Netherlands

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Summary

STRUCTURES AND APPLICABLE LAW

Types of transaction

1 How may publicly listed businesses combine?

Dutch public companies listed in the Netherlands are usually acquired by way of a public takeover offer to the shareholders. This process is highly regulated once the bid is in preparation, with certain milestones and related timelines from the moment the bid is, or is considered to have been, announced. Announcement of the offer starts the timelines of the Dutch Decree on Public Takeover Bids.

Dutch public offers come in four types:

- a regular public offer for all shares in the same category or class, which is by far the most common;
- a mandatory offer, triggered by an offeror if it (alone or together with any concert parties) gains predominant control, which exists on passing the 30% shareholding threshold with only limited exceptions, and which must be for all shares issued, at the 'fair price' (highest price paid by offeror in the preceding 12 months or, if irrelevant, the average stock price) and without offer conditions;
- a partial offer, for no more than 30% of the shares; or
- a tender offer (not to be confused with a US tender offer), in which situation shareholders can respond to a guide price by making an offer to sell at their price, effectively creating a reverse book-build, which must also be for no more than 30% of the shares.

Alternatively, a publicly listed business may combine by way of, for example, a legal merger or an asset sale, but these are not common in practice as a first step, although they are used following settlement to arrive at a cleaner corporate structure or ownership of the entire business. A legal merger can be a domestic merger or cross-border merger with another company in the European Economic Area, and includes a waiting period for creditor opposition, financial reporting and other requirements. There are other means to arrive at a similar result for combinations with a company outside the European Economic Area.

Law stated - 24 March 2026

Statutes and regulations

2 What are the main laws and regulations governing business combinations and acquisitions of publicly listed companies?

A Dutch public company listed on Euronext Amsterdam is typically acquired by way of a public offer to all shareholders. A Dutch public offer is governed by the Dutch Civil Code and, more importantly, by the bidding rules, which are mainly set forth in the Financial Supervision Act, the Decree Public Offers and related regulations, as well as interpretations

of and guidance by the Dutch securities regulator Authority for the Financial Markets (AFM). The Decree Public Offers includes many procedural rules and timelines for the offer process. The extent to which such rules and timelines apply partly depends on whether the target is a Dutch NV, and whether Euronext Amsterdam is the only or first listing venue (or if the AFM was selected as the competent authority) within the European Economic Area.

In addition, the Dutch Civil Code applies to the offer made to shareholders, and other parts of the Civil Code are relevant (eg, due to shareholder approval being required for certain material board decisions, including a sale of the entire or substantially the entire business). Also, target boards of Dutch listed companies should take into account the Dutch Corporate Governance Code 2022, even if that is on a comply-or-explain basis. The EU Market Abuse Regulation, requiring disclosure of material non-public information (inside information), applies throughout the process.

In the case of a domestic legal merger or cross-border merger, corporate law on the domestic or cross-border legal merger applies (in the latter case, the law of both relevant jurisdictions).

Apart from corporate law and public offer regulations, as in any transaction, merger control may be required under the EU Merger Regulation, the Dutch Competition Act or any other national merger control regime.

The works council of the target may have a right of advice under the Works Councils Act and the trade unions may have consultation rights under the Socio-Economic Council's Merger Code 2015.

Furthermore, the Netherlands has implemented a foreign direct investment (FDI) screening mechanism, which may require a review process with the Dutch government depending on the location and nature of the target's business. The EU Foreign Subsidies Regulation provides for new notification obligations with the European Commission in the event of transactions that meet certain thresholds.

Lastly, sector-specific merger supervision applies in, for example, the telecommunications, financial services, energy and healthcare sectors.

Law stated - 24 March 2026

Cross-border transactions

3 How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?

A public offer by a non-Dutch offeror is typically structured as a regular public offer, although sometimes followed by a cross-border legal merger. A public offer by a foreign bidder is treated in the same way, from a bidding rules perspective, as a public offer by a Dutch bidder. The bid must be made on the same terms to all shareholders. Under exceptional circumstances, the inclusion of territorial restrictions in the bid is acceptable. A territorial restriction means that the offer is subject to restrictions in certain jurisdictions, for example, that the offer will not be made in that jurisdiction or will be made there only under certain conditions.

In addition to merger control review, foreign direct investment screening could become more relevant depending on the circumstances.

Law stated - 24 March 2026

Sector-specific rules

4 | Are companies in specific industries subject to additional regulations and statutes?

