

2. If the answer to the first question is in the negative, does Article 5, in conjunction with Article 2, of Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco (codification) preclude national legislation of a Member State which extends excise duty on manufactured tobacco to tobacco that is not referred to in Articles 2 and 5 of Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco (codification) and that, while not intended for smoking, can be smoked (is capable of and appropriate for being smoked) and has been prepared for sale to the final consumer?

⁽¹⁾ OJ 2011 L 176, p. 24.

**Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands)
lodged on 7 December 2015 — Robeco Hollands Bezit NV and Others v Stichting Autoriteit
Financiële Markten (AFM)**

(Case C-658/15)

(2016/C 098/24)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Appellants: Robeco Hollands Bezit NV, Robeco Duurzaam Aandelen NV, Robeco Safe Mix NV, Robeco Solid Mix NV, Robeco Balanced Mix NV, Robeco Growth Mix NV, Robeco Life Cycle Funds NV, Robeco Afrika Fonds NV, Robeco Global Stars Equities, Robeco All Strategy Euro Bonds, Robeco High Yield Bonds, Robeco Property Equities

Respondent: Stichting Autoriteit Financiële Markten (AFM)

Question referred

Must a system in which multiple fund agents and brokers participate who, within that system, represent respectively 'open end' investment funds and investors in commercial transactions, and which, in fact, facilitates exclusively those 'open end' investment funds in their obligation to execute the purchase and selling orders for shares placed by investors, be regarded as a regulated market within the meaning of Article 4(1).14 of the MiFID ⁽¹⁾ and, if so, what characteristics are determinant in that regard?

⁽¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ 2004 L 145, p. 1).

**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on
4 December 2015 — X BV; Other party: Staatssecretaris van Financiën**

(Case C-661/15)

(2016/C 098/25)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden