

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

??? 9?? ?????????? 2015 (*)

«????????????? ?????????? — ??? ?????? ??? — ?????????? — ??? 13, B, ?????????? ?,
?????? 6 — ?????????? ?????????? — ?????? — ?????????? ?? ?????? — ??????????
????????? ?????????? — ?????? — ?????? ?????????? ?????????? ??????»

???? ?????? C?595/13,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ??? ????
?????? ?? Hoge Raad der Nederlanden (?????? ?????????? ?? ?????? ???) ?? ??????
?? 1?? ??????? 2013, ?? ??????? ??? ?????????? ??? 21 ??????? 2013, ???
?????? ?? ????

Staatssecretaris van Financiën

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Fiscale Eenheid X NV cs,

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

????????? ??? ??? T. von Danwitz, ??????? ??? ??????? ?????????? ??? ?????????????? ???
?????? ????, D. Šváby, A. Rosas (?????????), E. Juhász ??? C. Vajda, ????????,

?????? ??????????: J. Kokott

?????????: M. Ferreira, ????? ?????????? ??????????,

?????? ??? ??? ?????? ?????????? ??? ??????? ??? ??' ?????????? ??? ?????????? ???
4?? ??????? 2015,

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

- ? Fiscale Eenheid X NV cs, ?????????????? ??? ??? T. Scheer, advocaat, ??? ??? K.
Bruins ??? M. Morawski, ??????????,
- ? ?????????? ??????????, ?????????????? ??? ??? M. Bulterman, B. Koopman ??? H.
Stergiou,
- ? ?????????? ??????????, ?????????????? ??? ??? A. Falk, C. Meyer-Seitz ??? U. Persson,
????? ??? ??? E. Karlsson, L. Swedenborg ??? C. Hagerman,
- ? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? L. Christie,
????????????? ??? ??? R. Hill, barrister,
- ? ?????????? ???????, ?????????????? ??? ??? W. Roels ??? ?? C. Soulay,
???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ??????????
?? 20?? ??? 2015,

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

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1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 13, B, ??????????
??, ?????? 6, ??? ????? ?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ??? ??
????????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?? ??? ????? ?????? ??????
????????? — ??? ?????? ?????? ?????? ?????????????? ??????: ?????????? ?????????? ??? (?)
???. ??. 09/001, ?. 49), ??? ?????????? ?? ??? ?????? 91/680/??? ??? ??????????, ???
16?? ?????????? 1991 (?? L 376, ?. 1, ??? ?????: ??? ??????).

2 ? ??????? ???. ?????????? ???. ??????? ???. ??????? ???. Staatssecretaris van Financiën (????????? ???. ??????????) ???. ???. Fiscale Eenheid X NV cs (???. ???: X), ???. ?????????? ???. ???. ??????? ???. ??????? ???. ??????? ???. ?????????? ???. (???) ? ?. ??????? ???. ???. ??????? ???. X ???. ???. 1996.

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

4 ????? ?? ?????? 4, ??????????? 4, ??????? ??????, ??? ????? ???????, «???? ?????
????? ??? ?????? ??????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????????????? ??
????????? ?? ???? ?????? ???????, ?? ?????? ?????? ??? ??????????? ?????? ?????? ??? ?????? ??
???????, ??????????? ?? ?????? ??? ?????? ??? ???????????????, ??????????? ?? ??? ???????????
???????, «?????».

5 ?? ?????? 13, ?, ?????????? ?, ?, ??????? 6, ??? ?????? ?????????? ?????? ? ? ?????;

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

[...]

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[...]

6. ?? ??????????? ???? ?????????? ???????????, ??? ??????????? ?? ??????? ?? ??????? ???, »

6 ? ??????? ?? 13, B, ??????? ?, ?, ?????? 6, ??? ????? ??????
?????????????, ???' ?????? ??????????? ?? ??? ?? ?????????? ???, ??? ????? 135,
????????? 1, ??????? ??, ??? ?????? 2006/112/??. ??? ??????????, ??? 28?? ??????????
2006, ??????? ?? ?? ?????? ??????? ?????? ?????????????? ?????? (??. L 347, ?. 1), ? ?????
????????? ??? ?????????????? ??? ?????? ?????? ??? 1?? ?????????? 2007.

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

7 ??? ?????? ??? ?? ??????? ?????????????? ??? ?????? ??? ??????? 85/611/??? ???
??????????, ??? 20?? ??????????? 1985, ??? ?? ??????????? ??? ???????????,
?????????? ??? ??????????? ??????????? ??????? ?? ??????????? ???????????
?????????? ??????????? ?? ??????? ?????? (?????) (?? L 375, ?. 3, ??? ????: ?????? ???),
?????????????? ?? ??????:

«[...] ?? ?????????? ??? ?????? ??? ????? ?????????????? ??????????? ???????????
????????? ?????? ???, ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????????????? ??? ?? ?????????? ?????? ??????
????????? ?????? ?????? ?????????????? ?????? ??? ?????????? ?????? ??? ??
????????? ?????? ?????? ?????????????? ?????? ??? ?????????? ?????? ??? ??
????????? ?????? ?????? ?????????????? ?????? ??? ?????????? ?????? ??? ??

[...] ?? ?? ??????, ??????????? ? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??????? ???
????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ?????? ???
????????? ??? ?????? ?????????????? ?????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???
????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ?????? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ???
????????? ?????? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ?????? ?????? ».»

8 ? ??? ??????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ??
??? ??????:

«[...] ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???' ?????? ??? ?????? ???
????? ?????????? ?????????? ?????????? ?????? ??? “?????????” ?????, ?? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? [...]».»

9 ?? ??? 1, ?????????? 1 ??? 2, ??? ?????? ????, ??? ?????????????? ?? ??
????? 2001/108/?? ??? ?????????? ?????????? ??? ?? ??????????, ?? 21??
????????? 2002 (?? L 41, ?. 35), ? ??? ??? ?????? ??? ?????? ??? ?? ?????? ???
????????? ?????????? ??? ?????????? ??? ?????? ???, ?????????? ?? ???:

«1. ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? (?????).

