

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

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

??? 30?? ??????? 2020 (\*)

«????????????? ?????????? – ??? 63 ??? – ?????????? ?????????? ??? ?????????? – ???  
??? ??? ?????????????? ?????? – ??????? ?? ?????? ?????? ?????? ??????  
????????????? ??? ?????? ??? ?????? ? ?????????? ?????? ??? ?????? ??? ??????  
?????? ??? ?????? ?????? ?????? – ??? ?????????? ?????? ??? ?????? ??? ??? ???  
????????????? ??? ?????? – ?????????? ?????? ??? ?????? ??? ?????? ??? ??????  
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???? ?????? C-565/18,

? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ???, ???  
?????? ?? Commissione tributaria regionale per la Lombardia (????????????? ??????????????)  
????????? ?????????? ??? ??????????, ???) ?? ??????? ??? 2?? ?????? 2018, ?  
????? ??????? ??? ?????????? ??? 6 ?????????? 2018, ??? ?????? ??? ???

**Société Générale SA**

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**Agenzia delle Entrate – Direzione Regionale Lombardia Ufficio Contenzioso,**

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

????????? ??? ??? A. Arabadjiev, ?????? ??????, P. G. Xuereb ??? T. von Danwitz  
(????????), ????????,

????????? ??????????: G. Hogan

?????????: A. Calot Escobar

?????? ?????? ??? ?????? ????????????,

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

- ? Société Générale SA, ?????????????? ??? ??? D. Conti ??? C. Romano, avvocati,  
????? ??? ??? ??? M. Gusmeroli, dottore commercialista,
- ? ?????? ??????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? P.  
Gentili, avvocato dello Stato,
- ? ?????? ??????, ?????????? ??? ??? W. Roels ??? ??? F. Tomat,  
????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??? ??? 28?? ????????,  
??? 28?? ????????, 2019,

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 18, 56 ??? 63  
????.

2 H ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? Société  
Générale SA (??? ????: Société Générale) ??? ??? Agenzia delle Entrate – Direzione Regionale  
Lombardia Ufficio Contenzioso (????????????? ??? – ?????????????? ??????????)  
?????????????, ?????????? ?????????? ???????, ??????, ??? ????: ?????????? ???),  
????????? ??? ?????????? ??? ??? ?????? ?????????????? ?????????? ?? ??????????  
????????? ?????????????? ??? ??? ?????? ?????? ?????? Société Générale.

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3 ?? ?????? 1 ??? legge n. 228 – Disposizioni per la formazione del bilancio annuale e  
pluriennale dello Stato (Legge di stabilità 2013) [????? 228/2012 ??? ?????????? ??? ??????  
??? ?????????? ??? ?????? ??? ??? ?????????? ?????????? ?????????????? (????? ??? ??  
????????????? 2013)], ??? 24?? ?????????? 2012 (????? ?????????? ??? GURI ????. 302,  
??? 29?? ?????????? 2012, ????. 212, ?. 1, ??? ????: ??? 228/2012), ?????? ???  
????????? 491, 492 ??? 494 ?? ??????:

«491. ? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ?????????????? ??????????????????  
????? [...] ?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????,  
????? ?????????? ??? ?? ?????? ?????, ?????????? ??? ?????? ?????? ??? ?????? ??? ??????,  
????????? ?? ??? ??? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?? ?????? 0,2 %  
??? ??? ??? ??? ??????????. ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ? ?????????? ???  
????????? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????? [...] ? ?????? ??????????  
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????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? [...]】

492. ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?????????????? ??? [...] ?? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????????? ??? ??  
????????? 491, ?? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? [...] ?? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ?????????? ??? ?????? ??? ?????? 491 ? ?????? ?????? ?????? ???  
? ??? ?????? ?????????? ?? ?????? ?????? ?? ??? ? ?????????? ?????????????? ??? ??  
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
covered warrants [????????????? ?????? ??????] ??? ??? certificates [?????????????],  
?????????, ??? ??? ?????? ??? ?????????? ???, ?? ??? ?????? ???, ?? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
?????????, ??? ??? ??? ?????? 3 ??? ?????? ?????? ??? ?????? ??? ?????? ???  
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
491. [...]】

[...]

