

In this quarterly update on corporate law, we provide an overview of the latest developments in corporate law in the Netherlands and the EU. Due to the summer recess and the caretaker government, there have not been many developments in the last few months. We have listed all relevant developments. Our team would be happy to discuss in more detail what they mean for your company. Do you have any questions or comments? We look forward to hearing from you.

Corporate M&A

Amendment of Dispute Resolution Proceedings with Shareholders and Access to Inquiry Proceedings

For BVs and NVs, the [draft legislative proposal](#) in which the inquiry proceedings and dispute resolution proceedings with shareholders are adjusted is relevant. Among other things, it is proposed that in proceedings for the expulsion of a shareholder, the court may also take into account the conduct of a shareholder in a capacity other than that of a shareholder. It also proposes to clarify the access to inquiry proceedings at large listed companies. The Council of State recently gave a positive opinion on the proposal. There is no expected completion date, nor is it known when the bill will be submitted to the House of Representatives.

For more information, see our [blog](#)

Online incorporation of BVs possible as from 1 January 2024

From 1 January 2024 it will be possible to incorporate private limited companies (BVs) entirely online, by electronically executing the notarial deed of incorporation. After an evaluation of the Act, an assessment will be made as to whether the scheme will eventually be extended to public limited liability companies (NVs).

For more information, see our [blog](#)

Council of State positive on Digital General Meeting of Legal Entities under Private Law Act

In the Council of State's opinion of 18 September 2023, two points for attention were raised with regard to the bill allowing a general meeting to be held entirely digitally. The first is the question of what will happen to legal entities that do not amend their articles of association or do not grant authorisation in the event of, for example, a pandemic or other emergency situation in the future. The bill allows a general meeting to be held entirely virtually, but only if this is provided for in the articles of association or if authorisation has been granted. In addition, the Council of State points out the risk that association members who are less digitally proficient could be excluded from a fully virtual meeting. Besides asking for further clarification on this, the Council is positive about the content of the bill.

For more information, see our [blog](#)



Corporate Governance

Amendments to the Responsible and Sustainable International Business Conduct Act

On 15 September 2023, the amended draft bill for establishing a legal threshold for international corporate social responsibility for Dutch companies that operate internationally was published. This includes shifting the responsibility for introducing and implementing a due diligence policy from individual directors to the company and no longer requiring a separate climate plan. The definition of a foreign company has been amended to limit the applicability of the Act to foreign companies with a material link with the Netherlands, as evidenced by a large number of customers or activities in the Netherlands in relation to the total population.

For more information, see our [blog](#)

New US clawback rules for US-listed Dutch companies

On 2 October 2023, the amended listing standards of Nasdaq and NYSE entered into force. Companies listed on these exchanges will have until 1 December 2023 to adopt clawback policies that provide for the recovery of erroneously awarded incentive-based compensation received by former and current executive officers.

For more information, see our [blog](#)

Other developments you may find interesting

Recent ESG developments

Each month, our Sustainable Business & Climate Change team provides an overview of recent ESG-related developments in the areas of governance, disclosure and litigation. This is accompanied by a feature article discussing a highlighted topic. In the [October edition](#), this was the mandatory energy label C for office buildings. Previous topics have included sustainable finance, ESG supervision and corporate sustainability reporting.

See all ESG related [blogs](#) here

Porthos construction project for nitrogen transport and storage may continue

On 13 August 2023, the Administrative Jurisdiction Division of the Council of State ruled that the Porthos construction project may still go ahead. Previously, the Division had ruled that the statutory construction exemption which allows construction projects to have (temporary) nitrogen impacts during the construction phase is contrary to European law. This means that a separate assessment of the nitrogen effects in the construction and construction phase of a construction project must also be carried out. This is unfortunate news for many construction projects. Based on an additional assessment of the nitrogen impacts during the construction phase of the Porthos project, the Division has indicated that although nitrogen emissions do occur, they are temporary and limited, and do not have observable consequences for the surrounding natural areas. This ruling offers hope for other construction projects. However, the highest administrative court has emphasised that an ecological assessment must be conducted for each project, taking into account the specific characteristics of the nearby natural areas.

For more information, see our [blog](#)



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