IN-DEPTH

Mergers & Acquisitions

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Mergers & Acquisitions

EDITION 19

Contributing Editor

Mark Zerdin

Slaughter and May

In-Depth: Mergers & Acquisitions (formerly The Mergers & Acquisitions Review) provides a practical overview of global M&A activity and the legal and regulatory frameworks governing M&A transactions in major jurisdictions worldwide. With a focus on recent developments and trends, it examines key issues including relevant competition, tax and employment law considerations; financing; due diligence; and much more.

Generated: November 21, 2025

LEXOLOGY

Netherlands

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Summary

Introduction

The Netherlands continues to be an important and active jurisdiction for mergers and acquisitions (M&A), benefitting from an open economy, strategic location, and well-versed advisers. Government policy remains supportive of foreign investment, but with increasing focus on safeguarding strategic sectors and critical infrastructure.

After a fairly busy 2024, the outlook for 2025 was also optimistic, driven by declining interest rates, with sufficient dry powder available at private equity sponsors and renewed investor confidence. Private equity remains a dominant force, particularly in the mid-market. Internationally, the Netherlands is seen as a gateway to Europe, attracting multinational or EMEA headquarters and cross-border transactions.

Key sectors driving deal activity include technology, (renewable) energy, infrastructure and healthcare, with environmental, social and governance (ESG), and digital transformation as central themes. The Netherlands is at the forefront of the energy transition, with significant M&A activity in wind, solar, hydrogen and grid solutions.

Year in review

In 2024, M&A activity in the Netherlands reached record numbers in terms of transactions reported, increasing by 17 per cent from 2023.[1] The majority of reported transactions came from the service sector (39 per cent) and industry and construction sector (23 per cent).[2] While the number of reported transactions increased, the aggregate value of all deals involving Dutch targets decreased by 46 per cent.[3] Despite this overall decrease, the value of deals in the business services sector increased by 194 per cent (from €1.6 billion in 2023 to €4.7 billion in 2024) and in the consumer and retail sector by 22 per cent (from €2.7 billion in 2023 to €3.3 billion in 2024). The value of deals in the financial institutions sector decreased by 92 per cent (from €26.2 billion in 2023 to just €2.2 billion in 2024).

The last quarter of 2024 saw an increase in activity and has led to a 29 per cent increase in M&A activity in the first quarter of 2025 compared to the first quarter in 2024, driven in part by strategic buyers. Likely in part due to the US tariff announcements, the second quarter of 2025 was one of the lowest quarterly deal counts in the last five years, although there was an increase in dealmaking towards the end of the second quarter.[4]

These signs of improvement, as compared to 2024, are reflected in the increase in value of announced and rumoured deals: the aggregate announced and rumoured M&A volume from January to August 2025 amounted to approximately €45.3 billion, which represents a 178 per cent increase in deal value compared to the same period in 2024.[5]

Legal framework

The legal framework regulating M&A transactions in the Netherlands consists of national and EU regulations, which are overseen by courts and authorities such as the Dutch authority for the financial markets (AFM) and the Dutch Authority for Consumers and Markets (i.e., the competition authority (ACM)).

The legal framework governing M&A transactions is generally limited and primarily set out in:

1. the Dutch Civil Code (DCC);
2. the Dutch Merger Code 2015;
3. the Dutch Works Council Act; and
4. the Dutch Competition Act (DCA) and the EU Merger Regulation (EUMR) (Regulation (EC) No 139/2004).

Dutch Civil Code

The DCC provides the basis for the contractual obligations that parties can agree upon. It follows the principle of freedom of contract, meaning that parties have considerable freedom in determining the terms of the agreement. The DCC contains basic provisions directly applicable to M&A transactions such as the transfer of ownership of shares or assets. It also governs the relationship between a company, its shareholders and its directors. Although the DCC provides the legal framework for M&A transactions, the provisions of the DCC are often of a non-mandatory nature and are therefore often excluded or deviated from in transaction documents. Over time, Dutch legal jurisprudence developed such that agreements negotiated between parties that have been advised by counsel have to be interpreted in a literal way as opposed to being interpreted in accordance with the intentions of the parties involved, resulting in more extensive drafting of M&A agreements and the use of entire agreement clauses.