494. ? ?????? ??? ??????????? ??? ?????????? 491 ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?  
????????????? ? ?????? ??? ??????????? ??? ?????????? 492, ??? ?????? ??? ??????  
??????????????, ?????? ??? ?????? ??? ?????????????? ??? ?????????? ?????????? ?????????? . ? ??????  
??? ??????????? ??? ?????? ?????? ?????????? 491 ??? 492 ??? ?????? ??? ?????? ?????? ?? ??????  
????????????? ??? ?????? ?????? ?????????? . ?? ?????? ?????? ?????????? ?????? ??? ??????????  
????????? ??? ?????????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? 491, ?????? ???  
????? ??? ?????? ?????????? ?? ?????????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? 492,  
? ?????? ?????????? ??? ?????? , ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????????  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????  
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????????? , ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ?????? ???  
??? ?????? ?????????? ??? ?????? ?????? , ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? . ??? ??????  
????????? , ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? [...] ? ?????? ?????? ?????? , ?? ?????? ?????? ?????? ?????? ??? ?????? ???  
????? ?? ??? ?????? ??? ?????? ?????? , ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ??? ?????????? ??? ?????????? ?????? ?????? ?????????? ?????? [...]»

4 ? ?????? 3, ??? ?????? ?????? ?????? ??? ?????? 1, ?????????? 492, ??? ??????  
228/2012, ??? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? «??????: ??? ??????  
??? ?????????????? ?????? ??? ?????????? ?????? (????? ?? ??? ?????? ??? ??????  
?????????????)», ??? ? ??????:

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

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

0-2,5

2,5-5

5-10

10-50

50-100

100-500

500-1000

??? ??? 1000

????????? futures [????????? ??????????? ???????????], certificates [?????????????], covered warrants [?????????????-??? ?????? ??????] ??? ?????????? ??????????? ?????????? ?????????? ?? ????????, ????? ? ?????? ??? ?????? ?????? ??????

0,01875

0,0375

0,075

0,375

0,75

3,75

7,5

15

????????? futures, warrants, certificates, covered warrants ??? ?????????? ??????????? ?????????? ??? ??????

0,125

0,25

0,5

2,5

5

25

50

100

?????????? ?????????? [swaps] ??? ??????? ??? ??????? ???????????, ??????? ? ????  
????????????? ?????????? ??? ??????? ??? ??????? ???????????, ??????? ? ????  
????????????????? ?????????? ??? ??????? ??? ??????????? ?? ??? ??????? ??? ???  
????????? ???????, ??????? ? ????  
???? ?????? ?????? ?? ?????????? ??? ??????????? ??? ??????????????? ?? ??????????  
?? ??? ??????? ??? ??? ??????? ???????????, ??????? ? ????  
?????????? ??? ??????? ??????????? ? ??????

0,25

0,5

1

5

10

50

100

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

5      ??? 28 ??????? 2014 ? Société Générale, ??????? ?????????????? ??? ??????,  
 ???????, ??? ?????? ?????????? ?????????????? ???, ?????? ??? ?????????? ???  
 ?????? ??? ?????? ??? ?????????????? ?????????? ??? ?????? ?????????? ???  
 ??? 228/2012. ?????? ??? ?? ??? ???????, ??????? ?? ??? ?????? ???  
 ?????????? ??? ?? ??????? ??? ?????????? ?????? 2013 ??? ?? ?????? ???  
 ???????, ?? ?????????? ?????? ?????????????? ??? ?????? ??? ?????? ???  
 ??? ?????? 1, ?????????? 492, ??? ?????? ???, ?? ??? ?? ??? ?????? ?????? ???  
 55 207 ???.

6      ??? 1? ??????? 2014 ? Société Générale ?????? ??? ?? ?????????? ???  
 ???????, ??? ?????? ??? ?????? ?????????? ??? ?????? ???, ?????????????? ???  
 ? 228/2012, ?????? ?????????? ?? ?????????? ??? ?????????????? ??????????  
 ??? ?????? ?????????? ?????????????? ??? ?????? ??? ? ?????????? ?????? ???  
 ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ???  
 ???????, ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???  
 ??? ???????????, ???????????, ??? ?????? 3 ??? 53 ?????, ?????? ??? ?????? ???  
 ?????? ??????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? 10 ??? ????  
 ???????????, ??? ??? ?? ?????? ??? ??????, ?????????? ??? ?????? ?? ?????? 18, 56 ??? 63 ???.

