

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

NIILLO JÄÄSKINEN

??? 16?? ?????????? 2010 (1)

?????? C?540/09

Skandinaviska Enskilda Banken AB Momsgrupp

?????

Skatteverket

[?????? ??? Regeringsrätten (???????) ??? ??? ?????? ?????????????? ??? ???????]

«????? ??????? ??? – ?????? 77/388/??? – ?????????? – ?????????? – ??????????
????????? – ?????????? ?????? – ?????? 13, ? – ?????????? ??? ?????????? ??? ??????
????????? ?????? ??? ?????? ?????? (underwriting) ?????? ??????????»

1. ? ??????? ??????? ??? ?????????? ?????? ?????? ??? ??????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ?????????? ??? ??????? ??? ?????????? (underwriting) ??? ???
?????? ??? ??????? ???.

2. ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ??????????
?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
?????????, ??? ?????? ??????????, ??? ?????? ??? ?????? ??? ?????????? (????? ?????????? ??? ??????????
?????????) ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??? ???
?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ???????, ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ???????.

3. ??? ??????? ???????, ?????????? ?????????? ?????????? ?????????? ??? ?????? ??? ??????????
?????? ?????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
?????. ? ??????? ??? ??????? ?????????? ??? ?????? ??? ?????????? (Skandinaviska Enskilda
Banken, ??? ????: SEB) ??????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????????? ???
??? ??????? ??? ??? ?????? ??? ?? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ???
?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

4. ?? ??????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????? ??? ??? ??? (2), ???, ?? ?????????? ?????????? ?????????? ??? ?????? ???
?????? ??? ?????? ????. ?????? ?????????? ??? ?????? 13, ?, ??? ?????? ????

? ?????????? ???????, ??? ? ??????? ?? ??????? 13, B, ???????? ??, ??? ?????? ???
????????????? ??? ?????????????? ???????, ?? ?????????? ??? ??????? 13, ?, ???????? ??,
?????? 1 ??? 2, ??? ??????? ?? ??????? ??? ??? ??????? ?????????? ??????????, ??? ?
?????? ??? ??????? 13, ?, ??????? ??, ?????? 5, ??? ????? ?? ??????? ?? ??????? ??
?????? ??? ??????? ???????.

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

I – ?????? ???????

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

6. ?? ??? 2, ??????? 1, ??? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?????????? ???
???????. ? ??????? ?????? ??? ??? «????????? ?? ?????????? ?????? ??? ?? ??????
?????????, ??? ?????????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????».

7. ?? ??? 13, ?, ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ????. ??
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ??? ????:

«(?) [?] ?????????? ??? ?????????????? ??? ?????????? ???, ?????????????? ??? ?? ??? ??????
??? ??? ?????? ??? ?????? ?????? ???, ??? ?????????????? ??? ?? ??? ??????
??? ?????????? ??? ??????».

[...]

(?) 1. [?] ???????? ??? [?] ?????????????? ??? ???????, ?????? ??? [?] ?????????? ??? ???????
????????? ??? ???????, ? ?????? ??? ???????.

2. [?] ?????????????? ??? [?] ??????? ??????????, ?????????? ? ?????????? ??????????
??? ?????? ??????????, ??? ??? [?] ?????????? ?????? ?????????? ?????????? ???
??????, ? ?????? ??? ???????.

[...]

5. ??? ???????, ?????????????? ??? ??? ?????????????? ???' ?????????? ???
????????? ??? ??? ??????????, ?? ?????? ?????? ?????? ??? ?????? ?????????? ???
??????, ?????????? ??? ?????? ???????, ??????????:

- ?????? ?????????????? ???,

- ?????????? ? ?????? ?????????? ??? ?????? 5, ?????????? 3 (3).»

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

8. ??? ? ??????? 1, ??????? 1, ??? mervärdesskattelagen (1994:200) [????? ???
??, ??? ???: ML], ?????????? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

9. ??? ?? ??????? 3, ??? 9, ??? ML, ?????????????? ??? ?? ?????????? ??????????
??? ?? ?? ?????? ?????????? ??? ?????????????? ?????????????? ??? ?? ?????????? ???
????????? ?????????? ??? ??????. ?? ?????????? ??? ?????? ??????????, ?????? ???, ?
????????? ??????, ??? ?????? ?????? ?????? ? ??????????. ??? ?? ??? 10,
????????????? ??? ?? ?? ?????? ?????????? ??? ?????????????? ?? ?????????? ??
?????????, ?????? ???, ??? ?????? ??? ?????? 13, ?, ?????????? ?? ??? ??, ?????? 1, 2
?? 5, ??? ?????? ?????? ??? ?? ?? ?????? 135, ?????????? 1, ?????????? ?? ??? ??
?? ??, ??? ?????? ????.

