

# The Netherlands

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## The definition of the knowledge in M&A transactions could be shifting

**Kris Ruijters**  
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In Dutch M&A practice, the structure of a controlled auction or a private sale often looks similar to any international transaction. Indeed, it is more or less based on standard London practice.

The information memorandum is in English, the data room rules are in English and even the contractual terms of the draft contract – if the purchase pertains to shares, rather than assets – are in English. No matter how similar the sales process and the wording of the contracts are, however, this does not mean the legal principles are the same.

One of the areas where we see a divergence is in the area of the definition of knowledge and the treatment of due diligence reports. Following a high court ruling in the Netherlands, understanding the substantive differences despite the superficial similarities is more crucial than ever before. In the case of *BVR v Ho-Cla*, the seller successfully argued that the purchaser had to submit the financial due diligence report prepared by its financial advisor to the court and the vendor. This case, along with a number of other lower court rulings, have the potential to redefine what constitutes knowledge in Dutch M&A.

In the Netherlands, as elsewhere, contractual warranties have often been used to limit or qualify how the knowledge of the purchaser is defined. If the buyer knew a problem existed, and it accepted the problem by going ahead with the transaction, it could not make a claim against the vendor relating to such problem. Conversely, the degree to which the vendor has to bear the economic risk attached to a problem is spelled out in the contract with the use of indemnities. Indemnities protect the buyer by identifying specific business risks that the seller agrees to cover the cost, should the need arise.

As well as indemnities, the buyer can also rely on warranties if it wishes to make a claim against the vendor. Although the Dutch Civil Code offers buyers remedies if purchased goods do not conform to reasonable expectations, the relevant clauses of the civil code are often excluded from the contract.

### Limits based on knowledge

The buyer's right to claim is often qualified or limited by what he knows about the potential risks. Under Dutch law, knowledge is considered to be both what you actually know, and also what you are deemed to know.

The role of the data room is central in helping to define deemed knowledge. If a certain issue is disclosed in a data room – even if the buyer has no actual knowledge of this issue – it is still deemed to have that knowledge. And in any event, assuming the seller also knows the content of the data room, both parties are more or less on the same footing with the same level of knowledge. The data room generally contains all relevant information regarding the target company and its business.

However, in the Netherlands deemed knowledge can go even further. While on the one hand a seller has an obligation to disclose relevant information, on the other hand a purchaser has the obligation to investigate the target company.

This means the purchaser has to review the information offered to it, but it also has to do something with this information. It has an obligation to investigate any reference to a potential problem that is in any data room document. Also, it has a similar obligation to check public records.

Parties sometimes reduce the buyer's obligation to investigate every reference by agreeing to limit the buyer's deemed knowledge to that which it is deemed to have obtained from the face of the data room documents, or *prima facie*.

On the other hand, if a purchaser takes its investigatory duty seriously, it could even end up knowing more than the vendor about the condition of the company, and about the risks that could lie ahead. Some buyers use this advantage to later make a claim against the seller.

### Deemed knowledge

If a buyer later sues the seller for damage caused by a preexisting condition, the seller's first line of defence will be to say the buyer knew of the potential problem, or was deemed to have known it.

How does a vendor prove a purchaser had certain knowledge, or was deemed to have such knowledge? It does so firstly by referring to information in the public domain, the data room and the disclosure letter, if any. But how does it prove *actual* knowledge – especially if this goes further than the data room documents?

The answer may lie in the *BVR v Ho-Cla* case, in which the vendor won the right to review the buyer's due diligence reports. This case also echoes some lower court case decisions in which vendors have been successful in claiming the right to see the financial due diligence report.

This right is derived from a principle of Dutch legal proceedings introduced in 2002, which says that in a court case the court can decide – upon the request of one of the parties – that the other party has to submit certain information to the court and to the requesting party, if the conditions set by law are met. So, in certain

circumstances, the vendor can obtain the purchaser's financial due diligence report.

### Fair play?

It is likely – although by no means certain – that the same will apply for tax and legal due diligence reports. This may prove to be more subtle, as it is not clear whether the courts will make a distinction between facts and advice in the reports. It is likely that the factual part of the report will have to be disclosed in legal proceedings, but it remains unclear what will happen with the part of the report containing advice, and/or what will happen if no division can be made.