7      ??? 28 ??????? 2015, ??????? ?????????? ??? ?????????? ???, ? Société  
 Générale ?????? ?????? ??? Commissione tributaria provinciale di Milano (?????????????)  
 ??????? ?????????? ?????????? ??? ???????, ??????) ?????????? ??? ?????? ???  
 ??????? ?????????? ???????, ?????????? ??? ?????? ?????? ??????. ?? ??????? ???  
 18?? ??? 2016, ?? ?????????? ??? ?????? ?????? ??? ?? ??? ???????, ?????????? ???  
 ??? 228/2012 ??? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ???  
 ??????. ??? ?????? ?? ?????????????? ??? ?????? 1, ?????????? 492, ??? ?????? ???,  
 ?? ?? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
 ?????????? ?????? ???, ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
 ?????????? ?? ?? ?????? ???, ??? ??? ?????????????? ??? ?????? ?????? ??? ??????  
 ?????????? ?????? ?????????? ???, ??? ?????? ??? ?????????? ?????? ??? ?????? ???  
 ???????, ??? ?????? ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
 ?????? ??? ??? ?????????? ????. ??????, ? ?????????? ??? ?????? ??? ?????????? ???  
 ?????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ???  
 ??? ??????, ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
 ??????????. ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
 ??? ??????, ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
 ??? ??? ??????? ?????????? ??? ?????? ??? ?? ?????????? ?????? ?????? ??????????  
 ??? ??? ?????? ??? ?????? ??? ?????? ???.

8      ? Société Générale ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
 ??????????, ??? Commissione tributaria regionale per la Lombardia (?????????????)  
 ??????????, ??? ?????????? ??? ?????????? ??? ?????????? ???, ???, ?????????? ???  
 ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
 ??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??????????, ???

?????????? ??? ?????????? ??? Corte costituzionale (????????????? ???????????, ??????),  
????? ??? ??? ?????? ?????????? ?????????? ?????? ??? ??????????.

9 ?? ??????? ??????????? ??????? ??? ? ?????? ??? ??? ?????????????????? ???????????  
??? ??????????? ?? ?? ?????? 1, ?????????? 491 ??? 500, ??? ??? 228/2012 ??? ?? ???  
?? ??????????? ?? ?????????? ??? ?????????? ??????????, ??? ?????? ??? ??????????  
??????, ??? ?????? ??? ?????????? ?????? ??? ?????????????? ?????? ??? ??????????  
?? ??? ?????? ??????????.

10 ?? ??????? ??????????? ??????? ??? ?????? ?????????? ?????? ??? ?????????? 491  
??? 492 ??? ?????? 1 ??? ?????? ???, ??? ?????? ? ?? ?????? ??? ?????? ??? ??????? ??  
????????????? ?????????????? ??? ?????? ??? ?????????? ?????????? ?????????????? ??? ???????,  
????? ??? ??? ?????? ?????? ??? ?????????????? ?? ?? ??? ?????? ?????????????? ??? ??,  
?????? ?? ??????? ?????????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ??  
????????? ??? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? 491 ???  
??????, ? ??? ?????? ??? ?????????? ?? ?? ??? ?????? ??? ?????????? ??? ???????,  
????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ?? ??? ?????? ?????? ??????????, ???  
??? ?? ??? ?????? ?????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??????????  
?? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??????????.

11 ?? ??????? ??????????? ??????????? ??? ?????? ??? ?????????????????? ??????? ??  
????????? ?????????? ?? ??????????? ??? ??????????? ?????? ?????????? ?????????????? ???  
????????? ??? ??? ?????? ??? ?????????? ??????, ??? ?????? ??? ?????? ?????????? ???  
????? ??? ?????? ?????? ??????, ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???  
????? ??????. ?? ?? ??????, ? ?????? ?????????? ?????? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ??? ??????  
?????. ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? Société  
Générale ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??  
????? 1, ?????????? 492, ??? ??? 228/2012 ??? ??? ?? ??? ?????? ?????? ???.