II – ?? ?????????? ?????????? ??? ?? ?????????? ??????????

10. ? ?????? ??? ?????? ??? ?????? ???, ??? ?? «SEB AB Momsgrupp» (??? ????: SEB
Momsgrupp), ??? ?? ?????? ??? ??????, ??? ? SEB, ??? ?????????????? ??? ??????. ???
??? ?????? ??? ?????????? ?????????? ? SEB ??? ?? ?????? ??? SEB Momsgrupp
????????? ?????????? ?? ?????????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ??? ??????
?????????. ? ?????????? ??? ?????? ? SEB ?????????? ??? ?????????? ??? ?????????? ???
????????? ????.

11. ? SEB Momsgrupp ?????????? ??? ?????? ??? ?? ?????????? ??? ?????????????? ???
?????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???, ?? ??
??????, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ?? ??????. ?? ?? ??????, ?
Skatteverket (? ?????? ?????????? ???) ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ??? ?????? ??? ?? ?????? ?????? ?????? ????. ? SEB Momsgrupp
?????? ?????????? ??? ?? ?????????? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
Länsrätten i Stockholms län (????????????? ?????????????? ??? ??????????) ???
Kammarrätten i Stockholm (????????????? ?????????? ??? ??????????).

12. ? ?????? ??? ?????? ??? Regeringsrätten (????????? ?????????????? ??????????) ???
???' ?????? ?? ?? ?????????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ??????????
?????. ??? ?? ?????? ??????????, ?? ?????????? ?????? ?????????? ??? ?????? ???
??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???.

13. ??? ?? ?????????? ???, ?? Regeringsrätten ?????? ?????? ??? ?????????? ??
????????? ?????? ?? ?????? ?????????? ?????????? :

«????? ?? ??? 13, B, ??? ?????? ?????? ??? (????? 135, ?????????? 1, ??? ??????)
??? ?????????? ?????? ?? ?? ?????? ?????? ??? ?????? ?????????????? ???) ??? ?????? ???
?? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????????? ??? ???
????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ??????, ?????? ?????????????, ?????????? ?? ?????? ??? ?????? ???
????????? ??? ??????, ??? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ???

III – ?????? ??????

A – ? ??? ?????? underwriting

14. ?? ?????????? ?????????? ??? ?????? ?????????????? ??

? ?????????????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????. ????, ?
?????? 2004/39/?? ??? ??? ?????? ?????????????????? ?????? ?????????????? ??? ?????? ?
??? ?????????? ??????? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? (4).
?????????, ? ?????? 2006/49/?? ?????? ??? ?? ?????????? ?????????? ?? ?????? ??? ?????? ???
???? ?????????? ?? ?????? ?? ??? ?????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ???
????????? ?????? (5). ??????????, ? ?????????????? ??? ?????????????? ??? ?????????????? ???
????????????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????????? ??? ?????? ???
?????????, ???' ??????, ??? ?????? ??? ??? ?????????? ??????????.

15. ??? ? ?? ??' ?????????? ?????????? ?????? ?????????? ?? ?????? ?? ?? ?? ?? ??
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ??
?? ?? ?? ?????? ?? ??????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ??
???? ?????????? ?????? (???, ?? ?? ??????, ?????? ?? ??? ?? ??? ?????? ??? ??????????????
??? ?????????? ??????), ? ?? ?????? ?? ?????????? ?????????? ??????????.

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

17. ? SEB, ? ?????? ?? Skatteverket ?????????? ??? ? ?????? ??? ?????????? ???
????????? ?????? ??? ?????????? ??????. ?? ?? ??????, ?? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????, ? SEB ?????????? ???
?? ??' ?????????? ?????? ??? ?????? ?????? ?????? SEB ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? (underwriting), ?????? ? ?????? ??? ?????? ?????????? ???
?????????.