Certain industries have specific limitations on acquisitions. For example, an investor in financial institutions such as banks and insurers needs a declaration of no objection from the European Central Bank or the Dutch Central Bank for any investment exceeding 10%. In the energy sector, an acquirer needs approval from the Minister for Economic Affairs for certain types of assets. Regulated industries such as postal services and telecoms have their own regime and there is a special regulator for the healthcare sector.

In addition, the Netherlands has adopted an FDI screening for national security purposes. The screening covers the acquisition of or stakebuilding in excess of certain thresholds in a Dutch target by any buyer relating to:

- certain vital sectors (eg, energy, air transport, harbours, banking, financial infrastructure);
- certain sensitive or highly sensitive technology (dual use or military-grade products and certain other sensitive or highly sensitive technologies); and
- certain business campuses where the government and businesses work together.

Law stated - 24 March 2026

Transaction agreements

5 | Are transaction agreements typically concluded when publicly listed companies are acquired? What law typically governs the agreements?

The typical way to acquire a public company is a public offer made to shareholders for all outstanding shares. In a friendly deal or a deal that has become sufficiently friendly, the offeror and the target agree on a merger protocol. Despite the reference in the name to a merger, no legal merger is usually involved (at least as a first step) and the agreement regulates the public offer to be made by the offeror, as well as arrangements between offeror and target. A standard merger protocol will include:

- an obligation on the offeror to (1) make the offer, subject to launch conditions, at no less than the offer price, and (2) complete the offer, subject to offer conditions;
- deal protection in the shape of exclusivity, superior offer arrangements and break fees;
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non-financial covenants, by which the offeror makes certain acknowledgements, intentions or commitments for the protection of the employees, other stakeholders or the business in general;

- an obligation on the target to recommend the offer and cooperate with the offeror in various ways;
- methods to accommodate the offeror in acquiring 100% of the business or shares in a back-end restructuring (see paragraph below); and
- interim convenants regulating the operational conduct of the target to protect the target's value to the offeror.

Often it is agreed that the current shareholders will be requested, at the extraordinary general meeting to be held during the acceptance period, to approve a back-end restructuring by which the offeror will gain ownership and control of 100% of the business, even if the acceptance rate was below 95% (the statutory squeeze-out threshold) but above a certain lower threshold. That lower threshold is often 80%, but depends on the fact pattern.

A merger protocol is usually subject to Dutch law.

Law stated - 24 March 2026

FILINGS AND DISCLOSURE

Filings and fees

6 Which government or stock exchange filings are necessary in connection with a business combination or acquisition of a public company? Are there stamp taxes or other government fees in connection with completing these transactions?

In a public offer (ie, for all shares of the same category or class), a shareholder circular called an 'offer memorandum' must be made available, which contains information for shareholders about the offeror, the offer and the target. The offer memorandum is subject to review and approval by the Authority for the Financial Markets (AFM). A first draft must be filed with the AFM within 12 weeks of announcing the offer.

A legal merger requires, among other things,the filing of the merger proposal with the trade register and publication in a nationwide newspaper.

Other governmental filings that may need to be made if relevant are antitrust filings, which trigger fees, foreign direct investment filings and an EU Foreign Subsidies Regulation filing, among others, as well as the application of a declaration of no objection with the European Central Bank or the Dutch Central Bank. No stamp taxes are due, but real estate transfer tax may arise in the case of an offer for a real estate investment trust-like target. No governmental fees are due in connection with completion or settlement of the offer.

Law stated - 24 March 2026

Information to be disclosed

7 What information needs to be made public in a business combination or an acquisition of a public company? Does this depend on what type of structure is used?

In the event of a regular public offer (ie, for all shares of the same category or class), the following must be published:

- the announcement of the offer, including all launch and offer conditions;
- throughout the offer process, any transactions in or issuance of securities of the class that can be tendered into the offer in respect of both the offeror and the target;
- four weeks after the initial announcement, a press release to confirm whether an offer will be launched;
- a 'certain funds' statement;
- the offer memorandum, which contains information for shareholders, including information on the offeror and the offer, as well as certain financial information with a review statement depending on the circumstances;
- the position statement by the target, explaining the rationale for the transaction; and
- the acceptance rate and whether or not the offeror declares the offer unconditional.

A legal merger requires less information disclosure. The merger proposal must include mostly technical information about the merger.