12 ???????, ?? ?????? ?????????? ?????????? ?? ? ?????? 228/2012 ??????? ?? ??  
????? ??? ?????? ??? ??????, ?????? ?????? ??????? ???, ?????? ??? ???????????  
????????? ??? ?????????? ?????? ??????? ???, ??? ?????? ?????? ??? ?????? ??? ???????????  
????? ?? ?????????? ??? ?????? ??????? ???, ?? ?? ?????????? ?????? ??  
????????????? ??? ?????? ??????, ??? ?????? ?????? ?????? ?????????????? ??? ??  
????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???????, ?????????? ??? ??  
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???.

13 ???????, ?? ?????? ?????????? ?????????? ?? ? ?????? ??? ?????????? ???  
????? 1, ?????????? 491 ??? 492, ??? ??? 228/2012 ?????? ?? ???????????, ???  
????????? ? Société Générale, ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???????,  
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ???  
????? ???.

14 ??? ??? ??????? ???, ?? Commissione tributaria regionale per la Lombardia  
(????????????? ?????????? ?????? ?????? ??? ??????) ??????? ??  
????????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???????????  
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«????????? ?? ??? 18, 56 ??? 63 ??? ?? ?????? ?????? ??? ?????? ?????? ???  
????????? ???????, ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
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??????????????, ? ?????? ??????????? ?? ?????? ??? ?????????????? ??? ?????????????? ?????? ?????????? ???????????  
??? ??? ??? ??????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ??????????????????????  
????? ??? ??? ?????? ??? ?????????? ??? ? ?????? ?????????? ?????? ?? ?????????????? ???  
???? ??????????? ???????, ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ???  
????? ??? ? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???;»

### ??? ??? ?????????????? ??????????

15 ?? ? ? ??????????? ??????? ?? ?????? ?????????? ?????? ???' ?????? ??  
????????????? ?? ? ???? 18, 56 ?? 63 ??? ?????? ??? ?????? ??? ?????????????? ??  
????? ?????? ?????? ?????? ? ?????? ?????????? ?????????????? ??????????????, ??? ???? ??  
????????????? ?????????????? ??? ?????????? ?????? ?????????? ??????????, ?? ?????? ??  
????????????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?????????? ???, ??? ?? ??  
???? ?????????? ?????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???  
????????????? ? ?????????? ? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ???, ?????? ??? ?????????? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???.

16 ???????????, ?????? ?? ??????????? ??? ?? ?????? 18 ??? ?????? ?? ?????????? ??  
????????? ??? ?? ??????????? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ??  
????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? 56 ??? ?????? ??? ?????? ???  
????????? ?????? ?????? (????. ??????? ??? 19?? ?????? 2014, Strojírny Prost?jov ???  
ACO Industries Tábor, C-53/13 ??? C-80/13, EU:C:2014:2011, ??? 32 ??? ???  
????????????? ??????) ??? ??? ?????? 63 ??? ?????? ??? ?????? ??? ?????????? ??????????????  
??? ?????????? (????. ??????? ??? 6?? ?????????? 2018, Patrício Teixeira, C?184/18, ??  
?????????????, EU:C:2018:694, ?????? 15 ??? 16 ??? ?????? ?????????????? ??????????).

17 ?????? ??? ?? ??? ??????????????, ??? ??????, ???????, ?????????? ?????????? ??????????  
???? ?????????? ??? ??????? ??? ?????? ??? ?????, ?? ?????? ?????????? ?????????? ???  
????????? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ??????????.

18 ??????, ?????????? ? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????? ?  
????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????????? ???, ??? ??  
????? 1, ?????????? 492, ??? ????? 228/2012, ?????? ??? ?????? ?????????? ???  
????????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??????????????????  
????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ?????? ??? ??  
????????? ??? ?????????? ?????? ?????????? ?????? ?????? ??? ?????? ?? ?????? ??????????  
???? ?????????????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????????? ?????? ???  
????????? ?????????????? ??? ?? ??? ?????? ?????? ???, ?? ?????? ?????????? ?????? ??? ?????? ???.