18. ??????, ??? ?????? ??? ? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????.

B – ?????? ??? ?????? 13, B, ??? ?????? ?????? ????

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

20. ??????, ?? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?? ??,
?? ?? ??????, ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ??
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
(6). ??????, ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??
(7).

21. ??????, ??? ?? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? 13, B, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? (8).

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

? ?????????? ??? ?? ?????????????????? ???????? ??? ?????? ?? ?????? ????. ??????, ????
?? ?????????? ??? ??????????, ?? ?????? ?????? ?????? ?????????? ?????????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????? ??? ??????
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ??????
?? ?????????? (9).

1. ?????????? ??????

23. ?? ?????????? ?????? ?????????? ?????? ??? ?????? 13, ?, ????????, ??, ???
????? ?????? ????. ? ?????? ?????? ??? «?? ?????? ??? ?????????? [...] ???
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ???,
?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??????».

24. ? ?????? ??? «????????? ?????? ??????» ??? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?????? (10). ?? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ??? CPP (11) ?? ??? ?????? ?????? ??? ?????? ?????? ??????
????????? ???, ??? ?????? ?????? ???, ??? ?? ??? ?????? ?????? ?????? ?????? ???,
????? ??? ?????? ???, ?? ?????? ??? ??? ?????? ???, ?? ?????? ??? ?????? ???
????????? ??? ?????? ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
(12).

25. ???, ? ?????? ??? «????????? ?????? ??????» ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ???, ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????? (13).

26. ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ?????? ?? ??? ?????? ?????? ??? ?????? ??????
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
?????.

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

28. ????????, ?? Skatteverket ?????? ??? ?? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??????. ?????????? ???, ??? ?? ?????? ?????? ?????? ???
??? ?????? ??????, ?? ?? ??? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ???
????? ??? ?????? 13, ?, ?????? ???, ??? ?????? ?????? ??? ???.

29. ?? ?????? ??? «?????» ?????????? ??? ?????? ??? ?????? ?????? ?????? ???
?? ?????? ??? ? ?????? ?????? N. Fennely ?? ??? ?????? ??? ?????? ??? ???
????????? CPP, ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????? ?????? (14).

30. ??? ???? ???? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ?????? ??? ???? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

31. ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ???? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? (15) ??? ?????? ???
????? ?????? ??? ?????? ???.

?????? ?????????? (16). ?? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????????? ???
????????? ??? ??????.

32. ??????????, ??? ???? ????? ??????, ??? ?????? ???? ?????? ? ?????????? ? ?????????? ??????????
????????? ?????? ??? ?????????????? ??????. ??? ?????? ?????????? ??? ?????? ??? ??????????
??? ?????? ??? ?????????? ??? ?????????? ??? ?????????????????? ?????? ?? ?????? ?? ???
?????. ??????????, ??? ?????? ?? ?????????? a priori ??? ??? ??? ?????????? ??? ?? ?????? ?? ???
??? ?????????? ????. ? ?????? ??? ??????????, ???' ???, ??? ? ??? ?????? ?????????? ???
????? ?????????? ??? ???? ?????????? ??????.

33. ?? ?? ??????, ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ??????????
??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????? ??, ??? ?????? ??????
????? ???.

2. ??????? ?????????? ??? ??????? ?????????? ??? ?? ??????? ??????????

34. ?? ????? 13, ?, ??????? ?, ?????? 1 ?? 2, ??? ?????? ?????? ??? ?? ??????????
?? «????????? ?????????» ??? «?? ??????????????» ?????????? ? ?????????? ?????????? ???
????? ??????????.

35. ? SEB ?????????? ??? ???? ?????????? ?????????? ??? ?????????? ?????????? ??? ??????????
????? ?? ?????????? ??? ?????? ??? ?????????? ?????, ?????????? ??? ?????? ??? ?????? ???
?? ?????? ??? ??????????, ??? ?? ?????????? ??? ?????? ?????????????? ?????? ?????????? ???
?????????, ??? ?????????? ??? ?????????????? ??? ?????? ?????? ??????????, ??? ?? ?????? ???
????????? ? ??? ??????, ?? ?????? ??? ?????????? ? ?????????? ??????.