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

– ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ?? ?????? ??? /??/ ?? ???
????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? 19, ?????????? 1, ??
????????? ??? ?????????? ??? ?????? ???, ??? ??? ?????? ??? ?????????? ?????????? ???
????? ??? ?????? ??? ?????? ???

– ??? ?????? ?? ??????, ??? ??? ?????? ??? ?????? ???, ?????????? ??? ?
?????????, ??? ? ??????, ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ????. ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????

??? ??? ??? ?????????? ??? ???? ???? ?????????? ??? ?? ???? ??? ?? ???? ?? ???? ?? ????
????? ??? ?????????? ????.»

10 ?? ?????? 5, ?????????? 2, ??????? ??????, ??? ?????? ?????, ??? ?????????? ?????, ??? ??????????????????
?? ??? ?????? 2001/107/?? ??? ?????????? ?????????????? ??? ?? ???? ??????????, ??? 21??
????????? 2002 (?? L 41, ?. 20), ? ?????? ??? ????? ?????????? ??? ?? ???? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? «? ??????????????
?? ?????????? unit trusts/????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????
?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
II, ? ?????????? ??? ?????? ?????? ??????????»..

11 ??? ?? ??? ?????????? II, ?????? ??? «????????????? ??? ?????????????? ???
????????????? ??? ?????????? ?????????? ??????????», ?????????????? ??? ??
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«— ?????????? ??????????

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?) ?????? ?????????? ??? ?????????? ?????????? ?????????? ??? ??????????
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?) ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ??????????
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?) ?????? ?????? ??? ??????????

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

?) ?????.

— ??????????».

12 ? ?????????? ??? ?????????? ??? ?????????? ?? ??? ?????? ??? ?????? 2011/61/??
??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? 8?? ?????? 2011, ??????? ?? ???
????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????
2003/41/?? ??? 2009/65/?? ??? ??? ?????????? (??) 1060/2009 ??? (??) 1095/2010 (?? L 174,
. 1), ? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????????????? ??????
34 ??? 58 ??? ?????? ?????? ?????? ??? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??????.

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

13 ??? ?? ??? 7, ?????????? 4, ??? ?????? ??? 1968 ??? ??? ?????? ?????? ??????
(Wet op de Omzetbelasting 1968), ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
(?? ?????: ?????? ??? ??? ???), «???? ?????????? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ??? ?????????? ??? [Algemene wet inzake riksbelastigen], ???

????????????????? ?????????????? ??????? ?? ??? ?????? ??? ?????????? ???????, ?????????? ?
????????? ??? ??? ?????? ? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???
????????? ??????????????????, ?????????????? ??? ?????????????? ?????? ?????? ??? ?? ??????????
??? ??????, ? ??????? ??? ???????, ??? ?????? ?????????? ??? ?????? ?????????? ??? ? ?????????? ??? ??
???? ??????????????, ??????? ? ?????? ?????????? ??? ?????????? ??? ?? ??? ?? ??? ??????
????????????? ??? ?? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?? ??? ??????
???? ?? ??????? ????, ??? ?? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?? ?????????? ????.
?? ?????????????? ??????????, ?????????????? ??? ?????????? ??? ?????????? ?????????? ??????????
?? ?????????????? ?? ?????????? ??????».

14 ?? ?????? 11, ??????????? 1, ?????????? i, ??????? 3, ??? ?????? ??? ??? ??? ???? ??????, ???'??????, ??? ?????????????? ??? ??? ??? ? ?????????? ?????????????? ?????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ??? ?????? ?????????? ??????????.

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

15 ? X ?????????? ??????? ??????????? ?????? ??? ?????? ??? ?????? ??? ?????? 7, ???????????
 4, ??? ?????? ??? ???, ??? ????? ??????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 4,
 ?????????? 4, ??????? ??????, ??? ?????? ??????.

16 ????? ??????? ????? ?????????????? ??????? ??????? ???? ? A Beheer NV (???? ?????: A).

18 ?????????????????????? ?????????? ?????????? ??? ? ? ?????????? ?? ???????
?????? ?? ?????????? ??? ?? ??? ????????, ?? ??????? ???, ?? ????:

?) ?? ?????????? ?? ?????????????? ?? ?????????? ?? ?????????.

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

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

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

??) ??? ?????????? ??????? ???. ?????????? ??????????.

19 ?? ?????????? ? ???. ???? ?????????? ???. ???? ?????? ???. ???? ?????? ???. ???? ?????? ???.
?????????:

«? ??????? ?????????? ?????????????? [...] ??????????????:

A. ??????????? ??????:

1. ??????? ?? ??????? ?? ?? ?????? ??, ????? ?? ?????????? ?????? ?? ??
?????? ?? ?? ??????? ???

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

3. ?????????? ?? ??????? ????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ??

4. ?????????? ?????????? [...] ??? ?????????????? ?? ??? ?????????????? ?????????? ?? ??? ??????
?? ?????????? ?????????? ??????????

5. ??????????? ?? ??????? ?? ??????? ?? ??????????? ?? ??????? ?? ???????, ???. ???.
?????? ???. ???. ???. ???. ???. ???. [...]?

6. ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????

7. ?????????? ??? ?????????? ?????? ?????? ?/??? ?????????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?? ??? ?????? ??? ?????? ???
?????????

8. ?????????????????? ??? ?????????????????? ?????????????????? ??? ??? ??? ???? ?????????????? ???

9. ??????? ???. ?????????????? ?????????? ????????, ??? ?????????????? ???.
???. ??? ?????? ???. ?????????????? ???. ??? ?????? ???. ?????????? ???. ??? ?????? ???.

[...]»

