

Update of the Dutch Corporate Governance Code 2022 finalised

The finalised version of the updated Corporate Governance Code (**Code**) was published on 20 December 2022.

Management reports for 2023 will need to account for compliance with the updated Code for the first time. This overview briefly outlines the most important changes in the Code.

1 Sustainable long-term value creation

- Companies should formulate a sustainable vision for long-term value creation, with a corresponding strategy and specific objectives. The board is responsible for sustainable long-term value creation. The Code provides further requirements on reporting in this context.
- The supervisory board and the audit committee should oversee and account for sustainability reporting.
- Companies are expected to pay explicit attention to digitalisation and cybersecurity when shaping strategy, risk management and in the context of expertise and development of management and supervisory boards.
- The interests of relevant stakeholders should be taken into account in determining the vision for long-term value creation, with the corresponding strategy and specific objectives; for that purpose, a policy for stakeholder dialogue should be established (and published on the website). The dialogue should be facilitated by the management board unless it considers that it is not in the company's interest.
- The management report must account for how the culture, values, and conduct that are promoted within the company contribute to sustainable long-term value creation.

3 Diversity and inclusion

- The management board, the supervisory board, and the executive committee should be composed in such a way that there is an appropriate measure of diversity as regards expertise, experience, competencies, other personal qualities, sex of gender identity, age, nationality, and (cultural) background.
- Companies should have a firm-wide diversity and inclusion policy that covers all aspects and personal characteristics in which people differ, such as gender identity, age, ethnicity, occupational disabilities, and sexual orientation.
- Reporting in the area of diversity and inclusion has been expanded.

2 Role of shareholders

- Shareholders acknowledge the importance of a strategy aimed at sustainable long-term value creation.
- Dialogue between shareholders and companies is further encouraged. In addition, the informed and discretionary exercise of voting rights by shareholders is fostered, and institutional investors are expected to encourage dialogue between proxy advisors and companies. In addition to their voting behaviour, institutional investors should also provide quarterly insights into the key points of the dialogues that they have engaged in with listed companies.
- Rules have been added to the Code regarding institutional investor engagement policies, abstention from voting by shareholders with larger short positions than long positions, and the recall of loaned shares in the event of voting on significant matters.

4 Other changes

- The overlap between the response period in the Code and the statutory cooling-off period has been addressed.
- The explanatory notes on provisions of the Code relating to the remuneration policy and report have been amended in line with the revised rules in Book 2 of the Dutch Civil Code. The concept of pay ratios is also explained in greater detail, in line with previous guidance from the Committee.
- The performance of the internal audit function should be evaluated by an independent third party at least every five years. The reporting lines between the internal audit function, the board, and the audit committee have also been clarified.
- The main findings and conclusions of the evaluations of the management and supervisory boards will also be reported, with more explicit attention being paid to behaviour and culture. Evaluation of the supervisory board will take place periodically, guided by an external expert.

Follow-up steps and action points

The updated Code takes effect on 1 January 2023. Management reports for 2023 will need to account for compliance with the updated Code for the first time. We advise companies to review whether adjustments to governance and reporting are needed during the 2023 financial year. In addition, it is advisable to look at sustainability within the company in a broader perspective. Besides the Code, other future regulations on sustainability are of course also relevant, such as the private member's bill (*initiatiefwet*) for a Sustainable and Responsible International Business Conduct Act, the Corporate Sustainable Due Diligence Directive, and the Corporate Sustainability Reporting Directive.

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