This is an interesting development, especially because the right for the Dutch tax authorities to get a copy of the due diligence report has been halted by the Dutch Supreme Court. That court did not uphold the right because it considered it to be in conflict with the principle of fair play that tax authorities have to adhere to.

It will be interesting to see how arbitrators will deal with this issue in the event that the contract is not subject to the jurisdiction of the Dutch courts but of arbitrators. Arbitrators have to adhere to their own rules of proceeding, which are not necessarily similar to the ones the Dutch courts have to adhere to.

Of course, the larger question remains – that is, whether disclosing the purchaser's due diligence reports in the transaction documentation will become more common, and how the advisors of both buyer and seller will be forced to change their actions if it should become standard practice.

## Banking

### Recommended firms

#### Tier 1

Allen & Overy  
Clifford Chance  
De Brauw Blackstone Westbroek

#### Tier 2

Freshfields Bruckhaus Deringer  
Houthoff Buruma  
Linklaters  
Loyens & Loeff  
NautaDutilh  
Stibbe

#### Tier 3

Baker & McKenzie  
Lovells  
Norton Rose  
Simmons & Simmons

#### Tier 4

Boekel De Nerée  
Van Doorne

### Allen & Overy

It is widely known that Allen & Overy's Amsterdam operation has considerable strength in depth, and it is for this reason that the market has loudly agreed to the firm's retention of its tier one ranking this year. All peers agreed that Allen & Overy is "strong

in banking," some ever suggesting that it "clearly has the lead" in this area. At the top of the department's hierarchy sit the "really very smart" Bart Meesters and the "superb" Victor de Serière, who "can still cut it" despite being seen as taking up a "mostly advisory role" nowadays by the market. However, the consensus follows the opinion that this has excellent benefits for the firm, as de Serière in particular is "very good at educating younger lawyers."

There is no finer example of this in action than the rise of Femke Bierman. For a while, observers have been touting her as "a brilliant prospect for the future" and this year many persist with this tag. Indeed, Bierman worked with de Serière on the firm's representation of ING Bank and ABN Amro on a €500 million acquisition facility regarding the tender bid on shares in Hunter Douglas. However, many can see that Bierman is beginning to stand alone, and her work is causing ripples of respect in the market. In particular, Bierman is seen as an acquisition finance specialist, an area that has seen a definite increase of activity this year in the Netherlands, and she led advice to ING regarding the €126 million recapitalization of the Drie Mollen Group. In other acquisition financing highlights, Allen & Overy counselled ING, Rabobank and ABN Amro in a \$750 million bridge facility to Océ to cover its interest in Imagistics, and advised Bank of Scotland as lead arranger of €235 million-worth of senior and mezzanine acquisition facilities for the secondary buyout of IMCD by ABN Amro Capital.

Andrew Thomas is also highly regarded by market observers, and his workload has been most impressive this year. From high-profile refinancings for Kendrion and International Flavors & Fragrances to advising ING Bank, BNP Paribas, Fortis Bank and Nordea Bank Denmark in a €270 million loan to Pearle Europe, Thomas has been kept active over the past 12 months. One highlight saw him act for Draka Holding on a refinancing programme consisting of subordinate convertible bonds offering and a proposed €400 million syndicated credit facility.

However, Thomas's talents are not restricted to work in the Netherlands. His expertise was called on to lead Allen & Overy's advice to ING Bank on the refinancing of Mainz cable network operator PrimaCom. This highly publicized transaction saw the Dutch team refinance several hundred million euros-worth of debt before being completed by a €300 million senior credit facility, complete with €20 million overdraft facility, from ING Bank.

### Leading lawyers

Bart Meesters  
Victor de Serière

### Key contact partners

Femke Bierman  
Victor de Serière  
Andrew Thomas

### Clifford Chance

With a raft of comments such as "Clifford Chance is clearly a tier one firm" and "Clifford Chance is *the* banking firm" it is plain to see why the firm can again boast of a placing in the top bracket this year. Clifford Chance's banking department now consists of 10 partners and 46 associates. It is still headed by Jan ter Haar, however, it has been noted by observers that he takes a more managerial role nowadays. This does not affect the output from the team, though, as there are "more than enough talented individuals" offering a full range of banking services.

