 2006 (??? ????: ?????? ??? ??? ?????? ??????), ?????? ?? ???:
«????????? ??? ??? ???:

[...]

10) ?? ?????????? ?????????? ?? ?????? ?????? ??? ?????????????? ??? ?????? ???
????????? ??? [????? ??? ??? ?????????? ?????????? (ustawy o funduszach
inwestycyjnych), ??? 27? ??? 2004 (Dz. U. ????. 146, ??? 1546, ??? ????: ?????? ??? ???
????????? ??????????)]].»

4 ?? ???? 6, ?????????? 1, ??? ???? ??? ??? ????? ?????????? ?????????? ??? ???
????? ??? ??? ?????????? ??? ?????? ??? ?? ?????????? ?????????? ?????? ??? ?????? ???, ???
????? ??? ??? ?????? ?????? ??? ??? ?????? ???' ?????????? ??? ?????? ?????????? ???
????????? ?????????? ?????? (ustawa - Zmiana ustawy o podatku dochodowym
od osób fizycznych, ustawy o podatku dochodowym od osób prawnych oraz ustawy o
zrycza?towanym podatku dochodowym od niektórych przychodów osi?ganych przez osoby
fizyczne), ??? 25? ?????? 2010 (Dz. U. ??? 2010, ????. 226, ??? 1478). ? ?????? ???,
? ??? ??? ??? ??? ??? 1? ?????????? 2011, ?????? ?? ???:

«????????? ??? ??? ???:

[...]

10) ?? ?????????? ?????????? ?? ?????? ?????? ??? ?????????????? ??? ?????? ???
????????? ??? [????? ??? ????? ?????????? ??????????]?

10a) ?? ?????????? ?????????? ?????????? ??? ?????????? ?? ?????? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ? ?? ??? ????? ?????? ??? ??????????
????????? ??? [??], ?????? ?????? ?????????? ??? ????? ??????????????:

a) ?????????? ??? ?????? ??? ?????? ?? ????? ?????????? ??? ?? ?????? ??? ?????????? ???
?????, ?????????? ??? ?????????? ???, ???,

b) ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ?? ?????????? ??? ??????, ??
????? ??? ?????????? ??? ?? ??? ?????????? ??????????, ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
??????,

c) ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ??????????
????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? [...]

d) ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???????,

e) ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ???,

f) ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ???.

5 ?? ????? 22 ??? ?????? ??? ????? ?????? ??? ????? ?? ???:

«1. ?? ??? ?????? ??? ?????? ??? ?????? 2, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? [...]
??? ?????? ??? ?????? ?? 19 % ??? ?????? ??? ?????? ???.

2. ? ?????????? ??? ?????? ??? ??? ?????????? ??? ?????????? 1 ??? ?????????? ???
??? ?? ?????? ??? ?????????? ??? ?????? 3, ?????? 2, ?????? ?? 19 % ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

6 ??? ?? ????? 1 ??? ?????? ??? ????? ?????? ??? ?????? ???, ??? ??????
????????? :

«? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

7 ?? ????? 2, ?????? 7 ??? 9, ??? ?????? ??? ?????? ??? ?????? ?? ???:

«????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??:

[...]

7) ?????? ????: ?? ?????? ??? ??????????? ?????? ??? [????????????? ???]
?????????

[...]

9) ?????????? ?????????? ??????????: ?? ?????????? ?????????? ?????????? ?????? ? ??
????????? ?????????? ??? ???????? ?? ?????? ?????? ?? ?????? ?? ?????????????? ???
????? ?? ??? ???????? ?? ?????????? ?????? ?????? ?? ?????? ?? ?????????? ???
????????? ?? ?????? ??????

[...]».

8 ?? ?????? 3, ?????????? 1, ??? ?? ??? ????? ?????? ?????? ?? ???:

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

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

9 ??? ?? ?????? 11 ??? ?????????? ?????? ??? ?????????? ??? [????????????? ???
????????] ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ??? ?????????? ???
????? ?????????? ??? ??? ?????? ?????????? ??? ?????????? (Umowy miedzy Rz?dem [Polskiej]
Rzeczypospolitej Ludowej a Rz?dem Stanów Zjednoczonych Ameryki o unikni?ciu podw?jnego
opodatkowania i zapobie?eniu uchyleniu si? od opodatkowania w zakresie podatków od dochodu),
? ?????? ?????????? ??? ?????????? ??? 8 ?????????? 1974 (Dz. U. 1976, ????. 31, ???
178, ??? ???: ?????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????):

«1. ?? ?????????? ??? ?????????? ??? ?? ??? ?????????? ??? ?????? ??? ??????????????
?? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???.

2. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ??? ??
?????????:

a) ?? 5 % ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? 10 % ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
?????????,

b) ?? 15 % ??? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ??????????.

? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????????? ?? ?????????? ??? ?????? ???.

[...]»

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

10 ?? ?????????? ??? ?????? ???, ??? ?????? ?????????? ??? ?????????? ?? ??? ??? ???
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 2010 ??? ??
????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???

???' ?????? ?????? ?????? ?????????? ??? ?????????? ???, ? ?????? ?????????????? ??
????????? 15 %, ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?? ??? ?? ??? ??????
? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?? ?????????? ?? ??? ?? ?????????? ?? ??? ?? ???
????? ??? ?????? 22, ?????????? 1, ??? ?????? ??? ?? ??????, ?? ?????????? ?? ??? ?? ??????
????? 11, ?????????? 2, ??????? ??, ??? ?????? ??? ?? ?????? ?? ??? ?? ??????
?????????.

11 ?? ?????? ??? ?????????? ?? ?????? ??? 2?? ?????? 2011, ??????, ?? ??????????
????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?? ?????????, ? ?????????? ??? ?? ??????
????? ??? ?????? ??? ?????????? ?????? ?????????? ?? ?????????? ?? ??? ?? 6, ?????????? 1,
????? 10, ??? ?????? ??? ?? ??????????.

12 ??? ?? ?????? ??? ?????????? ??? ?? ??? ?????????? ?? ?????? ??? Dyrektor ??? 6??
????????? 2011, ? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?????? ??? ??????????
?????????, ?????????????? ??? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ??????????
????????? ?????????? ?????? ??? ?????????? ?????????? ??? ?????????? ?? ?????? ??? ??????
????????? ??? ?????????? ??? ??????.

13 ?? ?????? ?????????? ?????????? ??, ?????????? ?????? ??? ?????????? ?????? ??? ??????????
??? ?????????? ??? ?????????? ?? ?????????? ? ?????? ??? ?? ?????? ??? ??????????, ? ??????
????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?????????, ??? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????? ??????????, ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ??????????, ??? ??? ?? ?????? ??? ??????
????????? ??? ??????????.

14 ?? ?????? ?????????? ?????????? ??, ??? ?????????? ??? ? ?????? ??? ?????? ??? ??????
????? ??? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????, ? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
?????.

15 ????????, ?? ?????? ?????????? ?????????? ?? ? ?????????? ?? ??? ?? ??? ??????
????????? ??? ?? ?????? ??? ?????????? ?????????? ?????? ??? ?? ?????? ??? ?????? ???
????????? ?????????? ?? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????????? ??? ??????
????? ????????, ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??????
??? ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????
?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????.

16 ????????, ?? ?????? ?????????? ?????? ??? ? ?????????? ?????????? ??? ??????????
?? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ??????, ??? ??? ?????????? ?????? ??? ?????????? ??? ??????????, ??? ?? ?????? ??? ??????
??? ??? ??? ??????????.