36. ?? Skatteverket ?????????? ??? ???? ?????? ?????????? ??? ?????????? ??? ??????????
?????????, ?????????? ??? ???? ?????? ??? ?????? ?????? ??????????. ??? ???? ?????? ???, ?? ?????? 13,
?, ?????????? ?, ?????? 1, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
?????????, ?? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
?????????, ?? ?????? ?? ?????? ?????????? ??? ?? Skatteverket ?? ?????????? ??????????
???? ?????????? ??? ?????? ??? ??. ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
???? ?? ?????? ???, ? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ?? ?? ??????, ???
????????? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??.

37. ??? ?????? ?? ?????? 13, ?, ??????? ?, ?????? 1, ??? ?????? ?????? ??? ??, ??
????????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????????????? ??? ?????? ?? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? (18).

38. ????? ??? ???? ?????? ?????????? ??? ?????????? ?? ?? ?????? ?????????? ??? ??
????? ??? ?????? ?????? ??????.

39. ?????? ?????????? ?????? ? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????? ????, ?????? ?? ?????? ?????????? ?? ??? ?????????? ????. ??? ??????
????????? ? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ? ??????
??? ??????. ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ??? ???????? ??? ???????? ? ?? ?????????? ?????? . ?????? ?????????? ?? ???????
?? ? ?? ??????? ?? ??????? ?? ??????? ?? ?????? ?? ?????? ?? ?????????? ?????? ??
????????? ?? ?????? (19). ??? ????, ??? ? ?????????????? ?????????? ?? ??? ??
????????? ??? ? ?? ?????????? ?????????? ?????? ? ?????????? ?????????? ?????????? ??????
?????????.

40. ?? ??? ? ?? ????? 13, ?, ????????, ??, ?????? 2, ??? ?????? ??????? ?????? ???, ????????
????????? ??????? ??????? ?? ?????? ?????? ?????????? ?????????? ?? ?????????? ??????. ?
?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? «credit guarantees», ???
?? ??????? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ?? ?????????? (20). ?? ??
??????, ?????????? ?? ?????????????? ?? ?????? ???, ?????? ?? ?????? ?????? ???
????????? ??? ? ?? ?????? ?????? ?????? ? ?????????? ?????? ?? ?????? ?????? ?????? ???
??? (21).

41. ?? ?????????????????? ??????? ?? ?????? ??? ?????? ?????????? ?????????????? ?? ??? ??
????????? ??????? ? ?? ?????? ?????????? ?????? ?? ?????? ?? ?????????? ??????. ?
?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?? ???????, ?? ??????
????????? ??? ?????? ?, ?????? ?????? ??????, ??? ?????? ?? ?????????? ?? ???????, ? ??????
????????? ??? ?? ?????????????? ?? ?????? ?????? ?????? ?????????? ?????? ??? ??
????????????? ??? ?????????????? ?????, ??? ?????????????? ?????? ??? ?????? ?????? ??????
????????? ?????? ?? ??? ?? ?????? ??? (22). ?? ?????? 13, ?, ????????, ??, ?????? 2, ???
????? ?????? ??? ? ?? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??????
??? ??? ?????? ?????? ??? ? ?? ?????? ??????????.

42. ??? ?? ??????? ????, ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??????????
?? ?????? ??????? ?? ?????? 13, ?, ????????, ??, ?????? 2, ??? ?????? ??????? ?? ??? ??
????? ??? ??????? ?? ?????? ?????????? ?? ?????? 13, ?, ????????, ??, ??? ????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «????????? ?????? ??????»
??? ?????? ?????????? ?? ??? ?? ?????? ??? (23). ?? ?????????? ??? ?????? ??? ?????? ??????
??? ?????? ??? ? ?? ?????? ?????? ?????????? ??? ?????? ???, ?? ?? ??????, ?????? ??
????????? ??? ?????? ??? ??????, ?????????? ??? ? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? (24).

43. ????? ? ?????? ?????????? ?????????? ?????? ?????????? ?????? ?????? ?????????? ???
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? . ?????? ??? ?????????? ?????, ?????????? ?????? ?????? ?????? ?????? ??
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????, ?????????? ?????? ???
????? ?? ??? ? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??????????
????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? (25). ?????? ?????? ??? ?????? ???
?????, ??? ?????? ???, ??? ?????? ??? ?????????????? ?????? (26).