Bank lending is an excellent example of this. The "very, very good" Alistair McGillivray and the "efficient" Mark Huddleston are the lead partners in this area, and both have been particularly active in representing lenders. McGillivray is described as being

“good to have on the other side ... he works towards solutions and is good at compromising,” and competitors will have had plenty of experience of this over the past 12 months. In particular, ABN Amro has proved to be an excellent client this year. Over the year McGillivray represented the bank as arranger of €1.25 billion syndicated facilities for NIBC Bank, a €600 million syndicated loan for the Corio Group, and (alongside ING Bank, NIBC Bank and Rabobank), in the refinancing of €615 million credit facilities for the Hagemeyer Group. Meanwhile, Huddleston used his “good commercial and pragmatic approach” in acting for ING Bank as bookrunner for a €500 million loan to KLM, a €300 million loan to Royal Wegener and (along with ABN Amro) €380 million-worth of credit facilities to Endemol and its subsidiaries.

By no means is this the end of the talent in the banking department though. Partner Bas Boris Vasser is seen as “an all round excellent lawyer” who is “capable of finding the combination of the intellectual part and the practical part” in deals. This was seen in his advice to Rabobank as coordinating arranger regarding a €400 million revolving credit facility. In addition, Jelle Hoffland is described by the market as “a very hungry and ambitious go-getter”, while the more established Angela McEwan is noted as being “very measured and calm in handling transactions.” Indeed, McEwan played the lead in a number of acquisition financings this year, in a period where Clifford Chance reaped the rewards of increased activity. Highlights for McEwan included representing Rabobank in the €215 acquisition financing for the international business of Beaker Fencing by Gilde. She also advised the same client plus ING Bank regarding the provision of €700 million-worth of debt facilities for United Service Group to acquire the outstanding share capital of Solvus.

However, for the largest acquisition financings, Clifford Chance turned to its more senior partners. Huddleston advised ABN Amro on the €2.5 billion financing for the proposed acquisition of IMS Health by VNU, and McGillivray acted for ABN Amro and Goldman Sachs in relation to a €1.25 billion financing package for Numico’s acquisition of East Asiatic’s far eastern nutritional business.

#### Leading lawyers

Mark Huddleston  
Alistair McGillivray  
Bas Boris Visser

#### Key contact partners

Jan ter Haar  
Alistair McGillivray  
Bas Boris Visser

### De Brauw Blackstone Westbroek

De Brauw Blackstone Westbroek is known for having a “very broad practice” when it comes to banking work, and practice head Jan Marten van Dijk is credited with most of the praise from the market. He is “held in high regard based on the fact that he is a deal maker”, has a “great knowledge of the law” and is generally seen as a “fine lawyer.” These accolades spread to the department as a whole, which is viewed as “a very active practice” that produces “high quality work.”

The firm has a famously wide client base, and the regulatory arm of the banking department is no exception. Much of the work in this area is confidential, but its regular clients include international investment banks such as Goldman Sachs, Merrill Lynch, JP Morgan and Morgan Stanley and large Dutch corporate issuers such as Royal Dutch Shell, Unilever and Royal Ahold. It is little wonder that De Brauw’s clientèle is the envy of many rivals.

Asset and acquisition finance is also a speciality of the firm. In mid-2005, Berend Crans was hired by Tui Netherlands to help

set up a new airline called ArkeFly. This involved structuring the transaction to obtain all licences and entering into operating lease agreements for four Boeing aircraft. Continuing the flying theme, Crans also advised Cerberus on its €1.35 billion acquisition financing of shares in, and debt provided to, Debis AirFinance. Niek Biegman was also active in acquisition finance this year, especially with regard to work for JP Morgan. First, he advised the investment bank on a €2.427 billion financing for the acquisition of the Rexel Group. He then advised the same client on €250 million-worth of funding for the purchase of the Polaroid Group. Another notable deal saw Karin Schadee representing Océ on its \$750 million acquisition financing for Imagistics.