An asset sale followed by the dissolution and liquidation of the target also requires less information than a regular public offer, although target boards should seriously consider making similar documents available to shareholders for transparency and to reduce the risk of litigation.

In all situations, disclosure of inside information must be made under the EU Market Abuse Regulation, unless a delay of such a disclosure is allowed.

Law stated - 24 March 2026

Disclosure of substantial shareholdings

8 What are the disclosure requirements for owners of large shareholdings in a public company? Are the requirements affected if the company is a party to a business combination?

Any shareholder reaching, or crossing in either direction, the following percentage thresholds in terms of votes or capital must in principle publicly disclose the same to the AFM: 3%, 5%, 10%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 75% and 95%. The AFM maintains an online registry where anyone can inspect the relevant disclosures. This is no different if the company is a party to a business combination. In the event of stakebuilding, the offeror or a competing offeror will need to adhere to the same disclosure thresholds.

The public disclosure must be made once on every day on which the offeror has acquired any additional shares.

Law stated - 24 March 2026

DIRECTORS' AND SHAREHOLDERS' DUTIES AND RIGHTS

Duties of directors and controlling shareholders

9 What duties do the directors or managers of a publicly traded company owe to the company's shareholders, creditors and other stakeholders in connection with a business combination or sale? Do controlling shareholders have similar duties?

Duties of target boards

By law, the duty of members of the management board and, by extension, of the supervisory board is to act in the corporate interest. Pursuant to case law, the corporate interest lies in principle mainly in promoting the sustainable success of the company's business. In addition, the Dutch Corporate Governance Code has a focus on sustainable long-term value creation and stipulates that in the performance of its duties, the management board must consider the relevant interests of all stakeholders (eg, shareholders, employees, creditors, suppliers and customers).

Determining the policy and strategy of the company and its business is the responsibility of the management board under the supervision of, and advised by, the supervisory board, which will have to act very closely with the management board in a public offer process.

When considering a potential public offer, they should set a robust process, carefully weigh the interests of all stakeholders, and protect against unnecessary or disproportionate disadvantages for certain stakeholder groups, including when deciding on or proposing a back-end restructuring to acquire 100% ('pre-wired structures'). When a particular stakeholder group would be disadvantaged unnecessarily or disproportionately, Dutch boards use non-financial covenants to protect against and balance those disadvantages. In line with the foregoing, court rulings following past takeover situations show that target boards are not under a general obligation to treat an interloping bidder on a level playing field with the first bidder, nor do target boards have a general obligation to negotiate with any interested bidder making an unsolicited offer, but the fact pattern at hand can dictate otherwise.

For the purpose of adequate transparency, a Dutch target company listed on a regulated market in the European Economic Area must hold an informative shareholders' meeting during the acceptance period to explain and discuss its position on the offer. The target must make its position on the offer public before the meeting and, in a friendly deal, the position statement is usually made public simultaneously with the offer memorandum. Furthermore, it is important that the boards share adequate information with the general meeting so that the general meeting can exercise its authority on an informed basis if it is asked to pass any resolutions (eg, pre-wired resolutions to allow the offeror to reach 100% ownership of the business).

Duties of controlling shareholders

In principle, shareholders are not obliged to act in the corporate interest. They can act in their own interest within the limits of reasonableness and fairness. However, a controlling shareholder of a target company has a special position in a potential offer process, if only because of its negative control to thwart the bid. Depending on the fact pattern in the specific process, the principles of reasonableness and fairness may in certain special circumstances require a controlling shareholder to take into account other interests than its own.

Law stated - 24 March 2026

Approval and appraisal rights

10 What approval rights do shareholders have over business combinations or sales of a public company? Do shareholders have appraisal or similar rights in these transactions?

A public offer does not need shareholder approval as such, but in practice requires 95% of the shares, which is often lowered if certain resolutions for the back-end restructuring are passed at the extraordinary general meeting held during the acceptance period (ie, by the shareholder base before settlement of the offer). The 95% threshold relates to the minimum percentage of shares owned by the offeror to commence squeeze-out proceedings after the offer has been declared unconditional. In those proceedings or, conversely, if no squeeze-out proceedings are commenced and a minority shareholder commences exit-and-appraisal proceedings, dissenting shareholders can claim a higher price than the offer price.

Resolutions of a Dutch public company's board about an important change in the identity or nature of the company or its business need the approval of the general meeting. This is also relevant for alternative structures to a straightforward public offer and the reason shareholders get to vote on the back-end restructuring at the extraordinary general meeting.