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

45. ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????? ?? ??? ?????? ?????? ??? ?????????????? ?????? . ??? ?????? Velvet & Steel,

? ??????? ? ?? ?????????? ?????????????? ??? ?????? ??? ??, ?? ?? ???? ???? ??, ??
????????????????? ????. ??? ?????? Tiercé Ladbroke ?????? ?? ? ??? ???? ??????????
??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ?? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? Swiss Re Germany Holding
?????? ?? ? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????????????? ??? (27).

46. ? ??????? ? ?? ??????? ??? ?????? ?????????????? ??? ?????? ?? ???? ??
????????? ??? ?????????? ??? ?????? ??? ??????. ??? ??? ?????? Velvet & Steel ?
?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????, ??? ?????? ???
?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
? ?????? ??? ?????????? ??? ?????? 2004/39 ? ?????? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

47. ??? ???????, ????. ?? ?????????? ?? ? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ????. ? ??? ????
??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????
??? ???????.

48. ???' ???, ? ?????? ??? ?????? ?????????? ??? ?????????? ???, ?? ????????
????????????? ????, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????? ???
????????? ????, ?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????????
?? ?????? ????, ?? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???, ???,
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? («no?loss guarantees»). ???????, ?? ?????????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

49. ??? ?? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? «????? ?????» ?? ???? ??
????????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???, ?????????? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ??? ? ????. ?????? ??? ?????? ??? (?????????) ?????????? ??? ?????? ??
????????? ??? ?? ?????? ??? ?????? ??? ??????.

50. ??????, ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? 13, ?, ?????? ??, ?????? 1 ??? 2, ???
????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

51. ???, ?????? ??? ?????? 13, ?, ?????? ??, ?????? 5, ??? ?????? ?????? ???, ??
?? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????? ??????. ? ?????? ???
«????????? ?? ?????? ??? ?????? ??? ??????» ??? ?????????? ?? ?????? ?????? ???
(29), ??? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?? ??? ?????? ??? SDC, ?? ?????? ?? ?? ?????? ??? ?????? ???

????????? ?????? ?? ??????????? ?? ?????? ??? ?????????? ?????????? ?????? ???
????????????? (30). ?? ????????, ?? ?????????? ?????? ?? ??? ?????? ??? CSC, ?? ???
?? ??????? ?? ?????????? ?????? ???????, ??????? ??' ?????????? ?????????? ??? ?????????? ???
????????? SDC, ??? ?? ??????? ????? ?????????????? ?????? ??? ?????? ??? ?????? ???
?????? ?? ?????????????, ?? ?????????? ?? ???? ?????????? ?? ?????????? ??? ?????????? ??? ??
????????????? ??? ?????????????? ??? ?????? ?????? (31). ?????, ??? ?????? ??? AB SKF
?? ??????????, ?????????????? ??? ?????? ?????? ??? ?????????? ?????? ??? ???? ?????? ??????
????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???, ?? ?? ??????,
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ????????, ??, ?????? 5,
??? ?????? ?????? ??? (32).

52. ?????? ??? ?? ?????????? ??? ?????????? ? ?????? CSC Financial Services ??????
????????? ??? ?????????? ??? ?????????? ?????????????? ??? ?????????? ??? ??????
???????, ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????????????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????.

53. ??' ?????????? ??? ?????????? ??? ?????????? ? ?????? CSC Financial Services, ???
????????? ?? ?????? ??? ?????????? ??? ?????? SEB ?????? ?????????? ??? ??????
????????? ?? ??????. ?? ?? ??????, ?? ?????? ??? SEB ?????? ?????????? ??? ??????
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ?? ?????????? ??? ???, ?? ?? ??????, ?????????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ????????, ??, ?????? 5, ??? ???
????? ???.

54. ??? ?? ?????????? ??? ?????? ?? ??? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ? ??????
CSC Financial Services ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ?????? ??? ?????????????, ?? ?????? ?????? ??? ?????????? ??? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

55. ?????? ??? ???????, ?????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? (33).

56. ??? ?????? ???, ? SEB ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? , ??? ?? ??
????????? ??? ?? ?????? ??? ?????? ??? ??????. ? ?????????? ??? ?????????? ??? ?????? ???
????? ??? ???????????, ???, ??? ?????? ? ?????????? ??? ? SEB ?????? ??
????????? ??? ??????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ??????
????????? ??? ??????, ???, ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????????, ??? ? SEB ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ??????, ??? ?????? (34). ??????, ? ?????????? ??? SEB
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ??????.