Dutch Works Council Act

Based on the Dutch Works Council Act, the works council has a right to advise on material decisions affecting the business of the target, including a transfer of control of the business. If the works council has a statutory right to advise, such advice should be sought at such moment in time that the works council's advice can still exercise meaningful influence on the decision regarding the transaction. This means that advice should be sought and obtained prior to the signing of the agreement, or that the advice of the works council is included as a condition precedent to closing.

In the event of negative advice or advice subject to conditions that the company would like to deviate from, the transaction may only be implemented following a one-month waiting period. During this waiting period, the works council may initiate legal proceedings with the Dutch Enterprise Chamber to challenge the transaction. It is therefore important to initiate the works council process in a due and timely manner to avoid any hiccups during the transaction process.

Dutch Competition Act and European merger control

Based on the DCA, the parties involved are required to notify the ACM of an intended transaction if:

1. the combined worldwide turnover of the parties exceeded €150 million in the preceding calendar year; and
2. at least two of the parties concerned had a turnover of at least €30 million in the preceding calendar year in the Netherlands.

If the parties proceed with completion of the transaction without having obtained merger clearance from the ACM, the ACM is authorised to impose an administrative fine. No notification obligation to the ACM exists if the transaction meets the thresholds for notification to the European Commission.

Other legislation

Depending on the type of business of the parties involved in an intended transaction, certain additional laws or regulations may apply. This mainly concerns certain regulated sectors, such as financial institutions, healthcare, gas, electricity and telecommunications.

Public M&A transactions are primarily governed by the Financial Supervision Act and the Public Offers Decree, with mandatory bid rules triggered at a 30 per cent shareholding or voting threshold, and the AFM ensuring procedural compliance.

Developments in corporate and takeover law and their impact

Ultimate beneficial ownership register

Following the groundbreaking ruling of 22 November 2022, the European Court of Justice (ECJ) held that access to information on the ultimate beneficial ownership register (the UBO Register) by the general public constituted a serious interference with the fundamental rights of respect for private life and of the protection of personal data of the UBOs, and made the UBO Register inaccessible to anyone but the UBOs.

A new law amending access to the UBO Register came into force on 15 July 2025, which now provides that the following persons have access to the register:

1. competent authorities and gatekeepers (such as banks and notaries);
2. parties with a legitimate interest;
3. bodies with a legal function under sanctioning rules;
4. government organisations with a (European) legal obligation to UBO verification; and
5. legal entities to the extent that it concerns their own UBO information.

Act on the Abolition of Pledge Prohibitions

The act came into force on 1 July 2025 and prohibits the use of no-assignment clauses in agreements. Subject to certain exceptions, it is no longer possible to prohibit the pledge or transfer of receivables arising from the exercise of a profession or trade, enabling companies to transfer or pledge their outstanding receivables as security for financing arrangements more easily, which will enhance their creditworthiness.

Clauses in existing purchase agreements prohibiting the pledge or transfer of receivables prior to the effectiveness of the new act may, depending on the scope and wording of the clause, be considered void.

Corporate Governance Code

The Dutch Corporate Governance Code has been updated, with the new provisions to apply from the start of the financial year beginning on or after 1 January 2025. The key change is that listed companies will have to submit a risk control statement and will have to report on their internal control systems and the effectiveness thereof. The Code contains principles and best practice provisions that regulate relations between the management board, the supervisory board and the general meeting of shareholders of listed companies.

Data Act and AI Act

With the introduction of the Data Act on 12 September 2025 and the AI Act on 1 August 2024, the EU has taken a significant step forward in the regulation of AI technology, data and cybersecurity. This new legal framework, which can be enforced by imposing high fines in the event of non-compliance, inevitably makes due diligence on these topics of greater importance.

Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive

The Corporate Sustainability Reporting Directive (CSRD) came into force on 5 January 2023 and requires large and listed companies to report annually on the environmental and social impact of their business activities. This reporting requirement will further enter info force gradually in the following years.