20 ????? ?? ?????????????? ???. ?????? ?????? ?????????????? ? ? ????????. ??? ?????????? ???. ?????????? ?????????? ??????????
?????? ?? ?????????????? ???. ??? ???. ??? ?????? ?????? ??????, ??? ?????????? ???. ??? ???. ???'
?????? ???. ??? ???. ??? ?????? ?????? ?????????????? ???. ???. ??? ?????? ??? ?????? ???. ???.
????????????????? ???. ??? ?????? ?????? ?????? ???. ???. ???. 8 % ???. ?????????? ?????? ???. ???. ??????????
????????? ???. ??? ???. ??? ?????? ???. ??? ?????? ?????? ???. ?????????? ?????? ???. ???. ???. ?????? ???.
????? ???. ?????? ?????? ???.

22 ? ??????? ?????? ??????????? ??? (??? ????: ?????????? ???) ??????, ??????????,
??? ?????????????? ???' ?????????? ??? ?????????????? ?????????? ??? ??
????????????? ??? ?????? ?????????? ?????? ?? ?????????? ?? ??? ??? ?? ??????????
?????????, ??? ? ?????????? ?????? ?????? ??? ? ?????? ?????? ?????? ??? ??????
?????????. ?? ?? ??????, ?????? ??? ?????? ??? X, ?????????? ?? ??? ??? ??
?????????????, ?????????? ?????? ?????? ??? ??? ?????? ??? ?????? ??? 1?? ?????????? ???
??? 31 ?????????? 1996.

23 ? ?????????? ???, ?????? ?????????? ??? ?????????? ??? ?????? ??? ?? ??? ???????,
????? ??? ?? ?????? ???, ?????????????? ??? ?????? ??? ?????????? ??? ?? ??? ?????????? ???
????? ?????? ? A ??? ?????????? ??? ?? ??? ?. ?????????? ??? ? ?????? ??? ??
?????????, ?? ?????? ?????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??
Rechtbank Breda (????????? ??? Breda). ?? ?????????? ??? ?????? ??? ?????? ??? ??????
?????, ?????? ?? ?????????? ?????? ??? ?????? ?????????? ?? ??? ??? ?? ??? ??
?????????.

24 ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? Rechtbank Breda ??????
??? Gerechtshof te 's Hertogenbosch (????????? ??? 's Hertogenbosch), ?? ?????? ??????????
??? ?????????? ??????.

25 ? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? Gerechtshof te 's
Hertogenbosch ?????? ??? Hoge Raad der Nederlanden (????????? ?????????? ??? ??
????). ? ?????????? ??? Hoge Raad der Nederlanden ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ?? ??????.

26 ?? Hoge Raad der Nederlanden ?????????? ?? ?????? ?????????? ??? ?????? ?? ????????
????? ?????? ?? ?????? ???, ??? ?????? ?? ?????? ?????????? ?????????? ???
????????????? ?? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ??? ??
????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?? ?????? ??? ?????? ??
????? ??? ?????????? ?? ?????? ??? ?????? ?? ?????? ??? «????????? ??????» ??? ?? ?????? ??
????? 13, B, ?????? ??, ?????? 6, ??? ?????? ??????. ?????????? ?? ?????? ??? ?? ??
????? ??? ?? ?????? ?????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??
????????? ??? ??????.

27 ??? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?? ?????????? «?????????
?????» ??? ?? ?????? ??? ?????? 13, B, ?????? ??, ?????? 6, ??? ?????? ??????, ??
Hoge Raad der Nederlanden ??? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??
????????, ? ??? ?????? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ?? ?? ??
????????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ?? ?????? ??? ?????? ??, ??? ?? ?,
????????? ?????? «?????????» ??? ?? ?????? ??? ?????? ??? ?????????? ?? ??????.

28 ??? ??? ?????????? ???, ?? Hoge Raad der Nederlanden ?????????? ?? ?????????? ??
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????:

«1) ??? ?? ?????? 13, B, ??? ?? ?????? ??, ?????? 6, ??? ?????? ?????? ?? ??
??? ??????, ? ??? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ??
??? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ??, ?????? ??
????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??;

2) ?? ?????????? ?????????? ?????? ?? ?????? ??, ??? ?????? ?????? ?? ?????? ??
??? ?????? ??, ?????? 6, ??? ?????? ?????? ?? ?????? ?? ?????? ?? “?????????”

????????? ?????? ? ??????????? ?? ???? ?????? ?? ?????? ?????????? ?????????????? ???
????????? ??? ??????;»

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

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

29 ?? ?? ??? ????? ?? ???????, ?? ?????? ?????????? ?????? ???' ??????, ???? ??????????
??? ?? ??????? ??? ???????????, ?? ?????????????? ?? ?? ?????? 13, B, ?????????? ?,
?????? 6, ??? ?????? ??????? ??????? ?? ?????????? ??? ??? ?????? ??? ???????
??????????, ??? ?? ??????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ?? ???????
????????????? ??? ?????????? ?????? ?????????? ?? ?????? ??? ?????, ??? ??????, ??
????????????? ??? ??? ?????? ?????? ?????? ??? ?????????????? ?????????? ??? ?? ??????????
??? ?? ?????? ?????????? ?? ?????? ??? ?????????????? ?? ?????? ??? ??????, ???????, ??????
??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????????? ?? ?????? ??? ?????? «?????????
?????????» ??? ?? ?????? ??? ?????????? ???.

30 ?????????????? ??? ?????? ??????? ??, ??? ?????? ??????????, ?????????? ?? ??????????
??? ???????????, ?????? ????, ??? ?????? 13, B, ?????????? ?, ?????? 6, ??? ????
????????? ?????????? ?????????? ??????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ???'
??????, ?? ?????????? ?? ??? ??? ?????? ?????? ?????????? ?? ?????????????? ?????????? ????
????????? ??? ?????????? ?? ??? ??? ?????? ?????? ?????????? ?? ?????? ???, ?????? ?? ?????? ???
??? ?????????? ?? ?????????? ?? ?????? ?????? ?????????? ???, ?????? ??? ?????? ??? ?????? ??????
????? ? ?????????? ??? ?????? ?????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????
????? ???? ??? ?????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? (??., ??? ????
??????, ?????????? Abbey National, C?169/04, EU:C:2006:289, ??????? 38 ??? 39, JP Morgan
Fleming Claverhouse Investment Trust ??? The Association of Investment Trust Companies, C-
363/05, EU:C:2007:391, ??????? 19 ??? 20, Wheels Common Investment Fund Trustees ?.??.,
C?424/11, EU:C:2013:144, ????? 16, ??? ATP PensionService, C?464/12, EU:C:2014:139,
????? 40).