57. ????????, ??? ?? ?????? ??? ?????????? ??? ?????????????, ?????????? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??
????????? ??? ?????? ??? ?????? (i) ??? ???? ?????????? ?????? ?????? ??? ?????? ??
??????, ?? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????????? ???
????????? ???, ? (ii) (????? ?? ??????????) ??? ???? ?????? ??? ?????? ???, ??? ??

????????? ??????????? ??? ?????? ??? ??????? ?? ?????????? ?? ?????????? ??? ?????? ? ??
?????????. ??? ????? ????????, ??? ?? ?????????? ???, ?????????? ??? ?? ?????? ?? ??????
??? ????? ??????? ??? ?????? ?????? ??? (35). ? ?????????? ?????? ?????????? ??????
??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???., ?????? ?????? ??? ??????
????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ????
????????? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ???
????? 13, ?, ????????, ?, ?????? 5, ??? ?????? ?????? ????.

58. ? SEB ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ??? ?????????? ??? ?????? 1777/2005 (36) ?????? ???
????????? ??? ?????? 3, ?????????? 1, ??? ?????? 1777/2005 (36) ?????? ???

«? ?????? ?????????? ??????????, ??? ?????? ??? ?????? ?????????? ??? ?????? 5, ???
????????? ??, ??? ?????? ?, ??? ?????? 13, ??? ?????? 77/388/???, ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????????? 1 ??? ?????? 6 ??? ?? ?????? ??????. ? ??????
???? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????».

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

59. ?? ?? ??????, ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ???, ?? ?? ??????, ?????????? ??? ??? ??? ??? ?????? ???
????? 13, ?, ????????, ?, ?????? 5, ??? ?????? ?????? ????.

IV – ??????

60. ?????? ??? ?????? ??????????, ?????? ??? ?????????? ?? ?????????? ?? ????:

«? ?????? ??? ??? ?????? ??? ?????? ?? ?????? 13, B, ?????? ??, ?????? 5, ??? ???
????? 77/388/???, ??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ???
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? – ???
????????? ??? ?????? ?????????? ????: ?????? ?????? ?????? ???, ?????? ?? ??????????
?? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???, ???
????????? ?? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???.

1 – ?????? ??? ??????????: ? ??????.

2 – ??? ?????? 77/388/???, ??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ???
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? – ???
????????? ??? ?????? ?????????? ????: ?????? ?????? ?????? ??? (?? ????: ??? ??????)
????? (?? ????. ??? 09/001, ?. 49). ?? ?????? 13, ?, ?????? ?? ??? ??, ??? ?????? ???
????? ??? ??? ?????? ?????? ??? ?? ?????? 135, ?????? 1, ??? ?????? 2006/112/??
??? ?????? ??? 28?? ?????? 2006, ?????? ?? ??? ?????? ?????? ???
????????? ??? (?? L 347, ?. 1) (?? ????: ?????? ???), ? ?????? ?????????? ???
??? ??? ?????? ??? ??? 1?? ?????? 2007 (??. ??? ?????? ?????? ???)
????????? XII ??? ?????? ???). ? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

3 – ?? ?????? 5 ??? ????? ??????? ?????? ??? ?????? ?? ?????????? ?????????? ?????????? ??????
??? ??? ?????? ????, ?? ?? ????? 5, ?????????? 3, ?????????? ?? ?????? ??? ??????????
?????????, ?????????????????? ??? ?????????? ??? ??? ?????? ??? ?????? ? ??????
???????????, ?????? ? ??????????, ??? ?????????? ??? ?????????? ? ???' ??????????,
????????? ? ?????????? ???????.

5 – ?????????? I, ????? «?????? ?????? ??????», ?????????? 41, ??? ?????? 2006/49/??
??? ?????????? ?????????????? ??? ??? ??????????, ??? 14?? ?????? 2006, ??? ???
????????? ??? ????? ?????????? ??? ?????????? ?????????? ??? ??? ??????????
????????? (?????????????) (?? L 177, ?. 201) (??? ????: ?????? 2006/49). ?? ??? ??????
????????? ?????????? ??? ?????? ??? ??? ?????? ??? ?????? 2004/39 (?. ?????????? 4).