In other banking work, highlights included acting for NRE Network and NRE Holding on their €407 million senior facility agreement, and advising Helaba and Royal Bank of Scotland on their €120-€350 million secured credit line facility for the Euroind High Income Fund. In larger transactions, the firm counselled Bergson Holdings on its ABN Amro- and ING Bank-arranged €500 million credit facility, and represented the Corus Group on its €800 million secured multi-currency revolving credit facility.

#### Leading lawyers

Jan Marten van Dijk  
Francine Schlingmann

#### Key contact partner

Jan Marten van Dijk

### Freshfields Bruckhaus Deringer

Freshfields Bruckhaus Deringer’s banking and finance team has seen further growth this year, as four new associates were welcomed into the fold. This means that there are now three partners and 16 associates in the department, and proves that the firm is keen to improve its reputation in the Netherlands market. While it is capacity that is holding Freshfields in tier two for the time being, the department is undoubtedly developing quickly, and its growing team will be sure to prove its quality in the coming years. Its best known partners Jeroen Thijssen and Andrew Petry will be looking to lead Freshfields through this.

The firm’s largest deal this year epitomizes the market’s shift in focus over the past 12 months, in which Goldman Sachs hired Freshfields to advise it on the €1.77 billion senior and second lien financing of its acquisition of the Pirelli Cables and Systems Group. The firm continued this trend of acquisition financings by representing Hypo Real Estate International in its €513.5 million financing for Morgan Stanley Real Estate Fund’s acquisition of AM Development, and counselled Bayerische HypoVereinsbank on credit facilities totalling €353.7 million relating to the acquisition of Legoland by the Blackstone Group.

In other notable transactions, the firm represented ABN Amro on a €500 million multi-currency revolving credit facility for Vopak, acted for Queens’ Moat Houses on the €231.5 million refinancing of its Dutch and German hotel chains, and guided Rabobank International through a trade commodity financing for Global Foods.

Regulatory work, meanwhile, has seen Freshfields acting for the Dutch parliament on the effects of proposed energy legislation on cross-border lease financings.

#### Leading lawyers

Andrew Petry  
Jeroen Thijssen

#### Key contact partner

Jeroen Thijssen

## Houthoff Buruma

Since the previous edition of the *IFLR1000*, Houthoff Buruma's banking department has slimmed down a little after the loss of partner Alexander Harmsen to Linklaters and three associates. There are now four partners and 10 associates making up the team. However, respect for the firm has not deteriorated at all; one market commentator noted that "it has high integrity and high-level clients." This is confirmed by Houthoff Buruma's client list, which includes names such as the Telegraaf Media Groep, Thermphos International, Egeria, Cardano Structuring and IEF Capital. The firm is also held in high esteem for its staff. Under the strong leadership of Jessica Terpstra, individuals such as the well-respected Daphne Brinkhuis are allowed to flourish.

Indeed, Brinkhuis advised on two large transactions this year. First, in November 2005 she represented ING Bank, Standard Bank and Deutsche Bank in a €170 million export financing for Cubaniquel. Brinkhuis also impressed in her advice to Kazphosphate, Thermphos International and Thermphos Trading on a pre-export facility agreement. However, the most sizeable transactions have seen Terpstra take a hands-on role. In September 2005, for example, she counselled the Royal Bank of Scotland as primary lender of the €500 million financing of the leveraged buyout of the monochrome printing business and part of the management of the CPI Group by Electra and CVC. Along with Evelien Visser, Terpstra also represented the Sequa Corporation on a \$185 million refinancing and, most recently, counselled Fortress on the \$300 million acquisition financing for KSIN from Industri Kapital in the purchase of VSM Group Holding.

In another notable transaction, Aart Barkey Wolf counselled Macquarie Global Property Advisers on the acquisition of a portfolio of offices located across Europe from Sony for €121.1 million. A substantial part of this involved the negotiation of financing from Aareal Bank.