31 ?? ??????????, ?? ?????? 13, B, ??????? ??, ?????? 6, ??? ?????? ?????? ??????????
??? ?????? ???? ??? ?????? ?? ?????? «????????? ??????» (?. ?????????? Wheels
Common Investment Fund Trustees ?.??., C?424/11, EU:C:2013:144, ????? 16, ??? ATP
PensionService, C?464/12, EU:C:2014:139, ??? 40).

32 ? ?????? ??? ?????????? ???' ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ????
?????? ??? ?????? ??? ?????? ???????????, ??? ?????????????? ?? ?????????? ???
????????? ??? ?????? ?????? ?????????????? ? ?????????? ??? ?????? ??? ?????????? ???
?????????. ??????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ?? ??????????
????? ?????????? ? ?????? «????????? ??????». ??? ??????????, ? ?? ??? ?????? ??????
?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???????, ??? ?????????? ????
??????, ??? ?????????? ?????? ??? ?????? «????????? ??????» (??., ??' ??? ??? ??? ??????,
????????? JP Morgan Fleming Claverhouse Investment Trust ??? The Association of Investment
Trust Companies, C?363/05, EU:C:2007:391, ??????? 41 ??? 43, Wheels Common Investment
Fund Trustees ?.??., C?424/11, EU:C:2013:144, ????? 17, ??? ATP PensionService, C?464/12,
EU:C:2014:139, ????? 41).

33 ?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ???
??? ?????? ??? ?????? «????????? ??????» ??? ?????? ?????? ??? ?????? ?? ??? ??????
???? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ?????????? (??., ???????, ?????????? JP Morgan Fleming Claverhouse

Investment Trust ??? The Association of Investment Trust Companies, C?363/05, EU:C:2007:391, ??????? 22 ??? 43, Wheels Common Investment Fund Trustees ?.??., C?424/11, EU:C:2013:144, ????? 18, ??? ATP PensionService, C?464/12, EU:C:2014:139, ????? 42).

34 ?????????? ??' ????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?? ?
????????? ??????? ??????? ??????? ?????, ???????, ?? ?????????? ?? ?????????? ??
????????? ?? ??????? ????? ?????????? ??????????, ????? ?? ?????? ??? ???, ??? ????? ??
????????? ?????? ? ?????????? ??? ?????? ?????????? ??? ??? ?? ??? ?????? ??? ?????? ??
????????? ?????? ? ?????????? ??? ?????? ?????? ??? ??? ?????????? ??? ?????? ??? ??????
????? ??? ?????? ?????????? ?? ?????? ?????? ??? ??? ?????????? ??? ?????? ??? ??????
????????? ?????? (?. ????? JP Morgan Fleming Claverhouse Investment Trust ??
The Association of Investment Trust Companies, C?363/05, EU:C:2007:391, ??? 45, Wheels
Common Investment Fund Trustees ?.??., C?424/11, EU:C:2013:144, ??? 19, ??? ATP
PensionService, C?464/12, EU:C:2014:139, ??? 43).

35 ??????? ?????????? ?? ??????????, ??? ??????? ??? ?????????? ??? ??????? ???????, ??
????????? ??? ?? ?????????? ??? ?????????? ??? ??????? ??? ???????, ?? ??????? ?????? ?????? ???
????????????? ?????????? ?? ?????????? ??? ??????? ??? ??????? ?? ??????? ??? ??????? ???
????????????? ?? ??????? ?? ?????????? «????????? ???????» ??? ?? ?????? ??? ?????? 13,
B, ??????? ??, ?????? 6, ??? ?? ?????? ??????.

36 ??????????????? ?? ?????? ?? ?????????? ?? ?????????? ?????????????? ?????????????? ?????????????? ?????????????
?? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? (??.
?? ?????? ??????, ?????? ?????, ????????? Deutsche Bank, C?44/11, EU:C:2012:484, ??????
32, Wheels Common Investment Fund Trustees ?.., C?424/11, EU:C:2013:144, ??? 23, ???
ATP PensionService, C?464/12, EU:C:2014:139, ??? 46). ??? ?? ?????? 1, ?????????? 2, ???
?? ??? ?????? ?????????? ??? ?? ?????????? ?????? ?? ?????????? ?????????? ?????????? ?? ?????????? ??????
????????? ?? ?????????? ??? ?????? ?????????? ?????? ?? ?????? ?????? ?? ?????????? ?? ??????????
??? ?????? ?????????? ??? ?? ?????? ?????????? ?? ?????? ?????? ?????, ??? ?????? ?
????????? ?????????? ??? ?? ?????? ?????????? ?? ?????? ?????? ?????????? ?? ?????? ?????? ?? ??????????
????? ??? ?????? ??? ?????????, ???????????????, ?????? ??????, ?? ??????????
?? ?????????? ??? ?????????? ?????.

37 ????????, ??? ?? ??????????????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????, ???
?? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ?? ??????? ?? ???????,
????? ?? ??? ?? ?????????? ?? ??????? ?? ?????????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????,
??????????, ??? ?? ?????????? ?? ?????????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ???????,
??????????, ??? ?? ??????? (??., ??' ??? ?? ???????, ?????????? Abbey National, C?169/04,
EU:C:2006:289, ??????? 53 ?? 56, JP Morgan Fleming Claverhouse Investment Trust ?? The
Association of Investment Trust Companies, C-363/05, EU:C:2007:391, ??????? 48 ?? 51,
Wheels Common Investment Fund Trustees ??., C?424/11, EU:C:2013:144, ??????? 24, ?? ATP
PensionService, C?464/12, EU:C:2014:139, ??????? 47).