The Corporate Sustainability Due Diligence Directive (CSDDD) came into force on 25 July 2024 and requires companies to identify and address the adverse human rights and environmental impacts of their business activities, their subsidiaries and their chains of business activities.

As these directives are being implemented, the European Commission proposed the 'Simplification Omnibus package' in February 2025, which aims to simplify the regulations with respect to sustainable finance reporting, sustainability due diligence and taxonomy. The proposed amendments are expected to limit the administrative burden and result in significant cost savings for companies. The effects and implementation of this proposal and its timing are, however, now uncertain given the European Parliament's decision on 22 October 2025 to not enter into and to postpone direct trilogue negotiations with the European Commission and Council of the European Union on the directives.

Foreign involvement in M&A transactions

Foreign participation in the Dutch M&A market is nothing new, and foreign buyers continued to play a leading role in 2024 and 2025. The involvement of foreign buyers mirrored the decrease in activity from 2023 to 2024, likely reflecting the driving force of foreign involvement in the Dutch M&A market. Acquisitions by foreign buyers decreased in 2024 as compared to 2023 in respect of completed deals in those periods. In 2024 there were foreign buyers in 46 per cent of deals involving Dutch target companies, compared to 49 per cent the previous year. More significantly, foreign buyers made up only 65 per cent of the aggregate value of all deals in 2024 compared to 75 per cent in 2023. This represented a reduction in deal value with foreign buyers from €34.8 billion to €16.3 billion, a 53 per cent decrease.[6]

The increase in announced and rumoured M&A transactions in 2025 is similarly accompanied by an increase in foreign buyers in such deals: foreign buyers accounted for 79 per cent of the aggregate value of announced and rumoured deals from January to August 2025, up from 64 per cent over the same period in 2024.

Key destinations abroad for Dutch buyers include the United States, the United Kingdom, Switzerland and France. The value of transactions involving Dutch buyers and foreign targets halved in 2024 compared to 2023, while the number of transactions remains steady.[7]

Significant transactions, key trends and hot industries

Notable M&A deals

There were a few noteworthy 'large-cap' transactions completed over the 2024–2025 period. Often a private equity sponsor was involved and the Dutch market saw an increase in carve-out transactions: DSM's divestment of its Engineering Materials division to Advent International and LANXESS for €3.85 billion was one of the largest carve-out transactions; Corbion's €362 million sale of its emulsifiers business to Kingswood Capital Management marked a strategic shift towards fermentation-based technologies and sustainability; Apollo's acquisition of Beequip, a Dutch asset-based lending platform, for €1.4 billion highlighted the interest in fintech and alternative finance. Keurig Dr Pepper's US$18 billion acquisition of JDE Peet's, headquartered in the Netherlands, was a key consumer sector deal. Other high-profile deals include the acquisition of LeasePlan by ALD Automotive for €6.2 billion and the merger of DSM with Firmenich, valued at €13.9 billion, both of which involved complex cross-border legal and regulatory planning.

Key M&A trends

Private equity continues to drive mid-market M&A in the Netherlands, accounting for over 40 per cent of deal activity in 2024. In addition to bolt-on deals, private equity firms are actively acquiring target companies through carve-out transactions where businesses are sold in a share deal following a pre- transaction restructuring process and are scaling platforms in technology, energy and healthcare. There seems to be more and more focus on the following assets in the Dutch M&A market:

1. Technology: strong demand for software companies including those with a focus on AI, software as a service (SaaS) and cybersecurity firms.
2. Renewable energy: increase in the number of deals in wind, solar, hydrogen and battery energy storage systems (BESS), driven by EU decarbonisation goals.
3. Healthcare: consolidation among providers and digital health platforms.
4. Defence: given the recent geopolitical developments and commitment to increase spending in the defence industry, we would expect this area to gain significant growth and benefit from M&A, with the need to take the regulatory restrictions of investing in this industry into account.