17 ??' ??? ?? ?????? ?? Wojewódzki S?d Administracyjny w Bydgoszczy ??????? ??
????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ?? ??? ??????
????????? ??????:

«1) ?????????? ?? ?????? [63 ???] ?????????? ?? ?????????? ? ?????????? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ??????, ?? ?????? ??????
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??????????????, ?????? ?????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ??????
????? [...] ?????? ??? ??? ???' ?????? ??? ?????????? ?????? ?????????? ??? ??????.

? ??????????, ??? ???? ??? ?????????? ??? ?????????? ??? ???? ?????????? ?????????????? ??????????????, ?
?????? ??? ???? ?? ?????????? ?????????? ??? ???? ?????????? ??????????;?
2) ??? ???? ? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ???? ???? ?
????? ??? ???? ?? ?????? ?????? ??? ?????????? ?????????? ??? ???? ?????? ?????? ?????? ??? ???? ???? ?
????? ??? ???? ?? ?????????? ??????, ? ?????? ?????????? ??? ???? ?????? ?????? ?????? ?????? ??? ?
????? ?????????? ?????? ??? ???? ?????? ??? [????? 65, ?????????? 1, ?????????? ?, ???, ??
????????? ?? ?? ????? 65, ?????????? 3, ???];»

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

18 ?? ?????????? ?????????? ?????????? ??? 6 ?????????? 2013 ?? ??? ?????????? ???
????????? ??? ?????? ??????????.

19 ?? ?????????? ??? 6?? ?????????? 2013, ?? ??? ?????????? ??? ?????????? ???
????????? ??? 9 ?????????? 2013, ? ?????????? ??? ?????? ???, ?????????????? ??
????? 83 ??? ?????????? ?????????? ??? ?????????? ??? ??????, ???' ??????, ??
????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??????. ??? ??? ?????????? ??? ?????? ???, ?? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

20 ?????????? ??? ?????? ??? ?? ??????????, ?????? ??? ?????? 83 ??? ??????????
??? ??????????, ?????? ??????????, ??? ?????? ??????????, ??? ?????? ?????? ??????????, ?? ??????????
??? ?????????? ??? ?????????? ??????????, ?????? ?? ?????? ??? ?????? ??? ?????? ??????????
??????, ? ??? ?????? ??? ??????????, ??? ?? ??? ?????? ?????????? ???, ?????????????? ???
????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??????????
??? ?????????? (???. ?????? ??? 18?? ?????? 2013, C?228/12 ??? C?232/12 ??? C?254/12
??? C?258/12, Vodafone Omnitel, ??? 26).

21 ?? ??????????, ?? ??????????, ??? ?????? ??? ?????? ??????????, ?????? ???
????????? ??? ?? ?????????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ???
?? ?????? ?????????? ??? ?? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
??? ?????? ?????? ??? ?????? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???
?????????.

22 ??? ??????, ?????? ?? ?????????? ?? ?????? ??? ?????????? ??? ??????
????? ??? ?????????? ??? ?????????? ??? ??????????.

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

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

23 ?? ? ? ?????? ??????, ?? ?????? ?????????? ?????? ?? ?????????????? ?? ?? ???? 63
????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ??????, ??? ?????? ?????? ??????
??? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ?????? ?????? ?????????? ?????????? ??? ?? ??? ?????? ?????? ???
????????? ?????????? ?????????? ??? ?????? ???, ??? ?????? ?????? ?????? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

24 ????? ? ?????????? ?????????? ?????????????? ??? ? ?????? ??? ?????????????? ???????
?????? ?? ?????????? ??? ?? ?????? ??? ?????????? ?????????????? ??????????, ??? ??
?? ?????? ??? ?? ?????????? ?????????????? ?????? ??? ?????????? ?????????? ??????????.
???? ?? ?? ??? ??????????, ? ??????? ?????????? ?????????? ?????? ??? ?????? ???, ? ??????
????????????? ?? ?????????? ?????????????? ?????????????? ??? ?????? ??? ?????????? ???
????? ??????????????, ??? ?? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ?????? ???
????? ??????????????, ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ?????????? . ???????, ? ?????????????? ??? ?????? ?? ?????????? ??? ?????????? ??????????
????????? ?????????? ?????????????? ?????????????? ??? ?????????? ?????????? ?????????? ???
????????? ??????????, ??? ?? ??? ?????? ??? ?????? 49 ??? ? 56 ???.

25 ??? ?? ?????????? ??? ?????????? ?????????? ?? ??? ?? ?????? ??? ?????? ??? ??
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? 49 ??? ??
????????? ?????????? ??? ?? ??? ?????? 63 ??? ??? ?????? ?????????? ?????????? ??????????
??? ??, ??? ?? ??? ?? ??? ?????? ?? ??? ?????? ?????????? ?????????? ?? ??? ?? ??? ??
????????? ?????? ?? ?????????? ?????? ?? ?????????? ??? ?? ??? ?????? ??? ?? ??? ?????? (??., ??'
???? ?? ??? ?????, ??????? ??? 13? ?????????? 2012, C?35/11, Test Claimants in the FII Group
Litigation, ?????? 89 ??? 90 ??? ??? ?????????? ??????????).

26 ??????????, ??? ?? ?????? ?????????? ??? ?????????? ?????????????? ?????????? ??????
????????? ? ??? ?????? ?????????? ??? ?? ?????????? ?????????? ?????????? ??? ?????????? ??
????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ?????????? ??
????????? ??? ?????????? ??? (??.. ?????????????? ?????? Test Claimants in the FII
Group Litigation, ??? 91 ??? ??? ?????????? ??????????).

27 ??? ??????, ??? ?? ?????? ?????????? ?????????????? ??? ?????? ???, ??? ??????????
??? ?? ?? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ??? ??????????
???? ?? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??????????
????????????? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
????????????? ??? ??, ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? 49 ??? ??? ??? ??
????? 63 ??? (??.. ?????????????? ?????? Test Claimants in the FII Group Litigation, ???
98).

28 ?????????, ??????? ?????????? ?? ?????? ?????????? ?????????? ?? ??????????
????????? ?????????? ??? ?????????? ?? ?????????? ?????? ??? ?????????????? ??????????
?????????, ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????, ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????????? (??.. ?????????????? ?????? Test Claimants in the FII Group
Litigation, ??? 92).

29 ?? ??????? ?? ?????? ?????? ?? ?????????? ?????????? ?????????? ?????????? ??????????
??? ?? ?? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????????? (??., ??' ??? ?? ??? ??????, ?????????????? ?????? Test
Claimants in the FII Group Litigation, ??? 96).

30 ?? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??
????????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ???, ? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????? 63 ?????. ??????? ?????????????? ?? ?????????? ?????? ?????? ??????, ??????, ??
?????????? ?? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
?????, ?????????? ?? ?????? ?????? ?????????? ?? ?????? ?? ?????????? ?????????? ?????? ?
????? ?????? ?????????? ?? ?????? ??? (??., ??' ???? ??? ??????, ??????????????)
?????? Test Claimants in the FII Group Litigation, ????. 99).

31 ??????? ?????????? ?? ??????????? ?? ?????????? ? ?????????? ??? ?????? 63,
?????????? 1, ????, ?? ???? ?? ??????? ?? ??? ?????? ?????, ?? ??????? ??
??????????????, ?? ?????? ?? ??????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ???
?????????? ???????????????, ?? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?? ?? ??????????
(??., ??' ???? ?? ?????, ?????????????? ?????? Test Claimants in the FII Group Litigation,
????? 100).