38 ?? ??????????? ??????????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??
?????? ??, ?? ?????? ?? ????? ??????? ?? ?? ??????????? ?? ?? ??????????? ?? ?? ??????? ?? ?? ??????? ?? ??
?? ?? ??????? ?? ?? ??????? ?? ?? ??????????? ?? ?? ??????????? ?? ?? ??????? ?? ?? ??????? ?? ??
?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??
?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??
??????, ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??
?????? ??, ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??
?????? ??, ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? 1,
?????? ?? 1 ?? 2, ?? ?? ?? ?? ???????, ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ??.

39 ??? ?? ??????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????
13, B, ??????? ??, ?????? 6, ??? ??? ??????, ???????, ??????? ?????? ?? ?????? ?? ??????? ?????? ?? ?????
??? ?????? ?????? ??????. ??? ??????????. ?? ?????????? ?? ??? ????? ?????????? ?? ??? ?????

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

40 ???????????, ??????????????? ???, ??? ??????? ??? ? ?????? ?????????????? ???
?????? 22 ?? 29 ??? ?????????? ???, ?? ??????? ??? ?????? 13, B, ??????? ??, ?????? 6,
??? ????? ?????? ??? ?????? ??? ?????????? ?????????? ?? ?????? ?????? ??????????, ?? ??????
??????, ?? ?????? ???????.

41 ??? ??? ????? ?????????????? ??????????? ?? ?????????? ??? ??????? ??? ??????????
??? ?????????? ??? ?????????????? ??? ?????????? ??????????, ? ?????????? ??? ???????
????????? ??? ??? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??
??? ?????? ??? ??? ?????????? ??? ?????????? ?????????? ???, ??? ?????????? ???, ???
?????? ?????? (????????? Abbey National, C?169/04, EU:C:2006:289, ??? 55, ??? JP
Morgan Fleming Claverhouse Investment Trust ??? The Association of Investment Trust
Companies, C?363/05, EU:C:2007:391, ??? 32).

42 ??? ?????????? ??? ? ?????? ?????????? ??? ??????? 21 ??? ?????????? ???,
?????? ?? ??? ?????? ??? ?????????? ??? ?????????? ?????, ?? ??????????, ?? ??????????
?? ?????? ?????? ??? ?? ?????????? ???' ??????, ?? ?????? ?????????? ?????????? ???
?????????, ?????? ?? ?????????? ??? ??? ?????????? ?????? ??? ?? ?????????? ???, ?? ??????
????? ??? ?????????? ??? ??????????. ????, ?? ??? ?????????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? «????????? ??????», ??????????
??? ? ?????? ??? ?????? 13, B, ??????? ??, ?????? 6, ??? ????? ?????? ?? ?????? ??? ??????
??? ??? ?????????? ?? ?????? ?????????? ?? ?????? ?????? ???????.

43 ??? ??? ?????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ??????????, ???
??? ??????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????????
????????? ??????????, ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???
????????? ?????? ?? ??????????, ? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ???
????????? ?????? ?????????? ?????? ??? ?????????? ??? ?????, ?? ?????????? ?????? ??? ??????????
??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????????
??? ??? ?????????? ? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????????
? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ?????? ??? ?????? ???.

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

45 ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ??????????, ???
????? ??? ?? ?????? ??????, ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????????
????????? ??? ??? ?????? ??? ?????? 13, B, ??????? ??, ?????? 6, ??? ????? ??????.

46 ????????, ? ??????????, ?? ?????? ??????, ??? ?????? ?????????? ??????? ??
??? ??????? ?? ?????????? ??? ?????? ?? ?????? ?? ??? ?????? ??? ?????? ?? ???
??? ?????? ??????? ??????. ??????? ??????, ?? ?????????? ??? ????? «???????
??????», ??? ?????????????? ??? ????? 13, B, ??????? ??, ?????? 6, ??? ?????
??????, ?????????? ?????????? ??? ????? ?? ?????? ??? ?????? ??? ????? ?? ???
??????.

47 ???, ?? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ??????????????
????????? ??????? ??? ?????? ?? ?????? ?? ??? ?????????? ?????, ??????, ?????????? ??
????????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??
????????? ?????? ?????????? ??? ???????, ??????? ?? ?????? ??? ?????? ??? ??????????
????????? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ?????? ???????,
????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ?, ?????????? ?????? ??? ?????? ?????????? ?????? ???
????? ??? ?? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ?????? (?????????
Wheels Common Investment Fund Trustees .??., C?424/11, EU:C:2013:144, ?????? 23 ??
24, ??? ATP PensionService, C?464/12, EU:C:2014:139, ?????? 46 ??? 47).

48 ??? ??? ?????? ?????????? ? ?????? ?????????? ??? ?????? 27 ??? ?????????? ???, ????
????????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??
????????? ?? ?????? ?????????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ???
?????????. ???????, ?? ??? ?????? ??? ?????????? ?????????? ???????, ???' ????, ??
????????? ??? ?????????? ??? ?????? 13, B, ??????? ??, ?????? 6, ??? ?????? ??????,
????? ?? ?????? ??? ?????????? ???, ??? ?? ?????? ???, ?????? ?????? ?????? ?????? ??????
?????????.

49 ?? ?? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?? ??????
????????????? ?????????????? ??? ???????, ??? ?? ?????? ??? ?????? ?? ?????? ??????????
?? ?????????????? ??? ?? ?????????? ??????? ??? ?????? ?? 1996, ??? ?? ??? ?? ??????
????, ?????? ?? ?????? ?????????? ??????? ??? ?? ?????? ??? ?????? ?? ?????? 13, B, ??????????
??, ?????? 6, ??? ?????? ??????, ?????? ?? ?? ?????? ?????? ?????????? ??? ?? ??? ??,
????????? ?????? ?????? ??????????.

50 ?????? ?? ?? ?????????? ?? ?????? ?????????? ? ?????? ?????????? ??? ?????? ??
????????? ?? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ?????? ??
????? ?????? ?? ?????? ??? ?????? ??????????.