There are appraisal-like rights in the Netherlands, but they are hardly ever used. The reason is that shareholders either end up with cash instead of shares following implementation of the pre-wired back-end restructuring, or are squeezed out by the offeror after a successful offer and, in that legal procedure, can claim what they deem to be a fair price.

In the case of a legal merger or an asset sale, the shareholders' meeting has an approval right. In the case of a cross-border legal merger, dissenting shareholders can vote against the merger; if they do and the merger nonetheless proceeds, they have appraisal rights for their shares (payable in cash).

Law stated - 24 March 2026

COMPLETING THE TRANSACTION

Hostile transactions

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What are the special considerations for unsolicited transactions for public companies?

In hostile transactions, the offeror is limited in various ways. First, the offeror cannot carry out due diligence on the basis of information provided by the target because usually the target will refuse to share any information. The limited availability of information may also make it more difficult to receive the financial details required for the analyses and procedures relating to merger control, foreign direct investment (FDI) and the EU Foreign Subsidies Regulation. As a result, it will likely be more difficult to obtain merger clearance. Also, given that an unsolicited offer will not have a merger protocol (ie, a transaction agreement), the offeror has no deal protection as is typically granted by the target. Absent a merger protocol, the target is also not committed to assisting in acquiring 100% of the business although that assistance is market practice in friendly deals.

The upside for the offeror is that the offeror will not be asked by the target to sign a non-disclosure agreement with standstill provision. This will allow the offeror to continue with stakebuilding, provided the offeror has not received any inside information (material non-public information).

Hostile offerors must keep in mind the put-up or shut-up rule: a target company may request the Authority for the Financial Markets (AFM) to force the potential offeror, within six weeks, to either announce a public offer or announce that it will not pursue a public offer. If the potential offeror confirms it does not pursue a public offer, it is not allowed to announce or launch that public offer for six months. If the potential offeror refuses to issue any press release, that leads to a nine-month ban to announce or launch a public offer for the same securities.

Also, in the event of a hostile offer, a target may invoke the statutory cooling-off period or the response time under the Corporate Governance Code. However, both should be used carefully as they also have drawbacks in a public offer situation; they are therefore rarely used as a hostile takeover defence tool.

Lastly, potential offerors need to be aware that various Euronext Amsterdam-listed Dutch companies have a protective foundation (a Dutch *stichting*) that, typically, has the right to exercise a call option right, although sometimes the protective device is structured differently.

Law stated - 24 March 2026

Break-up fees – frustration of additional bidders

12 Which types of break-up and reverse break-up fees are allowed? What are the limitations on a public company's ability to protect deals from third-party bidders?

In Dutch practice, usually a break-up fee is due by the target if the merger protocol is terminated in connection with the revocation of the target boards' support. Reverse break fees occur, for example, after failure by the offeror to complete despite all offer conditions being satisfied or for termination due to non-satisfaction of offer conditions for which the offeror bears responsibility (eg, antitrust clearance).

As to the level of the break fee, the break fee for the target must pass the test of fitting the corporate purpose. In practice, 1% of the implied equity value is common. In a situation where the offeror has a specific responsibility, for example, a hell-or-high-water for antitrust clearance, a higher break fee could be agreed for that specific responsibility.

This is significantly lower than, for example, in US practice. However, Dutch targets typically grant the first offeror deal protection in the form of a competing offer threshold, which must be exceeded before the boards can revoke their recommendation. In one precedent, the superior offer arrangement was backed up not only by a break fee, but also by the obligation for the target, if it preferred an interloper's competing offer, to issue such number of additional shares as needed to force the offeror to pay the superior offer threshold. In effect, this serves as an additional, structural, enforcement mechanism of the same superior offer arrangement. In view of the boards' fiduciary duties, deal protection should not be so stringent that it is impossible for the target boards to choose a different, superior, deal.

Law stated - 24 March 2026

Government influence

13 Other than through relevant competition regulations, or in specific industries in which business combinations or acquisitions are regulated, may government agencies influence or restrict the completion of such transactions, including for reasons of national security?

In addition to merger control and sector-specific supervision, foreign direct investment screening for national security purposes applies. The screening covers M&A transactions relating to:

- certain vital sectors (eg, energy, nuclear power, air transport, harbours, banking, financial services, liquified natural gas);
- certain sensitive technology (dual-use or military-grade products and certain other sensitive or highly sensitive technologies); and
- certain business campuses where the government and businesses work together.