32 ????? ?????????? ? ??????? ?????????????? ??? ?????? 21 ??? ?????????? ???, ??
????????? ?????? ??? ??????? ?? ?????????? ?????? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????? ?????? ?? ?????? ?????????????? ??? ?????? ?????? ?????? ??????
????????? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ?? ??????????
????????????? ??? ?????? ?????????????? ?? ?????? ?????? ?????? ?????? ?????? ??? ??? ??????
????????????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???.

33 ???????????, ??????, ? ?????? ?????????? ?????? ?????? ????, ??? ?????? ?????????? ??
????? 6, ?????????? 1, ??? ????? ??? ????? ?????? ??????, ??? ?????????? ?????? ?? ??
????? ??? ?????????? ?????????? ??? ????? ?????? ?????? ?? ?????????? ??? ?????????? ?? ??
????????? ??????????. ???????, ??? ?????? ?????????? ?? ?????????? ??? ?????????? ?? ?? ??
????????? ?????????????? ?????????????? ? ?????? ??? ?????????? ??? ?????????? ?? ?? ?? ??
????????? ???, ?????????? ??? ? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?? ?? ??
????????? ?????????? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?? ??
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?? ??
????? ??? ?????? ??? ?????? ??? ?????? ???.

34 ? ?????????? ??? ???? ??????? ?? ??????? ??? ???? ?????????????? ??? ???? ???????
????? ? ??????? ????????, ??? ???? ??????? ?? ?????? 24 ??? ??????? ???????,
??????, ??????????? ?? ??????????? ??? ???? ??????? ??? ?????????? ??? ???? ??????????
??? ?????? 63 ????, ??? ?????? ?? ?????????? ? ??? ??? ?????????? ??? ?????????? ? ??
???? ?????? ??? ? ??? ??? ??????????? ??? ??? ?????????? ???????????????, ??? ???? ????????.

35 ?????????????? ?????? ??? ???????, ??? ?????? ?????????? ?????? ?? ?????? ? ???????? ???
?? ?????? 63 ???? ??? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??
?????????????, ???? ???? ??? ?????? ????, ???? ??? ?????? ?????? ???? ??? ??????
????????????? ?????????? ??? ?????????? ?????????????? ?????????? ?? ?????????? ???
????????????? ?????????????? ?? ?????? ?????? ?????? ?????????? ?? ?????????? ??????????
????????????? ?? ?????? ???, ??? ?????? ?????????? ?????? ??? ?????? ?????? ??????????
????????????? ?? ?????? ?????????????? ???? ?? ?????? ?????? ?????????? ??.

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

36 ?? ?? ??????? ???????, ?? ?????? ?????????? ?????, ???' ??????, ?? ???????????????
?? ?? ????? 63 ??? 65 ??? ????? ?? ?????? ??? ?????????????? ?? ???????????
?????????? ??????? ???????, ??? ? ??????? ????? ?????????? ??? ?????? ?????, ??????? ??
?????? ??? ??????? ?? ?????? ?????????? ?????? ?????????? ?? ?????????? ??? ???????????
?????????????? ?? ??? ?? ?????? ?????? ?????? ?????? ?????????? ?? ?????????? ??? ???????????
?????????????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??? ???????????

37 ???????????, ??? ?? ??? ?? ?? ???????, ? ?????? ??? ??????????? ?? ???
?? ??????????? ??????????? ?? ??????? ?? ?????? ?????? ?????? ?????? ?? 2005 ??? ??
2006 ??? ?? ??? ??????? 2011, ?? ??????????? ?????????? ?? ?????? ?????? ??????????? ??
????????? ?????????? ??????????? ?? ?????? ?? ?????? ?????? ???????????, ???' ??????, ??
????????????? ?? ?????? ?? ?????? ?? ?????????? 19 %, ??? ?? ??????????? ???????????
????????????? ?????????? ?????????? ?????????? ?????????? ?????????? ???????????, ??? ??
????????? ??? ?????????????? ??? ?????? ?????????? ??? ?????????????? ?? ?????????? ???????????
??????????, ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ??? ?????? ?? ?????????? ???????????
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38 ??????????? ???' ?????? ???, ??????? ?? ?????? ?????????? ?????????? ???
?????????? ??? ?????? ???, ??????? ?? ?????? ?????????? ?????????? ?? ?????? ???
?????????? ??? ?????? ??? ?????? ??? ?????? (?????? ??? 10?? ????? 2012, C?338/11
??? C?347/11, Santander Asset Management SGIIC ???., ??? 14 ??? ??? ???????????
?????????).

39 ???????, ??? ?? ?????? ?????????? ?? ??????????? ?????????? ??? ?? ??? ?????? ???
????????????? ??? ?? ??? 63, ?????????? 1, ??? ?? ?????????? ??? ?????????? ???
????????? ?????????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ???
??? ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???
?? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? (?????????
??? 18?? ?????????? 2007, C?101/05, A, ?????? 2007, ?. I?11531, ????? 40? ??? 10??
?????????? 2011, C?436/08 ??? C?437/08, Haribo Lakritzen Hans Riegel ??? Österreichische
Salinen, ??????? 2011, ?. I?305, ????? 50, ????? ??? Santander Asset Management SGIIC
??., ???????????, ????? 15).

40 ?? ????????, ??? ?? ?????? ?? ?????????? ??????????? ?? ?????? ??? ??????????? ??
????? ??????? ?? ??? ??? ?? ?????? ?????????? ??????????? ?????????? ?? ???????????
????????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ???????????.

41 ??? ?? ?????? ?????? ?? ?????? ?????????? ?????????? ???, ??? ?? ??? ?????? ???
????????? ??? ?????? ???, ??????? ?????????? ??? ?? ?????? ?? ?????????? ?? ???????????
????????? ??? ?????? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ?? ??????. ??
?? ??????, ?? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???, ??? ??
??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ?????????? ???????????
????????? ??? ?????????? ??? ?????? ???' ?????? ?????? ?????????? ?????????? ???????????
?????????.

42 ??? ?????? ???????, ???, ??? ?????????? ?????????? ??? ?????????? ?? ?????? ???
????????? ??? ?? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ???, ??? ??
????????? ?????????? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ???????????
????????? ??? ?????? ?????????? ?? ?????? ???, ???????, ??? ?????? ??? ???????????

???? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ?????????? ?????? (??., ??' ???? ??? ??????, ?????????????? ?????? Santander Asset Management SGIIC ???., ?????? 17).

43 ???????, ?????? ??????????? ??????? ????? ? ??????? ????? ?? ?????? ?????? ?????? ?????? ??
???????, ?????????? ?????? ?????? ?????? ??????????? ????? ??????????, ? ?????? ??????????, ???'
?????, ??? ????? 63 ????.

44 ?????? ???? ?? ??????????? ?? ? ?? ??? ?????????????? ??????? ?? ?????????????????? ??????
???? ??????????? ?? ???? ???????.

???? ???? ?????????????? ?????????? ??? ??????? 64, ?????????? 1, ????

45 ????? ?? ?????? 64, ??????????? 1, ????, ?? ????? 63 ????, ??? ?????? ??? ????????,
?????? ?????? ??????, ??? ??????????? ??? ?????? ??? 31 ?????????? 1993, ??????? ??
?????? ? ?? ?????? ??? ??????, ??????? ?? ??? ?????? ?????????? ?????????? ??? ? ??? ??????
????? ??? ?????? ?????? ???????????, ??? ?????? ?????????????????? ?????????? ??
??????, ???????????, ?????? ?????????????? ?????? ? ?????? ?????? ??
?????????????.