19 ??? ?????? ?????????? ??? ???????????, ??? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ?????? ?????????? ??? ?? ?????? ?????????? ?????????? ??????????, ?? ??????????  
????????? ?? ?????? ???, ???????, ??? ?? ?????? ??? ?????? ??? ?? ??? ?? ??????  
????????? ?? ?????????? ???, ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ???, ?? ??  
?? ?????? ??? ?????? ?????????? ?????? ?? ?????? ?? ??? ?????? ??? ?????? ?? ?????? ??  
????????? ??? ?????? [????. ?????????? ??? 3?? ?????? 2006, Fidum Finanz, C-452/04,  
EU:C:2006:631, ??? 34, ??? 26?? ??? 2016, NN (L) International, C-48/15, EU:C:2016:356,  
????? 39, ??? ??? 8?? ?????? 2017, Van der Weegen ???., C-580/15, EU:C:2017:429, ???  
25].

20 ??? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ? ???????

?????? ?????????? ?????? ?????????????? ?? ?????? ?? ??? ?????????? ?????????????? ???  
?????????. ????????, ?? ?????? ?????????????? ?? ?????? ?????? ?????, ? ?????? ?????? ???  
????????????????? ??????????, ?????? ?????????????? ?? ?? ??? ?????? ??????????  
????????? ?? ?? ?????? ?????????? ????????. ???????, ?? ?????? ?????????? ?????????? ?? ??  
?? ?????????? ?????????? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?? ??? ?? ??  
?????? ?? ?? ?????? ?????, ?????? ?? ?????? ?????????????? ?? ?? ??? ?? ?????? ??????????  
??, ?? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????????? ??????. ?????, ?????? ??  
?? ?????????? ??? ?????????????? ?????? ?????? ?????????? ?????? ??????, ? Société  
Générale ??????? ?? ?? ?????? ?????? ?????? ?? ?????????????? ?????? ?????? ?????? ??????  
????? ?????? ?????? ?????, ?????? ?? ?????????? ?????????? ?????? ?? ?? ??? ?? ?????? ???  
????? ??? ?? ?? ?????? ?????????? ????. ??????????, ?? ?? ??? ?????? ??? ?????????? ??? ?? ??  
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21 ???????, ?? ?????????? ??????? ?????? ?? ?????????? ??? ?? ?????? ??? ?????????? ???  
????????? ??? ??????.

22 ??? ???????, ??? ?? ?????????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ???  
????????? ??? ?? ?? 63, ??????? 1, ???, ?????? ?????????? ?????????? ??? ?????????? ???  
????????? ???????, ?????????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ???  
????????? ???????, ??? ?????? ?????????? ?????? ?????????? ?? ?????? ?????? ??? ??  
????????? ?????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ???  
????????? ?? ?? ?????? (????????? ?? 10?? ?????????? 2011, Haribo Lakritzen Hans  
Riegel ??? Österreichische Salinen, C-436/08 ??? C-437/08, EU:C:2011:61, ??? 50, ??? ??  
18?? ?????????? 2018, Jahn, C-45/17, EU:C:2018:18, ??? 25 ??? ??? ?????????? ???  
?????????).

23 ??????, ? ?????????? ?? ?? ?????? ?????? ?????? ?????? ??? ?? ?????? 65, ?????????? 1,  
????????? ??, ??? ?? ?????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ???  
????? ??? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ?????? ???  
????????? ??? ?? ?????????? ??? ?????? ??? ?? ?????? 65, ?????????? 3, ???, ?? ???  
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ?????? 1 ??? ??  
????? «??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? 63 [????]» (????. ?????? ?? 22?? ?????? 2018, Sofina ?.??., C-575/17,  
EU:C:2018:943, ??? 45 ??? ??? ?????????? ??? ??????).