Regulatory scrutiny

The Act on Security Screening of Investments (Vifo Act) and EU Foreign Subsidies Regulation have added regulatory scrutiny on M&A processes, especially for transactions involving sensitive technologies and foreign investors. Strict notification requirements and approval processes should be observed and carefully planned for by the legal advisers to ensure smooth transaction processes and reducing potential delays as much as possible.

Take privates

Controlling shareholders are increasingly delisting companies without full buyouts of minority shareholders, raising legal questions around minority protections. There's also greater variation in non-financial covenants and deal durations.

Deal structures

To bridge valuation gaps between the expectations of the sellers and the purchasers in an M&A process we are seeing more and more use of earn-outs and contingent payments.

Carve-out transactions have emerged as a strategic tool for Dutch corporates navigating a rapidly evolving economic and regulatory landscape. In 2024 and into 2025, the Netherlands has seen an increase in carve-outs, driven by the need to unlock shareholder value and refocus on core business activities. These transactions are particularly relevant in sectors undergoing transformation, such as energy, technology and financial services.

Financing of M&A: main sources and developments

In addition to equity financing of transactions, often debt is attracted and traditional banks continue to play their role in the third-party financing of larger M&A and private equity transactions. In smaller transactions, banks are lending on a direct basis, whereas larger transactions are financed by banks as club deals or syndicated transactions. In the past few years, private credit funds have become active and are increasingly dominant players in the Dutch market providing for a feasible alternative to the traditional bank lenders.

In larger transactions, Loan Market Association documentation is common, but the financing of smaller transactions is often based on the templates of the relevant bank and under Dutch law.

Employment law

Increased scrutiny of contractor versus employment agreements

Following the *Deliveroo* judgment of the Dutch Supreme Court in 2023 and changes to the regulations and enforcement regarding working with self-employed contractors that went into effect on 1 January 2025, there is an increased scrutiny of contracting agreements. This increased scrutiny consists of two aspects: civil law and tax aspects.

Civil law

On 24 March 2023 the Dutch Supreme Court delivered a landmark decision for the classification of working relationships in the *Deliveroo* judgment.[8] The Dutch Supreme Court confirmed that in assessing work relationships, the rights and obligations that the parties have agreed upon should be verified first, applying the Haviltex standard (i.e., focus on the meaning that the parties could reasonably have attributed to each other's statements and conduct). Next, assess whether these rights and obligations satisfy the statutory definition of an employment contract under Article 7:610 DCC, which is work, remuneration and authority (control).

The Dutch Supreme Court set out a non-exhaustive list of factors relevant to the classification of work relationships, such as (1) the nature and duration of the work; (2) how the work, the working hours and the remuneration are determined; and (3) whether there is an obligation to perform the work personally.

In addition, it should be noted that the parties' intention to conclude or not to conclude an employment agreement is not decisive. What matters is the actual performance and the agreed rights and obligations. The Dutch Supreme Court clarified that the embedding of the work and/or the worker in the organisation of the principal is an important factor in assessing authority. In Deliveroo's case, the couriers were found to be de facto part of Deliveroo's organisation, indicating a relationship of authority. Whether the worker behaves as an entrepreneur and has the freedom to determine working hours and to arrange for substitution are relevant circumstances, but must always be assessed in light of all relevant facts.

The *Deliveroo* judgment has led to changes in practice. Courts and the Dutch Tax Administration also use the judgment as guidance in assessing work relationships for qualification purposes.

Tax aspects

As of 1 January 2025, the following important changes have been introduced in the regulations and enforcement regarding working with self-employed contractors:

1. The enforcement moratorium was fully lifted, which means the Dutch Tax Administration has resumed full enforcement against pseudo self-employment. The former rules apply again for imposing correction obligations, additional tax assessments and penalties when qualifying the work relationship of contractors improperly from a tax point of view.
2. Companies and organisations that engage people as contractors when the work relationship qualifies as employment run the risk of penalties and additional assessments. The Tax Administration can enforce with retroactive effect to 1 January 2025.
3. There is a one-year transition period (until 1 January 2026) during which intent-based penalties will not be imposed to companies or principals and contractors, provided they can demonstrate they are taking steps to combat pseudo self-employment. In this period, where pseudo self-employment is established, corrections and additional assessments will still be imposed, but no penalties. Organisations will first receive a warning before a tax audit follows.
4. The Tax Administration is no longer required to first issue a formal warning before taking enforcement action. This speeds up the enforcement process and increases the risk for principals that deploy contractors in situations that may be qualified as an employment relationship.