46 ? ?????????? ??? ? ?????????? ?????????? ?????????????? ?? ??? ???? ? ???? ???? ???? ???? ?
??? ?????????????? ??? ???? ??? ??? ??? ???' ?????????????? ??????????, ???, ??????, ? ???????
????? ?????? ??? ???? ??????, ? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?????? ??? ???? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ???
??? ??? 31? ?????????? 1993, ??? ???? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????????? ???, ??? ???, ???????, ??????? ? ?? ??? ????? ?????????? ?????????? ???
?????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? «?????? ??????????», ??? ???? ???? ?????????? ??? ??????????
??? ??????????. ?? ??? ?????? ???, ? ?????? ?????? ??? ?????????? ??? ?????? ???
????????????????? ??????????.

47 ????? ?????? ?? ??????? ?????????? ??? ??????? ?? ?????? 64, ?????????? 1, ????, ???
????? ?????????? ?? ?????????? ?????????? ???, ??????? ?????????, ???' ????, ???
????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ???
?????????, ?????????????? ?? ?????? ??? ?????, ??? ?????????? ?????????? ??
????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??????
????????? ?? ?????????? ?????????? ?????????? ??? ?????????? ?? ?????? ??? ??????
????????? «??? ???» ?? ?????????? ?????????? (??., ??' ???? ??? ??????, ??????? ???
12?? ?????????? 2006, C?446/04, Test Claimants in the FII Group Litigation, ?????? 2006, ?.
|?11753, ??? 191).

48 ??? ??????? ???, ?? ?????????? ???, ??? ?????????? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????? ??, ???
?????????? ??, ??? ??, ??? ??????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??,
??? ?????????? ??, ??? ??, ??? ??????, ??? ??, ??? ??????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? ??,
?????. ???????????, ?? ????? ??, ??? ??????????? ??, ??? ?????? ??, ???' ?????? ??, ?????????? ??, ??
??? ?????????? ??, ??? ?????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? ??,
????????? ??, ??? ?????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? ??,
????????? ??, ??? ?????? ??, ??? ??????. ?????????, ??? ???????, ??? ?????????? ??, ??? ?????????? ??, ??
????? ??, ??? ?????????? ??, ??? ?????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ??????
?? ?????????? ??, ??? ?????????? ??, ??? ?????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? ??,
??? ?????? (??. ?????????? ??, ?? 12?? ?????????? 2006, Test Claimants in the FII Group
Litigation, ???????????, ??? 192, ??? ??, 24?? ??? 2007, C?157/05, Holböck, ???????

2007, ?. I?4051, ????? 41).

49 ?????????? ??????? ?? ???? ??????????? ?? ???? ???????, ??? ???? ?? ?????????? ??? ??
????????????? ??? ?? ???? ??????? ?????????, ??? ???? ??????? ?????????? ??? ??
????????? ?? ??? 6, ?????????? 1, ?????? 10, ??? ????? ?? ???? ??? ????? ??????
????????? ?? ??? 28?? ?????????? 1997.

50 ?? ?? ??????, ??? ??????? ???? ?????? ?????????? ??? ?????? 57 ?? ???????
???, ??? ?? 31?? ?????????? 1993 ??? ????? ??????????, ??? ?? ?????? ??? ???????
?? ??????? ??? ?????????? ?????? ?????????? ??? ?????????? ???? ?????? ?????????? ??? ??
??? ?????????? ???.

51 ??????????, ??? 31 ?????????? 1993, ?? ??????? ?? ???? ?????????? ??????????
????????? ?? ??????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??
??? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ??
????????? ?????????? ???' ?????????? ?????????? ?????????? ?????? ?????????? ?????? ???
????????? ??? ?????????? ??? ?? ?????? ?????? ??????. ??? ?????? ??? ??????????
????????? ?? ??? ?? 28?? ?????????? 1997, ??? ?????? ?????? ?????? ??? ?? 49
??? ??????? ???????, ??????? ?? ??? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????? ?? ??? ??????? ??? ?? ?????????? ?????????? ?????????? ?? ??? ?????? ??? ??
????? ?? ??? ?????????? ?????? ??? ?? ?????????? ?????????? ?????????? ?? ??? ?????? ??? ??
????? ?? ???' ?????????? ?????? ??? ?? ?????????? ?? ?????? ?????????? ??? ??.

52 ??? ???????, ??? ?????? ?? ?????? ?????? ??? ???? ?????? ??????? ?????????? ???
????? ??? ?????? ?????????? ??? ?? 31 ?????????? 1993, ?????? ? ??????
??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??????????, ??? ???? ??????????
????????? ?? ?????? ?????????? ?? ??? 6, ?????????? 1, ?????? 10, ??? ?????? ??? ??
????? ???????, ?????????? ?????????? ??? ?????????? ?? ??? ?? ?? ?????? ??? ??
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? 48 ??? ?????? ??????????.

53 ?????? ??? ?????????? ?? ??????? ?????????? ??? ?????????? ??? ?? ??? ???????,
?????? ??? ??' ???, ??? ??????? ?? ??? 64, ?????????? 1, ??? ?????? ??
????????? ??????????, ?? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ?? ??? ?????? ??? ?????????? ?? ?????????? ?? ???' ??? ??????.

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

54 ??? ?? ??? 65, ?????????? 1, ??????? ??, ???, ?? ?????? 63 ??? ?? ??? ?????? ??
????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ?? ?????? ?????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ??
?????.

55 ? ?????? ???, ?????? ?????? ?????????? ?????????? ??? ?? ?????????? ??? ?? ??? ???????
????????? ??? ???????, ?????? ?? ?????????? ????. ???????, ??? ?????? ??
????????? ??? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????????? ?????? ?? ?? ?????? (??.
????????? ??? 11?? ?????????? 2008, C?11/07, Eckelkamp ?.., ?????? 2008, ?. I?6845,
????? 57? ??? 22?? ??????? 2010, C?510/08, Mattner, ?????? 2010, ?. I?3553, ?????? 32,
??? Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, ?????????????, ?????? 56).

56 ???????, ? ??????? ?? ??????? ? ?? ?????? ?????? ?????????????? ??? ?? ???
65, ??????? 3, ???, ?? ??? ?????? ??????? ?? ?? ?????? ?????? ?????????? ??? ??
????????? ? ?????????? 1 ??? ?????? ????? «??? ?????? ?? ?????????? ??? ??
????????? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ??
????????? ??? ?? ???????, ??? ?????? ??? ?? 63» (????????????????? ???).
Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, ??? 57).

57 ?? ??????? ?????????????? ??? ?????? ?????????? ?? ??? 65, ?????????? 1,
?????? ??, ??? ?????, ???????, ?? ?????????? ??? ?? ?????????????? ??? ??
????????? 3 ??? ?????? ?????? ??????????. ??? ?? ?????????? ?????????? ???, ??????????
??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ?? ??????
?????? ?? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??????????,
????? ? ?????????? ?????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ??
????? ?????????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??
????????? (??.. ?????????????? ???) Haribo Lakritzen Hans Riegel ??? Österreichische
Salinen, ??? 58 ??? ??? ?????????? ???).