On an EU level, the Foreign Subsidies Regulation may (highly) affect transactions that require notification to the European Commission. Under the Regulation, a transaction may need to be filed if (1) the target has in excess of €500 million in revenue in the European Union, and (2) the target or the offeror received financial contributions from non-EU governments exceeding €50 million in aggregate over the previous three years. The construct of 'financial contribution' is defined very broadly and includes a commercial contract with a non-EU government or entity linked to a non-EU government.

Law stated - 24 March 2026

Conditional offers

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What conditions to a tender offer, exchange offer, merger, plan or scheme of arrangement or other form of business combination are allowed? In a cash transaction, may the financing be conditional? Can the commencement of a tender offer or exchange offer for a public company be subject to conditions?

Conditions are allowed both for the launch (launch conditions) of the offer, which starts the acceptance period, and for the offer itself (offer conditions), provided that the offeror does not control them.

In a cash transaction, from a regulatory perspective, the financing can be conditional until the draft offer memorandum is sent to the AFM for the first time (when the offeror has to confirm it has certain funds available). However, in a friendly deal the target will likely require that, if any debt financing is required, it must be committed at the time of signing of the merger protocol.

With respect to equity financing, similar to debt financing, financial sponsors will typically be required by the target boards to share equity commitment letters before signing the merger protocol.

If a strategic offeror needs its own general meeting to approve a share issuance, then the certain funds requirement is met if it publicly announces, before the first draft offer memorandum is sent to the AFM, that a general meeting will be held. The offeror's general meeting must be held at least seven business days prior to the end of the acceptance period – that is, one business day before the extraordinary general meeting (EGM) of a Dutch public company that is the target of a regular public offer.

Law stated - 24 March 2026

Financing

15 If a buyer needs to obtain financing for a transaction involving a public company, how is this dealt with in the transaction documents? What are the typical obligations of the seller to assist in the buyer's financing?

For debt financing, the target boards will typically require committed debt papers to be executed by the time the the merger protocol is signed, at the latest. The target will usually be under an obligation to assist, where it reasonably can, to obtain long-form debt financing.

For equity financing, if the offeror is a financial sponsor, it is expected to deliver equity commitment letters by the time the merger protocol is signed, at the latest. If the offeror is, for example, a strategic player with its own listing, it is acceptable from a regulatory perspective for it to require shareholder approval for a stock issuance.

The offeror must publicly announce that it has certain funds available at the latest when it submits the first draft of the offer memorandum with the AFM, explaining how the offeror will fund the offer price and the measures it has taken in that context. If the offeror needs to hold an (EGM) itself to secure the funding, it suffices to publicly announce at the same time the offeror submits the first draft of the offer memorandum with the AFM that the offeror will hold such an EGM. The offeror's EGM must be held at least seven business days prior to the final day of the acceptance period.

Law stated - 24 March 2026

Minority squeeze-out

16 May minority stockholders of a public company be squeezed out? If so, what steps must be taken and what is the time frame for the process?

In addition to the standard statutory squeeze-out, which is also available outside a public offer context, on the basis of EU law implemented in the Netherlands, the offeror can make use of a special post-offer statutory squeeze-out procedure. The requirements are that:

- a public offer has been made;
- the offeror owns at least 95% of the issued capital and has at least 95% of the voting rights;
- the proceedings must be commenced within three months following the acceptance period; and
- the proceedings must be against all dissenting shareholders together.

This procedure has a few benefits compared to the regular statutory squeeze-out proceedings.

Due to the high bar set by the 95% ownership threshold and the time this procedure takes, it is common in Dutch practice for the target and the offeror to agree on a pre-wired back-end restructuring. It is 'pre-wired' in the sense that the current shareholders are requested at the EGM (ie, during the acceptance period) to approve the back-end restructuring. The back-end restructuring effectively transfers 100% of the business to the offeror and the dissenting minority will either get cash immediately or be squeezed out under statute. In the latter case, they will be shareholders of a cash box holding exactly the amount that they would have received (subject to tax) had they accepted the public offer. There are also other means available.

For the alternatives to a statutory squeeze-out, the test is whether the resolutions are passed solely aimed at the squeeze-out of the dissenters (in practice, a business rationale will virtually always be present), and whether the dissenters are disproportionately or unnecessarily prejudiced.