Accordingly, principals should critically assess their working relationships with contractors and adjust where necessary to limit the risk of additional assessments and penalties. Factors such as the contractors performing the same work as permanent employees, with a lack of autonomy to set rates, and long-term engagements are strong indicators of an employment relationship and thus of pseudo self-employment. We see more and more protection against this risk included in transaction agreements in the form of warranties or indemnities.

Industry-wide pension funds

On 21 March 2025, the Dutch Supreme Court provided long-awaited clarity in the Booking.com judgment on the extent to which mandatory industry-wide funds can recoup unpaid premiums from employers, which had wrongfully not been affiliated to the relevant fund.

Under Dutch law, there is no general obligation for an employer to offer employees participation in a pension scheme. However, there are 42 mandatory industry-wide pension funds. Any employer whose activities fall within the scope of an industry-wide pension fund is required to join this pension fund, with very few opt-outs available. In 2012, the Dutch Supreme Court ruled that employees working in an industry for which a specific mandatory industry-wide pension fund was established, were, in principle, entitled to pension accrual, even if their employer had never paid premiums to the respective pension fund. This led to these industry-wide pension funds becoming (much) more active in tracking down those unlawful employers who are not affiliated.

During a due diligence investigation, questions may arise as to whether a company falls within the scope of a mandatory industry-wide pension fund. If it is established that a company falls within the scope of a mandatory industry-wide pension fund, that fund could charge premiums retroactively, increased with statutory (trade) interest, a regulatory penalty (usually 15 to 20 per cent of the premiums due) and collection costs. However, there was considerable debate about which limitation period applies in this context.

Judges and authors of legal literature were of the opinion that the applicable limitation period was, in principle, five years. However, there has been disagreement about when the limitation period begins: for a long time, it was argued that a reasonable interpretation of the law meant that the limitation period only began when the industry-wide pension fund was aware of the employer and the fact that the employer (possibly) fell within the scope of the law. This would enable industry-wide pension funds to take recourse – during the first five years – over a longer period (up to 20 years).

In the Booking.com judgment, the Dutch Supreme Court ruled otherwise: although the applicable limitation period was five years, the limitation period commenced at the latest date on which the pension contributions had to be paid in accordance with the Dutch Pensions Act. Since the Dutch Pensions Act requires pension contributions to be paid by the end of each quarter, that is also the starting point for the limitation period. The Dutch Supreme Court also added that the court may extend the limitation period if the employer has deliberately concealed itself. However, this is difficult for industry-wide pension funds to prove. The court could also decide not to apply the limitation period if applying it would be unreasonable or unfair. But that's a high bar, which is rarely met. This means that premium claims from a mandatory industry-wide pension fund will often be capped at five years in practice.

Tax law

Deducting interest expenses

As from 2019, the Netherlands applies an earnings before interest, taxes, depreciation and amortisation (EBITDA)-based interest deduction restriction (based on Directive (EU) 2016/1164, ATAD). This earnings- stripping rule limits the deduction of net interest (e.g., interest paid minus interest received) to 24.5 per cent of EBITDA. The limitation applies without distinction as to the origin of the debt.

Next to the general EBITDA-based rules, the Netherlands apply specific 'anti-base erosion' provisions for group loans, aimed at preventing that equity is converted into debt solely with a view to creating tax-deductible interest expenses.

In a decision of 5 September 2025, the Dutch Supreme Court decided in a case where the financing of a Dutch target group was not in scope of the specific anti-base erosion rules (the EBITDA-based interest deduction restriction was not yet implemented for the relevant years), that parties intentionally created a structure to erode the Dutch tax base and that this was in scope of the abuse of law doctrine. The Dutch Supreme Court confirmed that, in addition to the specific anti-base erosion provisions, the abuse of law doctrine applies, as does the doctrine of non-businesslike loans.