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

58 ??? ?????? ?? ?????? ??? ?????????????? ???, ??????, ??????, ?? ?????????????? ???,
????? ?????????? ???, ??? ? ?????? ??? ?????? ???, ? ?????? ?????? ??? ??
??? ?????????? ?? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????? ???, ? ??????????
????????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??? ??????
????????? ?????????? ??? ?????????? ???, ??????, ?? ?????????? ??? ?????????? ???, ??
????????????? ???, ???' ????, ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? (??., ??' ??? ???? ???, ??????, ??? 12?? ??????????
2006, Test Claimants in the FII Group Litigation, ?????????? ???, ??? 62? Haribo Lakritzen
Hans Riegel ??? Österreichische Salinen, ?????????? ???, ??? 113? ??? 20?? ??????????
2011, C?284/09, ?????????? ??? ?????????? ??? 2011, ?. I?9879, ??? 56, ??? ???
Santander Asset Management SGIIC ??., ?????????? ???, ??? 42 ??? ??? ?????????? ???
?????????).

59 ?????? ??? ? ?????? ??? ?? ?????????? ?????? ?????? ??? ??????????
????????? ??? ?????? ??' ?????? ?? ?????????? ?????????? ?? ?????? ?????????? ???,
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ?? ?????? 63 ??? ??????
??? ??? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?? ?????????? ???
????????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?? ??????
????????? ?? ?????????? ?????? ?????????? ??? ?????? ??? (??., ??' ??? ???? ???
?????, ?????????? ??? 12?? ?????????? 2006, Test Claimants in the FII
Group Litigation, ??? 72? Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, ??? 60,
??? ?????? ??? ?????????? ??? 57).

60 ? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????????? . ?????????? ??? ? ?????????? ??? ?????????? ??? ?? ??????
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????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??

61 ??????, ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???

????????????????? ??? ??????????? ??? ??? ?????? ?????????? ?????????????? ?????????????? ??????????????
?????? ?? ??????? ??? ?? ??????? ?????? ?????????? ??????? ?? ?????????? ??? ?? ?????????? ???
????????????? ??? ?? ?????? ?????????? ? ??????? ?????? ?????????? ?????????? ?????????? ??? ??
????? ??? (??., ??' ??? ?? ??????, ?????????????? ?????? Santander Asset Management
SGIIC ??., ??? 28).

62 ??? ?????????????? ??????? ??? ?? ??????? ?????????? ?????????? ?????????????? ??? ?????????? ?
????????? ?????????? ?????????? ??? ?? ?????? ?????? ?????????? ?????? ??? ?? ?????? ???
????????? ?????????? ?????????? ??? ?? ?????? ?????????? ?????????? ?????????? ??? ?? ??????
????????????? ??? ?? ?????? ?????????? ?? ?????? ?????????? ?????? ??? ?? ?????????? ??????
????? ??? ?? ?????????? ??? ?? ?????????? ?????? ?????????? ?????? ??? ?? ?????????? ???
????? ?????????? ?? ?????? ?????????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??
??? ?????????? ??? ?? ?????? ?????????? ??????????.

63 ?????????????? ??? ?? ?????????? ?????? ?????????? ?????? ?????????? ?, ? ?????????? ???
????????????? ??? ?? ?????????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ??????????
?????, ??????? ? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ??
????? ?????????? ??? ?? ?????????? ??? (??.. ??' ??? ?? ??????, ??????????????
????? Santander Asset Management SGIIC ??., ?????? 32, 39 ?? 41).

64 ??? ????????, ??? ?????? ?? ?????? ?????? ?? ?????????? ??? ?????????? ? ?????????? ?
????????? ??? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?? ?????????? ?????? ?? ?????????? , ??? ?????? ?????????? ???, ??? ??
????????? ??? ?? ?????????? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??????????
????????? ?????????? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?????????.

65 ????, ??? ?? ?????? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ???
????????, ? ????????, ? ????????, ? ????????, ? ????????, ? ?????????? ??? ? ?????????? ??????????
????? ??? ? ????????, ? ?????????? ??? ? ?????????? ?????????? ?????????? ??? ?????????? ??
????? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??
????????????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??
??????????, ? ?????? ?? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??
????? ????.

66 ????????, ? ??????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ??????????
??? ?????? 85/611/?? ?? ?????????? , ?? 20?? ?????????? 1985, ?? ?? ?????????? ???
??????????, ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ?? ??????????
????????? ?????????? ?????????? ?? ?????? ?????? (?????) (?? L 375, ?. 3), ???
????????????? ??? ?? ?????? 2004/39/?? ?? ?????????? ?????????? ??? ?????? ??
??????????, ??? 21?? ??????? 2004 (?? L 145, ?. 1, ??? ????: ?????? ??? ??? ??????), ??
????????? ??? ?????? ?????????? ???' ?????? ??? ?????? ??? ?????? ??????????
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ?????? ???
????????? ?????????? ?????????? , ?? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????????? ?????????? ?????????? ?????? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ??????????
??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ??????????

67 ?? ??????? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????

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

68 ?? ????? ??????????, ???? ?????????? ? ??????? ?????????? ???? ?????? 37 ??? 38 ???
????????? ??? ???. ??? ????? ??????? ??? ?????? 62 ??? ??????? ?????????, ??????? ?? ??????
????????? ?????????? ??? ?????????? ? ??????? ?????? ?????????? ?????????? ???? ????
???? ?????????? ??? ???. ??? ?????? ??? ?????? ??? ?????????? ??????????, ?????????? ???? ????
????????? ?????????? ??? ?????? ?????????????? ??? ?????? ?????????? ?? ?????????? ??
????? ?????????? ??? ??????????, ???? ?????? ??? ??????? ??? ?????? ??????, ??? ???
????? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??????????
??? ?????????? ?? ?????? ??? ??? ?????????? ?????????? ?????????? ??? ??????????
????? ??? ??????, ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ????
????.

69 ??????? ?? ????????????????, ??? ?? ?????? ?????????????? ?????????????? ?????????? ???????,
????? ? ?????? ??? ??? ????? ???????, ??? ?? ?????? ?????? ?????? ?????????? ?????????????? ?? ??????
?????????? ?? ?? ??????????? ? ??? ?????? ?????????????????? ??? ?? ?????? ??? ?? ???????????
??? ?????????? ?????????? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ? ?????? ???
????? ??? ?????????? ????, ? ?????????? ??? ?????????? ?????????? ?????????? ??? ?? ???
????????????? ?? ?????? ?????? ?????? ??? ?????????????? ?????? ?????????? ?????????? ?? ???
????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????.

70 ?????? ????????, ?????? ?????????? ?? ?????????? ?? ? ?????????? ??? ?????????? ??? ??????????
??? ?????? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????????
????? ?????? ?????????? (??..????????????? ?????? Haribo Lakritzen Hans Riegel ???
Österreichische Salinen, ??? 63 ??? ??? ?????????? ??? ???????).

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

— ? ??????? ?????????????????? ??? ?????????????????????????? ??? ?????????????? ??????????

71 ????? ?????? ??????????, ? ?????? ?????????????? ??? ?????????????????? ???
????????? ?????? ??????? ?????????? ?????? ?????? ?????????? ?????????? ? ?????? ?????? ??
????????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ?
????? (??????? ??? 6?? ?????????? 2011, C?493/09, ??????? ?????? ??????????????, ??????
2011, ?. I?9247, ????? 42 ??? ??? ?????????????? ??????????).

72 ?? ???? ?? ??????? ????, ????. ????? ?????????? ????. ??? ???? ?????????? ????. ????? ?????????? ????. ??? ????
????????? ????. ??? ???? ?????????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ????
????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ????
????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ???? ?
????? 77/799/??? ??? ??????????, ??? 19?? ?????????? 1977, ??? ???? ??????????
????????? ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ??? ???? ???? (?? ???.
???. 09/001, ?. 86), ?? ?????????? ?????????? ?????????? ????. ??? ???? ?????? ????. ??? ???? ?????? ????. ???
????? ?????????? ?????????? ?????????? ?????????? ?????????? ????. ??? ???? ?????? ????. ??? ???? ?????? ?????????? ????