24 ?? ?????????? ??? ?????? ?????? ???, ?? ?? ??????, ?????? ?? ??????  
????????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????? ???  
????? 65, ?????????? 1, ??????? ??, ??? ?? ?????? ?????????? ??? ?? ?? 65,  
????????? 3, ??? ?????? ?????? ???????. ?????????? ?? ?????? ??? ?????? ?????? ??????????  
????? ?? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????????  
?? ??????????, ?????? ?? ?????????? ?????? ?????? ?????? ?? ?????? ?????? ??????????  
?? ?? ?????? ?????????? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??????????  
????? ?????? ?????????? (????? ?? 22?? ?????? 2018, Sofina ?.??., C-575/17,  
EU:C:2018:943, ??? 46 ??? ??? ?????????? ??? ??????).

25 ????????, ??? ?????? ????????, ??????? ?????? ?????? ?????? ?? ??????? ?  
??? ?? ??????? ??? ?????? ?????? ?? ??????????? ?????? (?????? ?? 6??  
?????????? 2007, Columbus Container Services, C-298/05, EU:C:2007:754, ??? 41 ??? ??  
????????????? ??????).

26 ?????, ?????? ?? ??????????? ???, ??????????? ?? ??????????? ? ?????? ??????????  
??????????, ? ??????????????? ??? ?????????????? ?????? ??????????? ?? ??? ??????????  
?????????? ??? ?????? ?????? ?? ?????????? ?????? ??????????? ?????? ??? ?????? ???  
?????????? ?? ??? ?????? ?????? ?????? [?????? ??? 26 ?????????? 2019, X  
(????????????? ?? ?????? ?????? ?????? ?????? ??????), C-135/17, EU:C:2019:136, ???  
64 ??? ??? ?????????????? ??????].

27 ?? ??????????, ? Société Générale ?????????? ??? ? ?????? ??? ?????????? ???  
????? 1, ?????????? 492, ??? ????? 228/2012 ?????? ?????????? ?????? ???  
????????????? ??? ?????? ?????? ??? ??? ?????????????? ??? ?????? ?????? ???  
????????????? ??? ?????? ?????? ??????.

28 ? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ??? ??? ???  
??? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???  
????????? ??? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???, ???  
????????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
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29 ??????, ?????????????? ??? ??? ?? ?????? ??? ?????????????? ??? ?????? ???  
????????????? ?????????? ?????????? ??? ? ?????? ??? ?????? ?????????? ?? ??? 1,  
????????? 492, ??? ????? 228/2012 ?????? ??? ?????????????? ?????????? ??? ???  
????????? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? . ? ??? ???  
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
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30 ????????, ? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??????????????  
??? ?????? ??? ?????? ?????????????? ??? ?????? ?????? ??? ?????? ?????????????? ?? ??? ???  
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31 ??? ?????? ?? ?????????????? ??? ?????????? ?? ?????? ?????????? ??????????

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????????? ??? ?????? ?? ?????? ?????????????????? ????. ??????, ??? ?? ?????? ???  
????? ?????, ?????????? ??? ??? ?????????????? ? Société Générale, ?? ??????????????  
???? ?????? ??? ?? ?????????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ?????????? ??????  
????????? ?? ?????????? ?????????????????? ??? ?? ?????????? ?????? ?????? ?????????? ???  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ?????????? ??????????, ?????????? ??  
????????? ??????????.

33     ???? ?? ??????? ?????????? ??? ? ?????? ??? ?????????????? ??? ?????? 1, ??????????? 492,  
???? ?????? 228/2012 ??? ??????? ?? ?????? ?????? ?????? ?????? ?????????????? ??? ?? ??????  
65, ?????????? 3, ???.

34 ??????? ? Société Générale ?????????? ??? ?? ???? ?????????? ?????????? ??  
?????? ? ?????? ?????????? ?????? ??? ?????????? ?????????????? ?????? ??? ??????  
?? ?????????? ?????? ?????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
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????? ??? ?????? ?????? ?????????? ??????????, ?????? ?? ?????????? ??? ?? ?????????? ???  
????? ?????????? ???, ??????, ?????? ?????????? ?????????? ??? ?????? ??? ??????, ??  
????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ???  
????????? ??????, ?????? ? ?????? ??? ?????? ??? ?????????? ?????????? ?????????? ???, ???  
????????? ?????? ???, ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ??????  
????????? ?????? ??? ?????? ?????? ?????? [????? ??? 26?? ????? 2016, NN (L)  
International, C-48/15, EU:C:2016:356, ????? 47 ??? ????? ?????????? ??????????].