Further to the Dutch Supreme Court decision, and the developments in application of the concept of abuse of law doctrine in the Netherlands, the tax aspects of structuring and financing of M&A transactions need to be considered carefully, and the impact of interest deduction restrictions need to be considered in detail and for each specific investment.

Lucrative interest taxation

On 4 July 2025, the Dutch government agreed to a motion to amend the 'lucrative interest regime'. This motion requested the Dutch government to file a bill that imposes heavier taxation on benefits earned by individuals on shares, receivables and other equity interests that are granted on such terms that the possible benefit is considered 'excessive', compared to the amount of the investment.

In certain cases, managers, in companies that are backed by private equity, can make an investment that is considered a lucrative interest as part of their remuneration. For private equity managers the same analysis needs to be made. As a starting point, income from a lucrative interest is taxed as employment income, or income from other activities, taxable in box 1 against progressive rates (up to 49.5 per cent). However, under the lucrative interest rules an alternative approach is possible, that allows income and gains from a lucrative interest to be taxed at the lower rate of the regime for substantial interests (box 2), if indirectly held through a qualifying holding structure. For this purpose, shareholders must keep their interest through a company and distribute income for at least 95 per cent annually.

The Dutch government has announced, as part of the Dutch Tax Plan 2026, an adjustment that will introduce an increased rate within box 2, specifically for indirectly held lucrative interests. The proposed amendment will increase the basis for the indirectly held lucrative interest income with a multiplier. The aim is to align the tax burden on an indirectly held lucrative interest with the rate in box 3 which is currently 36 per cent.

For the structuring of M&A transactions, and specifically where managers or fund managers will hold a lucrative interest, the proposed amendments need to be considered and whether alternative arrangements (SARs, cash bonus, other) could be more attractive in specific transactions.

Dividend withholding exemption

Earlier this year, the Dutch Supreme Court ruled on two similar cases concerning the withholding tax exemption on dividends. Both cases, involved a holding company based in Belgium with individuals, also resident in Belgium, as shareholder. The Dutch Supreme Court provided further clarification on the abuse test for the withholding exemption with regard to EU law and emphasised that in the case of a holding company that performs genuine activities for various participating interests, abuse may still be considered, if the specific participating interest cannot be allocated to the material undertaking of the holding company. Furthermore, maintaining a structure after a change in circumstances can also result in a structure that is considered abusive.

This case law reinforces the focus on the relevant (economic) function of personal holding companies with regard to the shareholdings held by those companies. For the structuring of M&A transactions, foreign taxpayers will have to be able to demonstrate the business considerations for holding interests through a (personal) holding company. The holding company will have to be able to substantiate sufficient substance and add value with regard to the participation. These considerations will also be relevant for exits from existing structures.

Competition law

Interaction of the abuse of dominance rules with merger control rules in the Netherlands

The DCA prohibits the abuse of a dominant position. Until recently, this provision excluded mergers from its scope, as the implementation of a concentration could not constitute a form of abuse.Since the amendment of the Competition Act per 1 September 2025,[9] the ACM is empowered to retrospectively assess below-threshold mergers under the abuse of dominance rules. The ACM is now allowed to sanction acquisitions that were not subject to prior notification if the acquirer is found to have abused a dominant position.

The evolution of merger control in the Netherlands

The repeal of Article 24(2) fits within the ACM's broader ambition to modernise the Dutch competition law. In addition to this change, the ACM has advocated for two further instruments: a call-in mechanism and a New Competition Tool.

The call-in mechanism

The call-in mechanism allows competition authorities to review mergers that fall below national notification thresholds by requiring parties to submit transactions for assessment. This discretionary instrument is typically used when a deal poses potential risks to competition. Several European countries have already introduced similar powers into their legal frameworks.