?????? ? ?????????? ?????????? ??? ?? ?????????????? ?? ?? ?????????????? ??? ??
????????????????????? ??? ?? ?????????? ??? ?? ?????????? ?????? ?????? ?????????? ?? ?? ?????????? ??
???? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ? ?? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ??????.

73 ????? ?????? ????? ?? ??????????? ????? ?? ?????? ??? ?????? ?????? ?????????????? ?????????? ??
????? ?? ??????? ?????? ??? ?? ?????? ??? ?????????? ?????????????? ?????? ?????? ?????????? ??
????????????? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ?? ?????? ?????????? ??
????????? ?????????? ?????????? ?????????? ?????????? ?? ?????? ?????? ?????????? ??
????????? ?? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??
?? ?????? ?????? ?????, ?????? ?? ?????????? ?? ?????????????? ??? ? ?????????? ??
????????? ?????????? ??? ?????? ? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??
????????? ?????? ?????? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????
????????? ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ???????????, ?? ??
????? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??
????? ?????????? ?? ?????? 50, ?????????? 5, ??? ?????? ?????.

74 ????? ?? ?? ?? ??????, ?? ?????????? ?????? ?????? ?????? ?????????????? ??????????????
????????????? ??????? ?? ??? ?????????????????? ?????? ??? ?????? ?? ?????? ??? ?????????? ???
????? ?????????????? ?? ?????????????? ??? ?????????????? ?? ?????????????? ??? ??? ??????
????????????? ?? ?????? ??? ?????? ?? ?????? ?????? ??? ?????????????? ??? ?????????? ???
????????????? ???, ??? ?? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
?????????????, ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ???
????????? ??????, ??? ??? ?? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ??? ?????? ??????, ????? ??? ?????? 51, ?????????? 2, ??? ?????? ??? ???
?????.

75 ????????, ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?? ?? ?? ?? ???????.

76 ??? ?? ?????? 50, ?????????? 5, ??? ?????? ??? ?????? ?????? ??? ?? ???? ??????????

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

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

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

?????????? ?? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????.

77 ????? ??????????, ? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????? ????? ??????????????
????? ??? ??????? ?? ?????????????? ??????, ? ?? ?????? ?? ?????????? ???, ??????????????
?? ?????????????? ??? ?? ?????????? ?????????? ?????? ?????????????? ?? ??? ??????????????
??? ?????? ?????? ??? ?????? ??? ?????? ?????????????? ??????????, ?????????? ??? ?
????????????? ??? ????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????
????????? ? ?? ??? ?????.

78 ? ??????? ???? ?????? ?????? ??? ?????????? ?????????? ?? ?????????????? ?? ??? ?????? ?????????? ?????
????????? ??????? ?? ??????? ?? ??? ?????? ?????? ?????????? ??? ?????????? ?????????? ?????????? ?????? ??
????????? ????????????, ?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?????? ?? ? ?????? ???
????????? ?? ????????????, ?????????? ?????????? ?????????????? ?????????????? ??? ?????????????? ??????
????????????? ???, ?????????? ? ??? ?????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ??
????????? ??? ?????????? ?????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??????.

79 ??? ?? ??????? ?????????? ??? ? ?????????? ?????????? ??? ?????????? ?????????? ??? ??????????

????????????? ??? ??????? ? ?????? ??? ?????? ?????? ?????? ?????????????? ??????????????
????????????? ??? ??????? ?? ?????????????? ??? ?????? ?????? ?????????????? ??? ?????? ?????? ???.

80 ??????????, ?????????????? ??? ?? ?????????? ?????? ?????? ?????????????? ??? ?????????????? ??????????????
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????????? ??? ?????? ?????? ?????? ??????????
? ?????? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????????? ???? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

81 ??????, ??? ?? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??
????????? ??? ?????????, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??.,
??' ??? ??? ??? ??????, ?????????????? ?????? A, ??? 59, ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? 46).

82 ??????????, ? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??????
????????? ?? ?????????? ?????? ?????? (????????? A, ?????????????? ?, ??? 60?
?? 19?? ?????????? 2009, C?540/07, ?????????? ??? ?????? ?????? 2009, ?. I?10983,
????? 69? ??? 28?? ?????????? 2010, C?72/09, Établissements Rimbaud, ?????? 2010, ?.
I?10659, ??? 40, ??? ??? Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, ???
65).

83 ??????????, ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?? ?????? ?????? 77/799, ??? ?????????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ?????? (????????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??????, ??? 70? Établissements Rimbaud, ??? 41, ??? ??? Haribo Lakritzen Hans
Riegel ??? Österreichische Salinen, ??? 66).

84 ??? ??? ?????? ?????????? ?????????? ??? ? ?????????????? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ???
?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? (??.
????????? ?????? Haribo Lakritzen Hans Riegel ??? Österreichische Salinen, ??? 67
??? ??? ?????? ?????? ???).

85 ??????????, ???, ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? 82 ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???

86 ???????????, ?? ?????? ???? ?????????????? ?????????? ??? ?? ????? 23 ??? ??????????
??? ?? ??????? ?? ?????? ?????????? ?????? ??? ?? ????? 4 ??? ?????????? ???
????????? ?????????? ?????? (????) ??? ?? ?????????? ???
??????, ??? ?????????? ??? ?????????? ??? 25 ?????????? 1988, ?????? ?? ???
?????? ?????????? ??????? ?? ?????????? ??????.

87 ????? ??????????, ?????????????? ?????? ??? ?????????? ?????????????? ?????????????? ??????
???? ?????????????? ??? ?????????? ??? ?????? ?????? ?????????????? ??? ??????????, ?? ??? ?????
????????? ?????? ?????? ?????? ?????????? ?????????????? ??? ?????????????? ?????????????? ??????????????
????????????? ?????? ??? ?????????? ?????????? ??????, ??? ?????? ?? ?????????????? ?? ?????? ??
????????? ?? ?????????????????? ??? ?????? ??? ?????????? ?????????????? ??? ??????????
????????????? ?????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ??
????? ?? ?????????? ??? ?????????? ?????????????? ??? ?????? ?? ?????????????? ?? ??????????, ??
????????? ?? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??????????, ??? ?? ?? ?? ???
????????? ?????? ??? ?????????????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????????? ???
??? ?????? ??? ??? ?????????? ?????? ??? ?????????? ?????????? ??? ??????????, ??? ?????? ??? ???
??????.

88 ????????? ??????????? ?????????????? ?????????????? ?? ???? ??????? ??? ?? ?????????????? ??????????????
???? ?????? ?????????? ?????? ??? ?????????????? ??? ?????????? ??? ??? ?????? ?????? ?????????? ??????????
???? ??????????, ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????????? ?????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?? ?????????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ???
????????? , ??? ?????????? , ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????????
????????? ?? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ?????? ???,
????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

— ? ??????? ?????????????? ??? ?????????? ??? ?????????????? ??? ??????????????