### Leading lawyers

Daphne Brinkhuis  
Jessica Terpstra

### Key contact partners

Daphne Brinkhuis  
Alexander Kaarls  
Jessica Terpstra

## Linklaters

The occasional commentator suggested that "the market expected a bigger splash from Linklaters," but this should not be allowed to undermine the work done by the firm's relatively small team of only seven lawyers. Indeed, other commentators called for a rise in the rankings for the firm to reflect the quality output it is capable of. The promotion has also been touted in recognition of the fact that "the firm has recruited aggressively and successfully" in recent years. Linklaters has backed up this opinion by promoting Martijn Koopal to head of the banking department. Koopal only joined the firm from DLA SchutGrosheide in June 2005, but he has obviously fitted into the working environment extremely well. By the firm's own admission, Richard Levy is now focussing primarily on capital markets work, but the "excellent" Pim Horsten is still available as a support partner for Koopal for banking matters.

Linklaters recently advised Citigroup Global Markets as co-lead arranger and joint bookrunner regarding the financing of the largest-ever public-to-private buyout in the Netherlands – the €7.5 billion acquisition of VNU by a consortium of private equity funds. Similarly, the firm represented Credit Suisse and

Merrill Lynch regarding a €1.85 billion senior credit facility and a €850 million and \$300 million interim facility for Nell AF Sarl in its leveraged acquisition of Basell and Basell Finance. In further acquisition finance work, Linklaters acted for Rabobank in connection with €900 million-worth of term and revolving credit facilities for Pan Fish to purchase Marine Harvest, and counselled ING in its €330 million senior facilities and €60 million mezzanine facility for the leveraged buyout of Polyconcept Group by Investcorp.

Other banking transactions saw the firm advise ABN Amro, ING and Friesland in the refinancing of a €74.8 million senior credit facility for JVH Holding, and act for BNP Paribas, Bank of America, Barclays Capital and HSBC in their \$5 billion letter of credit and revolving facility for Aegon.

### Key contact partners

Pim Horsten  
Martijn Koopal

## Loyens & Loeff

Market recommendation has prompted Loyens & Loeff's promotion in the *IFLR1000* rankings this year. The general opinion is that the firm is "seen regularly" and "should definitely move up" due to the quality that it possesses with regard to banking matters. "Loyens & Loeff has been more impressive" over the past 12 months, and one competitor described it as having "a solid banking practice, particularly at the smaller end of the market."

Judging by the transactions the firm has been involved in recently, this is somewhat underselling Loyens & Loeff. In November 2005, Gianluca Kreuze and Mariette van 't Westeinde advised NIBC Bank and ING Real Estate as mandated arrangers of the €1 billion financing of the Vendex KBB real estate portfolio when it was acquired by a consortium that included Bouwfonds Asset Management. Indeed, it is for such deals that Westeinde is perceived as "a very good lawyer, especially by clients."

However, head of banking Willem Jarigsmas also keeps his hand in the large deals. March 2006 saw him, with the assistance of Kees Hooft, advise KKR, CVC and ONG in the €1.4 billion financing for their acquisition of AVR, the largest Dutch waste treatment operator. Other notable pieces of work saw the firm advise ABN Amro Capital in the financing of its acquisition of Bols and counsel Arcadis in a complete rethinking of its corporate financing in April 2006.

The four partners and 18 associates of the banking department also offer regulatory advice and regular clients include ING Bank, Commerzbank, Fortis Bank, NIBC Bank and ABN Amro.

### Leading lawyers

Willem Jarigsmas  
Mariette van 't Westeinde

### Key contact partners

Willem Jarigsmas  
Kitty Lieveerse  
Mariette van 't Westeinde

## NautaDutilh

The seven partners and 20 associates in the banking department of NautaDutilh just miss out on a tier one placing in the rankings this year, due to market opinion that despite being "undoubtedly a great firm", it just falls behind the tier one firms in terms of consistent presence on transactions. That said, all agree that if there was a separate regulatory ranking, NautaDutilh

would be top tier due to its “excellent quality.” The firm’s activities in December 2005 proved its strong abilities in this arena. It advised the Dutch Bankers Association on the applicability of IFRS with respect to Dutch cash pooling arrangements, restructured the mortgage investments funds of Achmea Vastgoed, and set up Euroclear Nederland’s closed account structure. In addition, NautaDutilh regularly advises ING Bank on its derivatives business, among other matters.