6 – ?????????? ??? 5?? ??????? 1997, C?2/95, SDC (???????? 1997, ?. ?-3017, ????? 21), ??? 3?? ??????? 2005, C?472/03, Arthur Andersen (???????? 2005, ?. ?-1719, ????? 25), ??? ??? 8?? ??????? 2001, C?2240/99, Skandia (???????? 2001, ?. ?-1951, ????? 23).

7 – ?????????? ?????????????? ?????? ??? ?????? ??????? ?????? ????. ??., ??????, ??????? ??
2??? ?????????? 2009, C?242/08, Swiss Re Germany Holding (??????? 2009, ?. ?-10099, ????
33 ??? ??? ?????????????? ??????????).

8 – ?????????? Skandia (????????????????? ??? ????? ??????????? 6, ???? 32)- Arthur Andersen (????????????? ??? ????? ?????????? 6, ???? 24)- SDC (????????????? ??? ????? ?????????? 6, ???? 20 ??? ??? ?????????? ??????????).

9 – ??????? ??? 19?? ??????? 2007, C?455/05, Velvet & Steel Immobilien (?????? 2007, ?. ??3225, ??? 24) ??? ??????? ??? 14?? ????? 2008, C?231/07 ??? C?232/07, Tiercé Ladbroke (????? 23).

10 – ??., ??? ??????????, ??? ????? 84/641/??? ??? ??????????, ??? 10?? ??????????
1984, ??? ??? ??????????, ??? ????? ??? ????? ??? ?????????? ???????, ??? ?????? ??????
(73/239/???) ??? ?????????? ??? ?????????? ?????????? ???????, ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ???????, ??? ?????
????????? ???, ??? ??? ?????? ????? (?? L 339, ?. 21).

11 – ??????? ??? 25?? ?????????? 1999, C-349/96 (?????? 1999, ?. ?-973).

12 – ??????? CPP (????????????????? ??? ?????????????? 12, ??? 17). ????, ?? ??????????
?????? ??????? ??? ?????? ?????????? ?? ??????? ??? ?????? ??? ?????? ???????????,
?????? ??????? ??? ?????? ?????????? ???????, ??????? ??? ?????????? ?? ?????????? ???????
?? ????? ?????? ??? ?????? 13, ?, ??????? ??, ??? ?????? ??????? ????. ???. ??????
?? 7?? ?????????? 2006, C?13/06, ??????? ??? ?????? (?????? 2006, ?. I?11563).

13 – ??????? CPP (????????????????? ??? ?????????????? 12, ??? 22).

14 – ??????? ??? ?????? ?????????? N. Fennely ??? ??? ???????? CPP
(????????????????? ??? ?????????????? 6, ?????? 34).

15 – ??., ?? ?????? ?? ??? ?????? ???????, ??????? ?????????? ??? ??????????
(????????????????? ??? ?????????????? 12).

16 – ?????????? ??? ?? ?????????? ?????? ?????????????? ?????????? ?????????? ? ??????????
????????? ?? ??? ?? ?????????? ?? ?????????????? ?? ?????? ??? ?????????? ?????? ??? ??
????? ?????? ?????????? ?? ?? ??????. ?. ., ??? ?????????? ?????? ?????????? ?????? ??????????
????????? ?? ?????? ?? ?????????? ?????? ?????? ?????????? ?? ?????? ?????????? ?????? ??????????
????????? ?? ??? ?? ?????? ??? ?????' ?????? ???????????, ??? ?????? ???????, ??? ??
????????? ?? ?????????? ?? ?????? ?????? underwriting ?? ??????? ??? ??
????????? ?????? ?????? ?????????? ?????? ?????? ?????? ??????.

17 – ?????? SDC (????????????????? ??? ?????????????? 6, ?????? 34).

18 – ?????? SDC (????????????????? ??? ?????????????? 6, ?????? 34).

19 – ??? ?? ??' ?????????? ??????? ? SEB ?????? ??? ?? ??? ?????? ? ??????
????????? underwriting ?????????? ?? ?????? ??? ?????? ??? ?????? ?? ??????
????? ?? ?????????? ?? ?????? ?????? ?????? underwriting, ?? ??? ?????? ?? ?????? ??
????????? ??.