89 ????? ?????????? ??? ?????????????????? ??? ? ?????????????? ??? ?????????????? ??? ???? ?????????? ?????? ?????? ?????????
????????? ?????????????? ?????????????? ??? ???? ?????? ??? ?????? ?????? ?? ?????????????????? ??? ???? ?????? ??????????
????????????? ??? ???? ?????? ??? ?????? ?????? ?????? ??????????????, ? ?????????? ??????????
????????????? ??? ? ?????????????? ??? ?? ?????????????? ??? ?????? ?????????? ?????????? ?????? ??? ??
????????????? ??? ???? ?????? ??? ?????? ?????? ?????? ?? ?????????????? ?????????? ?????? ??????????????
????. ? ?????? ??? ???? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ???
????????????????? ?????????????? ??? ?????????? ?????? ??? ?????????? ?????? ?????????????? ??????????????????,
????????????? ??? ???? ?????? ?????? ??? ?????? ?????? ??????????????, ? ?????? ??? ?????????? ?????? ??? ????
??? ?????? ??? ?????????????? ?? ??? ?????? ?????? ???.

90 ??????????, ? ?????????? ?????????? ?????????????? ??? ?? ?????????? ????? ?????
????????? ?????? ????, ????? ?? ?????????? ??? ?????? ?????????? ???????????, ??
?????? ?? ?????????? ?? ?????? ??? ?????????? ?????? ??? ?? ?????????? ??? ?????? ??
?????? ?????? ??? ???????????, ??? ?????????? ??? ?? ?????????? ?????????????? ???
????????? ??? ?????? ??????????????.

91 ??????????????? ?? ???? ?? ?????????? ?? ???? ?????? ?? ???? ?????? ??????????? ?? ???? ?? ????
?????? ?? ???? ?? ?????????????? ?? ???? ?? ???? ?? ???? ?????? ?? ???? ?? ???? ?????? ?? ???? ?? ????
????????? (????????????????? ?? ???? Santander Asset Management SGIIC ??., ?? ???? 50
?? ???? ??????????? ?? ????)).

92 ???????????, ??????????? ?? ??????????? ??????????? ??????????? ??????? ?? ??
?????????????? ???, ??????, ??? ?????? ?????? ???????????, ?? ??????????? ? ?????? ??????
????????? ?????? ??? ?????? ??????????? ??????????? ??????????? ??? ??? ?????????????? ???
??? ??????????? ??????????? ???????????, ?? ?? ??????????? ??? ??????????? ?????? ?????? ??
????????? ?????? ??? ?????? ?????? ?????????? (?????????????? ??????? Santander
Asset Management SGIIC ???., ????? 51 ??? ??? ??????????? ??????????).

93 ?????? ?????? ??????????? ??? ???? ?????? 62 ??? ?????????? ???????????, ? ?????????? ???? ?????? ??????
????? ?????????? ??? ???? ??????????? ?????? ???? ?????? ??? ?????????? ??? ???? ?????????? ??? ???? ??????????
??? ? ???????? ??????????? ??????????? ??????????? ??????????? ?? ?????????? ??? ?????????? ??? ???????????, ? ??
??????? ?????? ?????? ??????????? ??? ?? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?? ?????????? ???
?????????????? ??? ?????????? ??? ?? ?????? ??? ??????????????? ??? ?? ?????? ???.

94 ????????, ??? ?????????? ? ??????? ?????????????? ??? ?????? 113 ??? ??????????? ?,
? ?????????????? ??? ?? ?????????? ?????????? ?????? ?????? ?????????? ??? ?????? ???
????????????? ??????? ?????????? ??? ?? ?????????????? ?????????? ??? ?? ?????? ???
????????????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?, ????????????,
????? ??? ?????? ??????. ? ??????, ??? ?????????????? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????????????? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????.

95 ??????????????, ?????????? ?????? ????????????, ???? ??? ?????? ??? ??????????? ???
?????????? ??? ???? 92 ??? ??????? ??????????, ?????? ??? ?????????? ??? ???
????????????? ???? ??? ?????? ??? ?????? ??? ??????????? ?????????? ??? ?????????????? ???
??? ?????? ?????????? ?????????? ??? ??? ?????? ?????????? ??? ?? ??? ?????? ?????????? ??
????????????? ??? ??????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ??? ?????? ?????? ?
????????????? ??? ??????? ?????? ?????????? ?????? ??? ?????? ??? ??? ?????? ??? ??????
????????????? ??? ??????? ??? ?????????? ?????? ??????????.

— ? ?????????? ?? ?????????????? ?? ?????????? ?? ? ?????????????? ?? ? ?????????????? ?? ? ??????????

96 ? ?????????? ?????????? ?????????? ?????? ??? ?????? ?? ?????????? ? ??????????
??? ??????? ?????????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ???? ??????
????????? ??? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ?????? ??? ??????
????????????????? ??? ?????? ??? ?????? ???????????, ??? ?????? ?????????? ??? ??????
????????? ?????????? ??? ?????????? ??? ?? ?????? ?????? ?????????? ??????????????.

97 ???????, ???? ???? ?? ?????????? ?? ???? ???????????, ????????, ? ?????????? ????????
??????????, ??? ? ?????????? ?? ???? ?????????????? ????? ???? ????? ???? ??????????
???? ???? ?????????? ???????????, ????????, ???????, ????? ???? ????? ???? ??????????
????????? ?? ???? ?????? ????? ???? ?????????? ???????, ?????????? ?? ???? ?????????? ????? ???? ??????????
???? ???? ?????? ????? ???? ?????????? ???????, ?????????? ?? ???? ?????????? ????? ???? ??????????
????????? ?????? ?????? ????? ?? ???? ?????????? ????? ???? ?????????? ????? ???? ?????? ??
???? ???? ?????? ?? ???? ?????? ????? ?? ???? ?????????? ????? ???? ?? ???? ?????? ???.

98 ????. ????. ?????? ?????????? ????. ????????????, ? ?????? ?????????????? ????. ??????????
????????? ????. ?????? ?????? ?????????????? ?????? ????. ?????? ?????? ?????? ?????? ?? ?????? ????.
????? ?????? ?? ?????? ?????? ?????? ????. ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??
????????????? ?? ?????? ?????? ????. ?????? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ????.
?? ,?? ?????? ????. ?????????????????? ????. ?????????? ????. ?????? ????. ??? (?????????????????
?????? Santander Asset Management SGIIC ???., ????? 47 ????. ?????? ??????????????
?????????).

99 ??????????, ??? ???? ?????? ?????? ?????? ?????? ?? ? ?????????????? ??? ?????????????
????????????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????????? ??? ??????????
?? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??., ??' ??? ???
?????, ?????????? ?????? Santander Asset Management SGIIIC ??., ????? 48 ???
???? ?????????? ?????? ??????).

100 ??? ?????? ?? ??? ?????? ?????? ?? ?????? ?? ?????????????? ?????? ??? ?????????? ???
??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ? ?????? ?????????????? ??? ?????? ?????? ???, ??? ?????? ?????????????? ? ??????????
?????????, ??? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?? ??? ?????? ?????? (??., ??' ??? ?? ?????, ?????????????? ?????? Haribo
Lakritzen Hans Riegel ??? Österreichische Salinen, ??? 128).

101 ??????, ??? ?????? ?? ?????????? ??? ?????? ?????????? ?????? ???, ? ??????????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
?????????, ? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????????????? ?????????? ???
????? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?? ??? ?????? . ?? ?????? ???, ???, ??? ??? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??????.

102 ??? ?????? ???? ???? ?????? ???, ??? ?????? ?????? ?????? ??? ?????????????? , ? ?????? ???
????????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ?? ?????? ???' ??? ?????? ?????????? ???
????????? ?????? (????????????? ?????? Haribo Lakritzen Hans Riegel ???
Österreichische Salinen, ??? 126).

103 ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? . ?? ?????? ?????? , ??? ?????? ?????? ???
????????? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?? ?????????? ?????? ???, ??? ?????????? , ?? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ?????? ??????.