The New Competition Tool

The New Competition Tool provides competition authorities with the legal power to act against businesses operating in markets with inadequate competition, where customers suffer from higher prices, lower quality, or reduced innovation.[10] The use of such a tool would permit the ACM to investigate specific markets and impose targeted rules, unless other conflicting public interests are at stake. The ACM's proposal to this extent echoes recommendations from the 'Draghi Report on EU competitiveness', which call for a similar instrument at the EU level.

Current challenges for the Dutch merger control regime

Some relatively small acquisitions may fall below the radar of the ACM due to high turnover thresholds, but small does not necessarily mean harmless. In recent years, two strategic patterns have been noticed as particularly problematic: killer acquisitions, where dominant firms absorb emerging competitors to eliminate future threats; and roll-up strategies, where companies gradually build market power through a series of small, non-notifiable deals. These schemes, once overlooked, are now drawing closer scrutiny. Recent case law confirms the ACM's growing attention to roll-up strategies, with serial acquisitions now facing closer scrutiny under its evolving enforcement approach.

A clear illustration of this shift is the ACM's investigation into Brink's acquisition of Ziemann, both active in the cash-in-transit sector. This example illustrates how the ACM is (again) relying on the abuse of dominance prohibition as an instrument of merger control. In this case, although the deal fell below notification thresholds, the ACM raised concerns about reduced competition, including the risk of higher prices, lower service quality and diminished innovation. The ACM is assessing whether the transaction constitutes an abuse of dominance, a move that reflects its broader willingness to review below-threshold deals in concentrated markets.

The ACM's approach to the issue at hand within the current merger control framework

ACM's stricter approach to the problems of killer acquisitions and companies' role-up strategies is further exemplified by the *Foresco* case, which marked the ACM's first close look at a roll-up strategy within ACM's currently existing concentration control competences. *Foresco*, a leading pallet supplier, wanted to acquire competitors *DWP* and *Vierhouten* after completing 17 similar deals since 2019, most of which fell below notification thresholds. This was until *Foresco* spotted *DWP* and *Vierhouten*. This deal triggered the Dutch merger thresholds and hence provided the ACM with the competence under Dutch concentration control regulation to review the transaction. The special thing about this case was that the ACM included previous acquisitions by *Foresco* in its review assessment. Although the ACM ultimately cleared the transaction, citing continued competitive pressure from other suppliers and product types, the case set an important precedent. It signalled that the ACM may now take a more holistic view in its review, assessing not just the current deal but also the cumulative impact of past and future acquisitions, whether notified or not.

Conclusion on the ACM's enforcement focus in the future

These cases reflect the ACM's growing focus on serial acquisitions and their cumulative effects, especially in fragmented or fast-evolving markets. While roll-up strategies are not yet codified in Dutch law, enforcement practice is clearly shifting. Businesses pursuing such strategies should expect a more comprehensive scrutiny, even for deals that do not trigger notification thresholds.

Expansion of the Dutch foreign direct investment regime

Since 2023, the Netherlands has implemented its own screening regime on foreign direct investment with the Vifo Act. The Vifo Act applies to companies that are considered vital providers, that are active in sensitive or highly sensitive technologies or that act as operators of business campuses in the Netherlands. The Vifo Act primarily aims to deal with potential national security risks arising from mergers, acquisitions and investments.

Currently, in the category of highly sensitive technology the Vifo Act focuses on dual-use and military goods, as well as technologies such as semiconductors, quantum technology, photonics and high assurance products. The Vifo Act applies next to very specific sectoral direct investment regulations (such as telecommunications) that already pre-existed before the Vifo Act entered into force.

Regarding the application of the Vifo act, in May 2025 the Dutch Investment Screening Bureau (BTI) published its second annual report, covering the year 2024. In total 69 filings were made to the BTI, it reviewed 83 investments (including 14 cases that had already been notified in 2023) and reached a conclusion in 70 cases of which 61 cases were under the Vifo Act. Moreover, in the report the Minister of Economic Affairs indicated that the investment screening process by the BTI is becoming more and more significant as an instrument to prevent threats to Dutch national security.