51 ??? ?? ?????????? ??? ?? ?????? ?????????? ?????????? ??? ?? ?????? ??????????
????? ?????? ? A ?????? ?????????? ?????????? ?????????? ?????????? ?? ?????? ??????????
????????? ?????????? ??????????, ?????? ?????? ?? ?????????? ?? ?? ?????????? ??????
????????? ?? ?? ?????????? ?????????? ?????????? ?? ?????? ?????????? ?????????? ?? ?????? ??
????????? ?????????? ?????????? ?? ?????? ?????? ??? ?????? ?????? ?? ?????? ?? ?????? ??
????? ?? ?????? 13, B, ??????? ??, ?????? 6, ??? ?????? ?????? ??? ?? ??? ?? ?????? ??
????????? ??????????.

52 ?? ?? ?????? ?????????? ?????????? ?????????? ?????? ??? ?? ?????????????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?? ??????????????
????????? ??????????, ??? ?????? ?????? ?????? ??? ?? ?????????? ??? ?????????? ??
????????? ??? ?????????? ?????? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ??????????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
????????? ?????????? ??? ?? ?????? ?????? ?????? ?, ?????? ??? ?????? ?????? ??? ??????
????????? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????

?????? ??????????? ?? ??????????? ??? ?????????? ??? ???? ?? ??????? ?????????? ??????? ??
?????? ?? ?? ?????????? ?????? ??????? ??? ??????? ?? ?? ??????? ?? ?? ?????????? ??
????????? ? ?????? ??? ??????? ??? ??????? ?? ?? ?????? (??., ??????, ?????? Wheels
Common Investment Fund Trustees ?.., C?424/11, EU:C:2013:144, ???. 27). ??? ???.
??????, ?? ?????????? ??? ?????? ??? ?????? ?????????????????? ??????? ??????? ??
????????? ???????, ??? ?????????????????? ??? ?????? ?????????????? ?? ?? ?????? ?????????????? ??
????????? ?? ?????????????????? ??? ?????? ?????????????? ?? ?? ?????? ??? ?????????????? ??
????????? ??? ?? ?????????????? ??? ?????? ?????????? ?? ?? ?????? ??? ?????????? (?????? ATP
PensionService, C?464/12, EU:C:2014:139, ???. 59).

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

54 ?? ?????????? ??? ?????????????? ??? ??????? ?????????????? ??? ???????
????????????? ??? ?????? ??? ?????????????? ??? ?????? ?????????????? ??? ?????? ??? ???????, ??
????????? ??? ??? ?????? ?????????? ?? ?????? ??? ?????????????? ??? ?????? ?????????? ??
????????? ??????. ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ?????? ?????? ??????????
????? ?????????? ?? ?????? ?????? ?????? ??? ??????, ??? ?? ?????? ?????????? ??? ?????? ?????????? ??
????????? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ?????? ?????????? ??
????????? ??? ?????? ??? ?????????? ????. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?????????. ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??
????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??
?? ?????????? ????. ?? ?????????? ??? ?????? ?????? ??? ?????? ?? ?? ?????? ??????????, ??? ?? ??????
?????????, ?????????? ??? ?? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
?????????. ?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????? ?? ?????????? ??????????, ?? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????????????? ??
????????? ?????????? ??? ?? ???????, ?????? ?? ?????????? ?????????, ?? ?????? ?? ?????????? ??
????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??.

55 ?????????? ??? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ??????????
????????? ???, ??? ?????????? ?????????? ?????????, ??? ?????? ?????????? ??? ?????????? ??.

56 ??? ?????, ??????????, ??? ???????, ??? ?????? ??? ?????? ??? ?????? ?????? ??????????
????? ??? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????? ??? ?????? ?????????? ??????????
?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ????. ??
????????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??????, ??? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

57 ????? ?????????????? ? ????????, ?? ?????? ??? ?????????? ??? ?????????? ??
?????? ?????? ??? ?????? ?????? ?? ?????? ?? ?????? ??? ?????????????? ??? ?????????? ???
?????? ??? ?????? ?????? ?????? ???????, ???? ?? ?????????? ?????????? ?????????? ???????. ???????,
?? ????? 13, B, ??????? ??, ?????? 6, ??? ?????? ?????? ?????????? ?????? ?? «??????»
?????????», ???? ?? ?????????????? ?????????????? ?????? ?????????? ?????? ?? ??????????
????????? ?? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ???????????. ???
??????, ???????, ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????????? ???
????????? ??? ?????? ?? ?????????? ??? ???????, ?????????, ?????? ?????? ??????????
????????????? ??? ??????. ??????????, ???? ?? ?????? ?????? ??? ?? ?????? ?????? ???
??? ?????? 13, B, ??????? ??, ?????? 6, ??? ?????? ?????? ?????????? ???? ?? ??????
??? ? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ??????
????, ???? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????????? ?? ?????? ???.

58 ?? ?????? ?????????? ??????????, ??????, ?? ? ?????? ??? ?????????? ??? ??????
????? ?????? ??????????, ???? ?????? ?????? ??? ?? ?????????? ??? ??????????, ??????
?? ?????????? ??? ?????? ?????? ??? ???????, ??????????????, ??? ??????????????, ??? ?
????????? ?????? ??? ?????? ?????? ?????? ???.

59 ??' ?????? ?????????????? ???, ??? ?????????? ? X, ?? ?????? ??? ? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ? ?????????? ?????????? ???
????????? ?? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ? ?????? ??????????
????? ?????? ??? ?????? ???, ??? ?????????? ?????? ?? ?????????? ??? ?????????? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??????????.

60 ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ???? 24 ??? ??????
?????, ??? ?????? ?????????? ??? ?? ?????? 19, ?????????? 1, ?????????? ??, ??? ?????? ???????,
????????? ??? ?????????????? ??? ?? ??? ?????? 2001/108, ? ?????? ??? ?????????? ??????????
?? ??????????, ? ?????????? ??? ?????????? ?????? ?? ?????? ?????????? ?????? ??????????
?? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????? (??., ??' ???? ??? ??????, ?????? JP Morgan Fleming Claverhouse Investment Trust
??? The Association of Investment Trust Companies, C?363/05, EU:C:2007:391, ?????? 32 ???
34). ???????, ? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????????????? ??????
????????? ??? ?????????? ?? ??????.