Law stated - 24 March 2026

Waiting or notification periods

17 Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations or acquisitions involving public companies?

The offeror must prepare the offer memorandum (shareholder circular), the first draft of which must be submitted to the AFM no later than 12 weeks after announcement of the

offer. It takes a few weeks for the AFM to approve the draft offer memorandum, which is an iterative process. After launch of the offer by public release of the AFM-approved offer memorandum, the acceptance period must be open for at least eight weeks. Other waiting or notification periods are derived from special approval procedures in certain industries, FDI (national security) screenings or Foreign Subsidies Regulation procedures.

A domestic legal merger process includes a one-month waiting period to allow opposition by creditors.

Law stated - 24 March 2026

OTHER CONSIDERATIONS

Tax issues

18 What are the basic tax issues involved in business combinations or acquisitions involving public companies?

General

Share transfers are, in principle, not subject to value-added tax (VAT) in the Netherlands. There are no Dutch transfer duties or stamp taxes payable on the sale of shares in a Dutch company listed in the Netherlands, with the exception of real estate transfer tax for certain transactions involving listed real estate entities (similar to real estate investment trusts).

Real estate

Real estate transfer tax at a rate of 10.4%, or, in specific cases where the real estate assets are used for less than 90% VAT-able services, 4% (rates for 2026), is levied in respect of the acquisition of real estate assets, which include the shares or similar rights in (listed) real estate entities if a direct or indirect interest of at least one-third in the real estate entity is acquired (including interest already owned, if any). For this transfer tax, 'real estate entities' are defined as entities with a capital divided into shares, and more than 50% of its assets comprise real estate and at least 30% of its assets are real estate located in the Netherlands. Exceptions apply for real estate used in the business of the company.

Public offer

Company

Depending on the acquiring company, it may be possible to form a fiscal unity for corporate income tax purposes between the offeror and the target. To form a fiscal unity, among other conditions, the parent company and the subsidiary must both be resident in the Netherlands, and the parent company must hold both full legal and economic ownership of at least 95% of the subsidiary’s nominal issued and paid-up share capital, such shareholding representing at least 95% of the statutory voting rights and giving right to at least 95% of the profits and the capital of the subsidiary.

As a general rule, interest expenses incurred are deductible for corporate income tax purposes, provided that they meet the arm's length criteria. A general interest limitation rule limits the deduction of net interest expenses to an amount of 24.5% (rate for 2026) of the taxpayer's earnings before net interest, tax, depreciation and amortisation. Further anti-base erosion provisions may apply, denying interest deduction in related-party structures (with a business motive and effective tax exception). The Netherlands has also implemented anti-hybrid mismatch rules, which aim to neutralise hybrid mismatches through denying any deduction of payments or including payments in the taxable base. Taxpayers are required to include documentation on the presence of any hybrid mismatches within the group under their administration.

In respect of a substantial (30% or more) change in ownership as a result of a public transaction – where such a change in ownership is thought to be predominantly driven by business reasons – existing loss carry-forwards or carry-backs, and interest carried forward, should survive that transaction. Particular anti-abuse rules have been implemented to restrict such use in abusive structures.

For certain business reorganisations – including legal mergers, demergers, share exchanges and business mergers – tax rollover facilities are available under which it is not required to recognise as profit the difference between, on the one hand, the tax book value of the assets and liabilities transferred and, on the other hand, the fair market value of such assets and liabilities. These tax facilities are each subject to specific conditions and, as a general concept, it is required to continue tax book values of assets and liabilities that are transferred so that any gain derived from the transfer in principle is deferred.

Shareholders

All benefits, positive as well as negative, derived by a Dutch corporate shareholder from a shareholding of 5% or more of the nominal paid-up share capital of a listed company are exempt from corporate income tax, further to the participation exemption rules. This includes a possible gain, or loss, from a transfer of listed shares as part of a public offer.

As an anti-abuse rule, non-resident taxpayers are subject to corporate income tax (at rates up to 25.8% for 2026) to the extent they enjoy Dutch income, including dividend and capital gains, derived from an interest of at least 5% of the shares in a company that is a resident of the Netherlands, provided that it is held with the main goal or one of the main goals being to avoid personal income tax of another party, and the arrangement or series of arrangements is wholly artificial. For many active investments, this anti-abuse rule does not apply. Furthermore, if a tax treaty applies, the Netherlands may be barred from levying corporate income tax on the basis of this anti-abuse rule.