104 ??? ?? ?????? ?????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??????
????????? , ??? ? ?????? ??? ?????? ???, ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??????.

105 ?????????? ??? ?????? ??? ?????????? , ??? ?????? ?????? ?????? ?????? ?? ?????? ?
????????? ??? ?? ?????? 63 ??? ?? 65 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? , ??? ? ?????? ?????? ??? ?????? ???, ??? ?????? ???
????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ???
????????? ?? ?????? ???, ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???

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

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

106 ? ?????????? ?????????? ?????? ??? ?? ?????????? ?? ??? ?????? ?????? ??? ?????????? ???
?? ?????????? ?? ?????????? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????? ???
????? ??? ?? ????? 63 ??? 65 ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ???
????????? ??? ?????? ???.

107 ??? ?????? ??? ?????????? ??? ?????????? ??? ? ?? ??? ?????? ?????????? , ??????, ?????????? ??? ??????
??? ?????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ?????? ?? ?????????? ???
????????? ? ?????? ?? ?????? ???' ?????? ??? ?????, ?????????? ?????? ?????? ??? ??????????
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????? 22, ?????????? 1, ??? ???
??? ??? ??? ??????. ? ?????? ?????? ?????????? ?????????? ??? ? ?????????? ??? ??????????
????????? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
?? ?????? ??? ??????, ?????????? ??? ? ?????????? ??? ?????????? ?????? ??? ?????? ??????
????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???.

108 ??????, ?????????? ???, ??? ?????? ?????????? , ? ?????????? ??? ?????? ??
????????? , ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? 267 ???, ??
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? , ??? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???
??? ??? ??? ?????? ?? ??? . ?????? , ? ???' ?????? ??? ?????? ?????????? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ?????? ?????? , ??????
????????? ??? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
(????????? ?????? Santander Asset Management SGIIC ???., ????? 58 ??? ???
????????? ??????).

109 ??? ?????? ?????? ???' ?????? ?????? ?? ?????????? , ???' ?????????? ??? ?????? ??
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? , ?? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ??????????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? . ??? ?? ?????????? ??? ?????? ?????? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? , ??? ?????????? ??? ?????? ?????? ??????
??? ?????????? ??? ??? ?????? ?????? ?????? ?????? (????????? ?????? ??????
Santander Asset Management SGIIC ???., ????? 59 ??? ?????? ?????????? ??????).

110 ?????????? , ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????
????????? , ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ??????????
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???

???? ??????????????? ?? ?????? ??????????????? ?? ??? ???? ??????????????? ?? ?????? ??????????????? ?? ?????? ???????????????
?? ?? ??? ????? ???????, ??????????????? ?? ??????????????? ?? ??? ?????? ????? ???????????????
????????? ? ??????????????? ?? ????? ?????? ????? ? ??? ??????????? (?????????????????? ???????
Santander Asset Management SGIIC ?.?., ????? 60 ??? ??? ??????????????? ???????????).

111 ??? ?????? ?? ??????????? ?? ??????????? ??????????????? ?????????? ?? ??? ?????? ???????
?????????? ?? ??????????????? ??????????????? ?? ??? ??????????????? ?????????? ?? ??? ???????????
???????, ??????????????? ??, ??? ????? ?????? ???????????, ?? ??????????????? ?????????? ?? ??? ??
????????? ?? ??? ????? ?? ?????? ?????? ?????? ??????????? ?????????? ?? ??? ??????????????? ?????????? ??
??????????????, ??' ??????, ??? ??????????? ?? ??????????????? ??????????????? ?????????? ?? ??? ?? ??
????????? (?????????????????? ??????? Santander Asset Management SGIIC ?.?., ????? 62 ??
???? ??????????????? ???????????).

112 ? ?????????? ??????????? ?? ???????????????, ??? ?? ??? ?????? ??? ???????????????
???? ??? ?? ??' ??????????????? ???????????, ?????????? ?? ??? ?????? ?? ??????????????? ??????? ?? ??
?????? ?? ??????????????? ??????????? ?? ??????????????? ?? ?????? ?????? ????? ?? ???????????
?????? ?? ??????????? ?? ?????????? ?????????? ??????????????? ??????????????? ??????????? ??
?????????????? ?? ??????????????? ???????????.

113 ??? ?? ?????? ???, ??? ?????? ?? ?????? ??????????? ?? ??????????? ?? ? ??????????? ??
????????? ??????????? ?????????? ?? ??? ??????????? ?? ?????? ?????? ??? ?? ??? ?????? ??????????? ??
????????? ?? ?? ?????? ??? ???????, ??? ?????? ?? ??? ?????? ?????? ?? ?????????? ?? ?? ??? ?? ??
????????? ?????? ??? ??????????? ?? ??? ??????????? ??????????????? ?? ??? ?????????? ???????????,
?????? ?? ??????????? ?????? ??????????? ?? ?????? ?? ?????????? ?? ??? ??????????? ???????????????,
?? ??????????? ?????? ??????????????? ?? ??? ??????????????? ?? ??????????? ?? ??? ???????????????,
?? ??????????? ?????? ??????????????? ?? ??? ???????????.

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

114 ??? ?????????? ?? ?????? ??????????????? ?? ??? ?????? ?????? ??????????????? ?? ??? ?????? ???????
?? ??????????? ??????????????? ?? ?????? ?????? ??????????? ?? ??? ?????? ???????????????, ??' ????
?????????????? ?? ??????????? ?? ??? ?????? ??????????????? ?? ??????. ?? ?????? ??? ?????? ???????????????
???? ?????? ??????????????? ?? ?????? ???????????, ??? ?????? ??? ?????? ???????????, ?? ???????????.

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

1) ?? ?????? 63 ??? ?????? ?????? ??????????? ??????????????? ?? ??? ??????????? ?? ??? ???????????
?? ???????????, ??? ?????? ??? ?????? ???????, ??? ?????? ?????? ?????? ??? ?????? ??? ???????
????????????? ??????????? ?? ??????????? ??????????????? ??????????????? ?? ??????????? ?? ??? ??????????? ??
????????????? ??????????????? ?? ?????? ?????? ?????? ??????????? ?? ??? ??????????? ??????????????? ??
????????????? ?? ?????? ?????, ??? ?????? ??????????? ??????????? ?? ??? ?????? ??????????? ??
????????????? ?? ?????? ?????? ???????.

2) ?? ?????? 63 ??? ?????? 65 ??? ?????? ?????? ??? ?????? ??? ??????????? ?? ??? ??????????????? ??
????????????? ??????????? ???????????, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ???????
?? ?????? ??? ??????? ?? ?????? ??????????? ??????????? ?? ?????? ?????? ?????? ?? ??? ??????????? ??
????????????? ??????????????? ?? ?????? ?????? ?????, ??? ?????? ?????? ?????? ??? ??????????? ??
????? ??? ??? ?????? ?????? ?????? ??????????? ??????????? ??????????? ?? ??? ??????????? ???????????
????????????? ?????? ??????????? ?? ?????? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ?????? ??????????? ?? ?????? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ?????? ??????????? ?? ?????? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ?????? ??????????? . ??????????? ?? ?????? ?????? ??????????? ?? ??? ??????????? ??
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ??? ?????? ??????????? ?? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ??? ?????? ??????????? ?? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ??? ?????? ??????????? ?? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??
????????????? ??? ?????? ??????????? ?? ?????? ?????? ?????? ??? ??????????? ?? ??? ??????????? ??,

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

(?????????)

* ?????? ??????????: ? ???????.