61 ?? ?????? ??? ? ?????? 2011/61, ? ?????? ???????, ?? ?????? ??????, ??? ??? ???
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????????,
????????? ??? ??? ?????? ???????, ??? ?????? ?????????? ??? ?????? ?????????? ???
34 ??? ?????? ??????, ?????????? ??? ?? ??????.

62 ??????????, ?? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ???
?????? ?????? ?? ?????? ??? ?????????? ??? ?????? 13, B, ?????????? ??, ?????? 6, ??? ????
????????? ??? ??? ??? ? ?????????? ?????????? ???????, ?? ?????? ? ???? ???
????????? ??????????.

63 ????????, ??? ?? ?????? ??? ?? ???????????, ??? ?????????? ?? ??????? ?????? ??
???????, ??????????? ?? ??????????? ??????? ??????? ???????????, ??????
?????? ??????????? ??????? ????. ?? ?????????? ??? ???????????, ??????? ??? ??????? ??
??? ??????? ????? ?? ?????? ?? ?????? ?? ??? ????? ??????? ??????? ?? ????????????. ??? ??
??????????, ? ??? ?? ??????????? ??????????????? ??????????? ?? ??????????? ?? ???????????????
?????????? ?? ??????? ?? ??????? ????? ??????????? ??????? ???????????, ?? ??????? ???????, ?? ??
??????, ?? ????? ?????????????? (??.. ??????? Wheels Common Investment Fund Trustees
??., C?424/11, EU:C:2013:144, ??? 21 ??? ??? ?????????????? ???????????).

64 ??????? ???????, ??? ?????? ??????? ??????? ?? ?????? ? ?????????? ??? ?? ??? 13, B,
????????? ??, ?????? 6, ??? ?????? ??????? ????? ?? ?????? ??? ??????? ??? ?????????? ?????
?? ??????? ????? ?????? ?????? ?????, ??? ?????? ?? ?????????? ?????????? ?????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ??????? ??? ?????????? ??? ?????????? ???
????????????? ?? ?????? ?????????????? ?? ?????? ??? ?????, ??? ??????, ?? ??????????
??? ??? ?????? ?????????? ??? ??? ?????????????? ??????? ??? ?? ?????????? ??? ?? ???
????????? ?? ?????? ??? ???????????, ?? ?????? ???????, ???????, ??????? ??? ??? ???
????? ??? ?????? ??? ?????????? ???, ??????? ?? ?????????? «????????? ??????» ??? ??
?????????? ???????, ??? ??? ?????????? ??? ?? ??????? ?????? ?????? ??????????, ??? ??????
????? ???, ?? ?????? ?????? ???????.

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

65 ?? ?? ??????? ??????? ???, ?? ?????? ??????????? ?????? ???' ?????? ??
?????????????? ?? ?? ?????? 13, B, ??????? ??, ?????? 6, ??? ????? ??????? ?????? ??
?????????? ?? ?? ?? ?????? ??? ? ??? «?????????» ??? ??????????????? ?? ?? ??????
???? ?? ?? ?? ?? ?????????? ?? ?????? ?????????? ?????????? ?????????? ??????????
??????????.

66 ???, ??, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???, ?? «??????»
??????, ? A, ? ???, ???, ???????, ???, ???, ???????, ??, ??, ???????, ???, ???????, ???, ???????, ???, ???????, ???,
??????, ???, ???, ???????, ???, ???, ???????, ???, ???, ???????, ???, ???????, ???, ???, ???, ???, ???, ???, ???,
??? ? ???????, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???, ???, ???, ???, ???,
??????, ???, ???, ???????, ???, ???????, ???, ???, ???????, ???, ???????, ???, ???????, ???, ???????, ???, ???,
??????, ???, ???, ???????, ???, ???????, ???, ???????.

67 ???????, ???????, ?? ?????????????? ?? ? ???????????, ??? ???? ?????? ?? ??????? 13,
B, ??????? ??, ?????? 6, ??? ????? ??????, ?????????? ?????????????? ???
????????????? ?????????? ?? ??????? ?? ?????????? ?? ?????????? ?????????????? ???.

68 ?????????????? ??????? ??, ??? ????? ??????????, ?? ??? ?? ??????????????
??? ??? ?????? ?? ?????????? ??? ?????? 13 ??? ????? ?????????? ?????? ?? ??????????
?????. ??????, ? ??????? ?? ?????? ?????? ?????? ?? ?????? ??????? ?? ?????? ?????? ??
????????? ?? ?? ??? ????? ?????????? ??? ?? ?????? ?? ??? ?????????? ?? ?????????? ?? ??
????????? ?? ?????? ??? ?????????????? ??????????????. ??????, ?????? ?? ?????????? ?? ??
????????? ??' ?????? ??????? ?? ?? ??? ????? ?????????????????? ?? ?? ?????? ?? ??
????????? ?? ?????? 13 ?? ?????? ?? ?????????????? ??? ?????? ?? ?????? ?? ?? ??????
????????? ?? ?????????? ?????????????? (?., ?????? ?????, ?????????? Zimmermann,
C?174/11, EU:C:2012:716, ??? 22 ??? ????? ?????????????? ??????????, ??? Mapfre asistencia
??? Mapfre warranty, C?584/13, EU:C:2015:488, ??? 26).

69 ????, ?? ??????????? ????? ???. ???? ???? «?????????» ?????????? ????????,
???? ?????????????????? ??? ?????? 13, B, ?????????? ?, ?????? 6, ??? ?????? ??????, ??????

????????? ?????? ??? ??????? ??? ?????? ?? ???????????? ??? ?????????????? ??
????????????? ??? ?? ?????? ??? (?????? Abbey National, C?169/04, EU:C:2006:289, ???
43).

70 ? ?????????? ??? ?????? ??? ?????? ?? ?????????????? ??????.