Law stated - 24 March 2026

Labour and employee benefits

19 What is the basic regulatory framework governing labour and employee benefits in a business combination or acquisition involving a public company?

Works council

Depending on the structure of the target's employee representation, the works council of the target may have the right to advise on the recommendation of the transaction by the management board. This can be done after announcement. Consummation of the works council's advice procedure is often a launch condition (ie, before the publication of the offer memorandum and the start of the acceptance period). The target will have to explain the rationale behind the transaction and, in particular, any potential impact on the employees. If the advice is negative or has conditions that are unacceptable to the target or offeror, the target has to wait one month before proceeding with the transaction, during which time the works council has the right to appeal to the specialised Enterprise Chamber of the Amsterdam Court of Appeal.

Trade unions

Depending on the circumstances, under the Socio-Economic Council's Merger Code 2015, a notification must be made to the relevant trade unions and the Dutch Socio-Economic Council. If so, the trade unions could request a meeting to discuss the transaction. In most situations, this does not result in delay of the transaction.

Law stated - 24 March 2026

Restructuring, bankruptcy or receivership

20 What are the special considerations for business combinations or acquisitions involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

Dutch bankruptcy and insolvency laws do not have specific provisions for mergers or acquisitions. The normal course of events in the event of a bankruptcy is that the appointed receiver liquidates (portions of) the business in parts. This provides opportunities for parties interested in distressed M&A.

The Netherlands has opted for insolvency exception of the EU Directive on Transfers of Undertakings for the Protection of Employees (TUPE). In the event of a bankruptcy transaction, the TUPE rules do not apply. As a result, the employees do not automatically transfer to the acquirer, as opposed to the situation where there is no bankruptcy.

Under Dutch insolvency law, the court has the authority to approve a composition plan that the debtor presented to its stakeholders, who voted in majority in favour of this composition plan. This pre-insolvency restructuring tool could also be used to pursue an acquisition.

Law stated - 24 March 2026

Anti-corruption and sanctions

21 What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations with, or acquisitions of, a public company?

A public offer or a legal merger as such does not in and of itself trigger any particular Dutch anti-corruption, anti-bribery or economic sanctions rules.

Law stated - 24 March 2026

UPDATE AND TRENDS

Key developments

22 What are the current trends in public mergers and acquisitions in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory framework governing M&A or the financial sector in a way that could affect business combinations with, or acquisitions of, a public company?

As part of the pre-wired back-end restructuring arrangements, a few recent offers specified that if the offer reached an acceptance threshold of at least 95%, back-end restructuring would be implemented to allow the offeror to acquire and take control of the entire business shortly after settlement, but the offeror would also be under an obligation to pursue statutory squeeze-out proceedings (unlike when the acceptance threshold is below 95%) against the dissenting minority shareholders who owned a share in what was then effectively a cash box.

Separately, there is an ongoing trend for public companies with large shareholders, in which the latter play a pivotal role in initiating or supporting the offer, sometimes by agreeing to a substantial roll-over. These types of transactions take even more preparation as they are often more complex.

In addition to merger control and sector-specific supervision, a foreign direct investment screening for national security purposes has come into force. The screening covers M&A relating to:

- certain vital sectors (eg the energy, nuclear power, air transport, harbours, banking, financial services, liquified natural gas);
- certain sensitive technology (dual-use or military-grade products and certain other sensitive or highly sensitive technologies); and
- certain business campuses where government and businesses work together.

Pursuant to the EU Listing Act, the EU Market Abuse Regulation, which applies directly, will be amended in such a way that where previously an intermediate step in a 'protracted process' could in itself constitute inside information (material non-public information) that had to be disclosed, from 5 June 2026 only the final event will have to be disclosed. This may make it easier to keep an M&A process confidential and thereby allow the parties to continue the process without premature announcement as long as confidentiality is maintained.

Separately, the EU Foreign Subsidies Regulation (FSR) may (highly) affect transactions that require a notification to the European Commission. Under the FSR, a transaction may need to be filed if (1) the target has in excess of €500 million in revenue in the European Union, and (2) the target or the offeror received financial contributions from

non-EU governments exceeding €50 million in aggregate over the previous three years. The construct of 'financial contribution' is defined very broadly and includes a commercial contract with a non-EU government.

Law stated - 24 March 2026

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