Self evidently, the firm’s regulatory work is of the highest quality and it is here that the “very knowledgeable and very academic” Pim Rank excels, as peers can see that “he knows the intricacies of the law”. However, Rank is seen as “more of a professor... not a deal maker.” He is ably supported by Marc Blom, who one peer described as “a brilliant lawyer when active, but is mostly advisory due to being managing partner.” However, the market has noticed a rising star at NautaDutilh. Arjan Pors is “seen on a number of deals” and his performances are described as “improving steadily”. The firm will be hoping that the likes of Pors will help to lead its banking department in the coming years.

More importantly, NautaDutilh has kept its hand in some high-end banking work. Its most valuable instruction of the past year saw it act for BNP Paribas as part of a bank syndicate that loaned €2.4 billion to Hertz in December 2005. In the same month, the firm advised Pearle Europe in €270 million-worth of credit facilities from ING Bank. This was closely followed by NautaDutilh’s representation of Deutsche Bank on the refinancing of the Amsterdam World Fashion Centre.

The firm has also been active in on the acquisition finance front. Thijs Lommen played a leading role in advising Goldman Sachs on the €530 million financing of its Euramax Group acquisition, and in counselling SSM Coal with respect to the financing of a management buyout by RWE Trading. However, the most impressive transaction saw the firm represent ING Bank and Fortis Bank in January 2006 on the €755 million financing for the acquisition of the Koninklijke BAM Groep. NautaDutilh also advised ING Bank and ING Real Estate Finance in the subsequent €450 million refinancing of the new purchase in March 2006.

It must also be noted that the firm has a first-rate banking litigation department. In particular, observers highlight the skills of the “excellent” Daan Lunsingh Scheurleer.

#### Leading lawyers

Marc Blom  
Thijs Lommen  
Pim Rank  
Daan Lunsingh Scheurleer

#### Key contact partners

Kleis Broekhuizen  
Thijs Lommen  
Pim Rank

#### Stibbe

Jaap Willeumier leads Stibbe’s four-partner, nine-associate banking operation, and he remains as active in transactions as ever. The market respects this hands-on approach, and is also impressed by the firm’s ability to call upon excellent lawyers such as Allard Metzelaar for “abstract, high level” structured transactions. However, it is Willeumier who is present on a more day-to-day basis in a department that is well equipped to offer advice on leveraged finance, syndicated lending and acquisition finance in equal measures.

For example, over the past 12 months, Willeumier has advised Laurus on the refinancing of its €580 credit facility, counselled Talpa Media Holding on a €123 million credit agreement from

ING Bank, Rabobank and Fortis Bank, and represented the Sumitomo Mitsui Banking Corporation regarding a €37 million borrowing base facility granted to Salmander Energy. The latter two of these deals were jointly handled with new associate Amir Ahmad, who joined Stibbe in August 2005 from Baker & McKenzie. Ahmad also formed part of the team that advised Affiliated Computer Services (with Paul Quist) in connection with a \$1.8 billion credit agreement with certain lenders including Citicorp. In other notable syndicated loan transactions, Stibbe represented Kantoren Fonds Nederland on a €200 million revolving credit financing, Hagemeyer on a €615 million senior secured credit facility and Otto Industries Europe on a €225 million term and revolving facilities agreement with Fortis Bank.

The firm extended its impressive deal portfolio further after advising the lenders on a €3.8 billion senior credit facility for the acquisition of Kappa Holding and the refinancing of existing debt by the Jefferson Smurfit Group. November 2005 saw it advise Citigroup in relation to a €126 million acquisition of a real estate portfolio, and represent Goldman Sachs as lead arranger to the £4.2 million financing of the public bid by the Singapore Port Authority for P&O in January 2006. Both of these deals were headed by Gerhardt Vels, who is gaining somewhat of a reputation for quality in acquisition financings.