71 ?? ?????????? ??? ?????????? ?????????????? ??? ?? ?????????? ??? ?????? ???
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????????? ?????????? ??? (????????? Abbey National,
C?169/04, EU:C:2006:289, ??? 63, Deutsche Bank, C?44/11, EU:C:2012:484, ??? 31, ???
ATP PensionService, C?464/12, EU:C:2014:139, ??? 65). ????, ????, ????, ????, ???
????????? ??? ?????? ?????? ?????????????, ?? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????? ?????????? ?????????? ???, ?????????? ?????? ???
????????? ?????? ??? ?????? ?????????? ?????? ???, ?????????? ?????? ???
????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ???
????????? ??? ?????? (?????? ATP PensionService, C?464/12, EU:C:2014:139, ??? 65).

72 ?????????? ?????????? ??? ?????????????? ?? ?????????? ?????????????? ??????????????
????? ?????? ??? ?????????????? ??????????????, ??? ?????? ?? ?????????? ??? ?????? ???
????????? ?????????? ??????????, ??? ?????? ??? ?????? ?????????? ?? ?????????? ??
????????? ????, ??? ??? ????? «????????» (?????? ATP PensionService, C?464/12,
EU:C:2014:139, ??? 66).

73 ????????????, ?? ?????????? ??? ?????????? ??? ? ??? «?????????» ??????????
?????????, ??? ?????????????? ??? ?????? 13, B, ?????????? ??, ?????? 6, ??? ?????
????????, ?????????? ??? ?????? ?? ?????????? ??????????, ??? ??? ?????? ??? ?????????? ???
??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ???, ??? ??? ?????? ???
????????? ??????????, ??? ?????????? ?????????? ?? ??? ?????????? ??? ?????????? ???
????? ??? ?????????? ? ??? ?????????? ??? ??????????, ??? ?????????? ??? ?????????? ???
???????????, ?? ?????????, ??? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ???
????? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ???
??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?? ?????? (?. ??????? Abbey National, C?169/04, EU:C:2006:289, ???
26, 63 ??? 64, ??? ATP PensionService, C?464/12, EU:C:2014:139, ??? 68).

74 ??????????, ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? 13, B, ?????????? ??, ?????? 6, ??? ?????? ?????? ?? ?????????? ???
????????????? ?????????? ?????????? ??????????, ??? ?????? ?????? ??? ?????? ? ??????????
?????????, ??? ? ?????? ??? ?????? ?????????? ?????????? (?????? Abbey National,
C?169/04, EU:C:2006:289, ??? 65 ??? 71).

75 ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????????, ?????????? ?? ??????????
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?????????? ?????????? ???
??? ?????? ??? ?????? 13 B, ?????????? ??, ?????? 6, ??? ?????? ?????? ???, ? ???
«?????????» ??? ?????????? ?????? ??? ?? ?????? ?????? ?????????? ?? ?????????? ???
?????????, ??? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ??? ?? ?????????? ???, ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?? ?????? ?????? ???, ??? ??? ????? «????????». ?????????, ?
????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????? ???
????????? ?????????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
?????????.

76 ? X ??? ? ??????? ???????????, ??? ??? ?????? ???, ??? ? ?????? «?????????»
????????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???

? ?????????? ??? ???? ?????????????????? ???, ??? ???? ?????????????? ??? ???? 19 ???
????????? ??????????. ??? ???? ?? ?????????????? ????? ???? ?????????????? ??? ???? ?????????? ???
????????????? ??? ???? ?????? ??? ???? ?????? ?? ???? ?????? ??? ???? ?????????????? ???
? ???, ??? ???? ??????, ??? ???? ??? ???? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????
?????????.

77 ?????????????? ??? ???? ?????????????? ??? ???? ?????????? ??? ???? ?????????? ??? ???? ?????????? ???
????? ? ?????????? ??????? ??? ???? ?????? ??? ???? ?????? ?????????? (??., ???????,
?????? GfBk, C?275/11, EU:C:2013:141, ?????? 22 ??? 24). ???????, ??? ?????? ??? ??
????????? ??? ???? ?????????? ?????????????? ?????????? ?????????? ?????????? ??? ???? ?????
?????????, ? ?????????????? ???? ?????? ?????????? ?? ??? ?????? ?????????? ?????????? ??????????????,
??????, ??? ?????? ??? ???? ?????????? ??? ???? ?????? ?????????? ???, ???????,
????????? ??? ???? ?????? ?????????? ???????, ??? ???? ?????????????? ??? ???? 73 ??? ???? ???
?????????.

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

79 ?????? ??? ???? ???? ??????, ??? ???? ?????? ???????, ??? ???? ?????? ?????? ?????? ?? ???? ???? ???? ??????
?? ???? 13, B, ??????? ??, ?????? 6, ??? ???? ?????? ?????? ??? ???? ???? ???? ???? ???? ???? ????
«?????????» ??? ?????????????? ??? ???? ?????????? ?????? ??? ???? ?????? ??? ???? ?????????? ???
????????? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ???.

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

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

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

1) ?? ???? 13, B, ??????? ??, ?????? 6, ??? ???? ?????? 77/388/??? ???
??????????, ??? 17?? ???? 1977, ??? ???? ?????????????? ??? ???? ?????????? ???
????? ???? ??? ???? ?????? ?? ???? ?????? ?????? ?????? — ???? ????
????? ?????????????? ????: ?????????? ?????????? ???, ??? ?????????????? ???
??? ?????? 91/680/??? ??? ?????????? ??? 16?? ???? 1991, ??? ???? ??? ????
??? ?????? ?????? ?????????? ??? ???? ?????? ?????? ?????? ??? ???? ???, ???
????? ?? ?????? ?????????? ??? ???? ?????? ?????? ??? ???? ?????? ??? ???? ???, ???
????????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??? ????
????????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??? ????
????????? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??? ????
??? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??? ????
????????? » ??? ???? ???? ?????? ??? ???? ?????? ???, ??? ?????? ?? ???? «?????????
?????????» ??? ???? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??? ????.

2) ?? ?????? 13, B, ??????? ??, ?????? 6, ??? ?????? ??????? 77/388 ????

?????? ??? ???? «??????????» ??? ?????????????? ??? ?????????????? ??????

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

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

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