35 ??????, ? ??????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ???  
????????? ?? ?????????? ??? ?????? ?????? ??????, ??? ?? ?????????? ?? ?????? ??? ?????????? ???  
??? ? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??????  
????????? ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ?? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ?? ??? ?????? ??? ??????  
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? (???????)  
??? 30?? ?????????? 2020, Köln-Aktienfonds Deka, C-156/17, EU:C:2020:51, ?????? 72).

36      ??? ???. ?????????? ??????, ????. ??????????????? ? ????????. ?????????? ??? ? ?????????? ???.  
??? ??????? ?????????????? ????, ? ?????? ??? ?????????????? ??? ?????? 1, ?????????? 492,  
??? ????. 228/2012 ??? ???. ????. ??? ?????????? ??? ?????????????? ??? ?????????? ??? ??????????  
??? ??????????.

37    ????? ???? ???? ?????? ?????????? ?????????? ?????????? ?????????? ???? ?????? ??????????????  
?????????????, ??? ??????????? ?? ??? ?????????? ??? ?????? ?????? ?????, ?????????????? ? ??????????  
???, ??? ?????? ?????????????? ??????????, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????  
????? ???, ????, ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
????????????? ?? ?????????? ??????????. ?? ??? ?????? ??????????, ??? ?????? ?????? ? ??????????  
????????????? ?? ?????? 53 ?? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????????? ??????????  
????????? ?? ?? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ?? ?????????????? ??? ??????????????

???? ?????????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????????? ?????? ?????????????????? ?????? ?????????????????? ?????? ?????? ?????? ??? ???? ?? ?????????????? ?????? ?????????? ?? ?????? ?? ?????? ?????? ??? ???? ?????? ??? ???? 1, ?????????? 492, ??? ?????? 228/2012.

38 ????? ?????? ??? ?????????? ????? ??????????, ?? ?????????? ????? ????? ?????? ??? ?  
?????? ?????????? ??? ?????????????? ????? ?????????? ??? ?????? ?????? ?????? ????  
????????? ?? ?????????????? ????? ?????? ?????? ?????????? ??????????. ?? ?? ??????,  
????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??????, ??? ??? ??????????, ??????, ???  
?? ?????? ??? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????????????? ?????? ??? ???  
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? (????. ?????????? ???  
15?? ????? 1997, Futura Participations ??? Singer, C-250/95, EU:C:1997:239, ????? 31, ??? ???  
22?? ?????????? 2018, Sofina ?.??., C-575/17, EU:C:2018:943, ????? 67). ?????????? ???  
?????? ?????????? ?? ?????? ?????? ?????????? ?????? ??????.

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

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

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

?? ?????? 63 ??? ???? ?? ???? ?????? ?? ???? ???? ?????????????? ?? ???? ?????? ?????? ?? ????  
?? ??? ???? ???? ?????????? ?? ???? ?? ???? ?????????????? ?? ???? ?????? ??  
????????????? ?? ???? ?????? ?????????????? ?? ???? ? ???? ?????? ?????? ??  
????????????? ?? ???? ?????? ?? ???? ???? ?????? ?? ???? ?????????????? ? ???? ?????? ?? ????  
????????? ?? ???? ?????? ?? ???? ???? ?????? ?? ???? ???? ?????? ?? ???? ?????? ?? ????  
????????? ?? ???? ???? ?????? ?? ???? ? ???? ?????? ?? ???? ???? ?????? ?? ???? ????  
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????????? ?? ???? ???? ?????? ?? ???? ? ???? ?????? ?? ???? ???? ?????? ?? ???? . ??  
????????? ?? ???? ???? ?????? ?? ???? ? ???? ?????? ?? ???? ???? ?????? ?? ???? ????  
????????? ?? ???? ???? ?????? ?? ???? ? ???? ?????? ?? ???? ???? ?????? ?? ???? ????  
????? ?? ???? ?, ?? ???? , ?? ???? ?????? ?? ???? ???? ?????? ?? ???? ???? ?????? ?? ????  
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(???????????)

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