20 – ?? ?????????? ?? ???????, ??? ??????????, ??? ?????????? ??? ?????? ??? ??????
????????? ?? ?????? ?????????, ??? ?? ?????????? ??? ?????? ??? ?????? ?? ??????
????????? ?? ??? ?????? ?????????? ?? ?????? ??????.

21 – ??., ??' ???????, ?????? SDC (????????????????? ??? ?????????????? 6, ?????? 22
?? ??? ?????? ?????????? ???????).

22 – ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ?? ??????????
?????? ?????, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? – ?????? ?????? ??????
????????????? ?????: ?????????? ?????????? ?????? (????????? ??? ?????????? ??? ??
????????? ??? 29 ?????? 1973, ?????? ??? ?????????? ?????????? ?????? 11/73, ?. 15.

23 – ???. Terra, B., ??? Kajus, J., *A guide to the European VAT directives* (Cd Rom), IBFD, 2004-, 9.3.2.2., «Credit Guarantees or any other security for money».

24- ?????????? ??? ??????? ?????????? F. Jacobs ??? ??? ?????????? C-267/00,
Zoological Society of London (??????? ??? 21?? ?????? 2002, ?????? 2002, ?. ?-3353,
????? 19).

25- ??????? Swiss Re Germany Holding (????????????????? ??? ?????????????? 7, ??? 45
??? ??? ?????????????? ??????????).

26— ??????? Velvet & Steel Immobilien (????????????????? ??? ?????????????? 9, ????? 22)-
?????? Tiercé Ladbroke (????????????????? ??? ?????????????? 9, ????? 17 ??? ????
????????????? ??? ?????????)).

27- ??????? Swiss Re Germany Holding (????????????????? ??? ?????????????? 7, ???? 48).

28 – ?????????? I, ????? A, ?????? 6, ??? ?????? 2004/39.

29 – ?????????? ??? 29?? ?????????? 2009, C-29/08, AB SKF (???????? 2009, ?. ?. -10413), ???
13?? ?????????? 2001, C-235/00, CSC Financial Services Ltd (???????? 2001, ?. ?. -10237), ???
SDC (????????????????? ??? ?????????????? 6).

30 – ??? ??????? ??? ?????????? SDC ?? ?????????? ??????? ??????? ??? ???????
????????????? ??? ??????? ??? ?????? 13, ?, ??????? ??, ?????? 5, ??? ????? ??????
???? ???, ??? ?????? ??? ?? ??????? ??? ??????? ?????? ?????????????? ??? ??????
??? ?????????????? ??? ?????? ??? ?????? ??? ??????? ?????? ??? ??? ?? ??????? ??????????
????????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????????? ?????????? ?????? ???
?????????????. ??, ?????? SDC (?????? 72 ??? 73).

31 – ??????? CSC Financial Services (????????????????? ??? ?????????????? 29, ??? 33). ?
?????? ???????????? Ruiz-Jarabo Colomer ?? ??? ?????????? ??? ??? ??? ??? ??????
????????? ???????????? ??? ????? ?????????? ?????? ??? ?? ??????? ?????????? ???
??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??
????????? ????. ?? ?????????? ?????? ??? ??????, ?? ??????????, ??? ????????????,
??? ?????? ??? ?????? ??? ??????.

32 – ?????????????? ??? ?????????? 29 (????? 50).

33 – ??? ?? ?????? ????, ??????? ?? ??? ?????? ??? ?????? ? ??????? ?????????? Ruiz-Jarabo Colomer ????, ?????????? ??? ?????? ?????? CSC Financial Services (????????????? ??? ?????????? 29, ?????? 23).

34 – ???. ?????????? ?, ?????????? 41, ??? ??????? 2006/49 (????????????????? ???
????????????? 5).

36 – ?????????? (??) 1777/2005 ??? ??????????, ??? 17?? ???????? 2005, ??? ??
?????? ?????? ?????????? ??? ??????? 77/388/???. ??? ?? ?????? ??????? ??????
????????????? ????? (?? L 288, ?. 1). ???????, ? ?????????? ?????? ??? ?????????? rationale
temporis ??? ?? ????? ?????.