New legislative initiatives underway: expanding the scope of the Dutch FDI regulations

In December 2024, the Dutch government published a draft amendment to the Vifo Act establishing an expansion of its scope. The amendment proposes to include six new, additional, sectors as sensitive technologies: biotechnology (including synthetic cell technology, stem cell technology, gene editing and genomics), nanotechnology, AI (limited to personal tracking, imitations such as deepfakes and military deployment), advanced materials (such as materials that enable energy to be stored, transported or converted from energy form/carrier, 2D materials and high-entropy alloys), sensor and navigation technology, and nuclear technology for medical applications.[11] Additionally, the list of dual-use products considered highly sensitive will be expanded.[12] Initially this will be established through an adjustment of the Decree on sensitive technology that regulates which sensitive technologies fall within the scope of application of the Vifo Act. The amendment in question reflects the developments in the international security landscape and the increase in use of new technologies, inciting the wish of the Dutch government to protect Dutch innovations and sensitive technologies from unwanted investments. At EU level, a new FDI regulation aims to require all EU Member States to implement national FDI screening mechanisms. The expansion of the Vifo Act aligns with the efforts to enhance and strengthen the EU's economic security with the growing geopolitical tensions and shifts in technology.[13] The Dutch proposal is expected to come into effect in late 2025 or early 2026.

Forecast on the enforcement of Dutch FDI legislation in the future

Part of the screening under the Vifo Act is that any acquisition or investment in Dutch companies that falls within its scope, must first be reported to the BTI and get permission (through the BTI) from the Minister of Economic Affairs. Therefore, expanding the scope with additional fields of technology leads to more companies being subject to the mandatory assessments and obligations of the Vifo Act, starting (first and foremost) with the notification obligation. The explanatory note to the proposed amendment mentions the estimation of 1,015 to 1,730 additional companies that will potentially be brought within the scope of the expanded Vifo Act regime.

Outlook and conclusions

The optimistic outlook for the first months of 2025 is anticipated to continue for the coming year. Due to stabilising interest rates and inflation, the appetite for strategic M&A transactions will further increase, boosting the deal volume in Q4 of 2025. Private equity will play a leading role.

The increasing emphasis on key sectors such as technology, energy transition and healthcare is anticipated to persist into Q4 of 2025 and throughout 2026.

Ongoing regulatory developments, such as the Data Act, AI Act, CSRD and CSDDD are fundamentally transforming due diligence and deal execution as the parties involved must navigate through increasingly complex regulatory landscapes. The increasing use of AI is expected to further accelerate and streamline the transaction process, which is over time expected to lower transaction costs as well.

While overall economic and geopolitical uncertainty remains, the outlook for Dutch M&A transactions in Q4 2025 and 2026 is optimistic.

Endnotes

1 https://www.ser.nl/nl/actueel/nieuws/recordaantal-fusiemeldingen. ^ Back to section

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3 Mergermarket. ^ Back to section

4 Pitchbook Netherlands Market Snapshop Q2 2025. ^ Back to section

5 Mergermarket. ^ Back to section

6 Mergermarket. ^ Back to section

7 Mergermarket. ^ Back to section

8 HR 24 March 2023, ECLI:NL:HR:2023:443. ^ Back to section

9 See Amendment of Article 24 Dutch Competition Act (Stb. 2025, 36588). ^ Back to section

10 See Autoriteit Consument en Markt, *'Speech Martijn Snoep: De New Competition Tool, het waarom en het hoe'*, ACM 10 February 2025, https://www.acm.nl/nl/publicaties/speech-martijn-snoep-de-new-competition-tool-het-waarom-en-het-hoe. ^ Back to section

11 See Rijksoverheid, '*Kabinet breidt bescherming kennisintensief bedrijfsleven uit*' (rijksoverheid.nl, 19 December 2024). ^ Back to section

12 See '*Wijziging Besluit toepassingsbereik sensitieve technologie (concept)*'. ^ Back to section

13 See European Commission, 'Commission proposes new initiatives to strengthen economic security' (24 January 2024) <https://ec.europa.eu/commission/presscorner/detail/en/ip_24_363>. ^ Back to section

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