Stibbe also has a healthy financial services and regulatory arm. Over the course of the year it has been hired by American Express to advise on Dutch compliance matters, Merrill Lynch for guidance on the creation of a Dutch branch, and Cyrte for advice on the creation and launch of a new investment fund. Other clients include Barclays Global Investors, FCE Bank, Bank Insinger de Beaufort, ING Bank, ABN Amro and Fortis Bank.

#### Leading lawyer

Jaap Willeumier

#### Key contact partners

Maarten de Bruin  
Allard Metzelaar  
Jaap Willeumier

#### Other notable firms

Baker & McKenzie’s banking team is headed by Boris van Beek and is made up of seven partners and 10 associates. The market reports that the firm has “lost some important finance guys,” such as Amir Ahmad’s departure to Stibbe. However, van Beek will be hoping that the three new associates he has taken on recently will step up to help extend the firm’s influence in the market. The department has proved that it is still more than capable of holding its own, though. For example, its regulatory arm helped DaimlerChrysler untangle a joint venture to produce compact cars with Mitsubishi Motors. Most impressively, it also represented PrimaCom regarding the refinancing and settlement of its senior and second secured debt in excess of €1 billion. This was done through the sale of Multikabel and the borrowing of €280 million-worth of senior debt and €69 million in senior secured notes.

Baker & McKenzie is joined in tier three by Norton Rose. There are three partners and 12 associates in the firm’s solid banking department that can attract clients such as Calyon, ABN Amro, BBVA, Finansbank, AIG and ING Direct. This year it has advised HSBC in a €210 million multicurrency revolving credit facility and a €60 million uncommitted global facility to a major beverage distributor. It has also represented the Royal Bank of Scotland on a £55 million credit facility and advised Turkcell on

the €525 million refinancing of its investment in GSM networks in Ukraine. In acquisition finance, meanwhile, Norton Rose was hired by Gilde on a €220 million combined facility to finance an acquisition in food industry, and by Fortis for the financing of a multi-jurisdiction purchase.

**Simmons & Simmons** also remains in tier three this year. The banking department's highlight this year came in the latter part of 2005, when partner Loet Venrooy advised Basell on the €1.85 billion senior financing of its acquisition by Nell. Other deals saw the firm advise Macquarie Bank on the €500 million acquisition financing for 49% of NRE Network, and counsel BNP Paribas on the €750 refinancing of the Trader Group. In other news, March 2006 saw the firm announce the opening of an Amsterdam office by the end of the year. Simmons & Simmons will be hoping that this decision will help the firm establish itself even more firmly in the Dutch market.

In tier four, **Boekel de Nerée** is still endeavouring to shed its tag as a real estate firm, and its deal roster over the past year suggests that it is heading in the right direction in this regard. Angelique Thiële heads the bank lending operations at the firm, while Hans Sachse is in charge of financial services and regulatory work. In November 2005, Boekel de Nerée scored somewhat of a coup by attaining the services of Jan Broekhuizen, a senior associate from NautaDutilh. Broekhuizen is well practiced in financial regulatory matters and will be looking to bolster the firm's growing reputation in this area. Indeed, January 2006 saw Boekel de Nerée win a public tender to become the preferred counsel to the Dutch Financial Markets Authority in this area. This respectable institution can join a client list that includes JP Morgan Securities, Eurohypo, HSH Nordbank, NIBC, ABN Amro and Bouwfonds Property Finance. In other banking work, the two-partner, eight-associate team represented Evans Rendall and HSH Nordbank in the €220 million refinancing of ING's Dutch headquarters at Haagse Poort, and worked on a \$375 million global loan facility for Bausch & Lomb. It has also proved its credentials in acquisition finance by counselling Industrial Securities in a €440 million pan-European facility for the financing of a property portfolio in June 2006, and at the time of writing was advising Citco in \$523 million credit and payment-in-kind acquisition facilities from UBS.

**Van Doorne** has been primarily focussing on acquisition finance this year, and the results are paying off. This year's highlight has definitely been the firm's role advising Barclays Capital, Merrill Lynch and Morgan Stanley on the €9 billion financing of the acquisition of Innovene from BP by the Ineos Group. Van Doorne has also been involved in acquisition financings for AVR, SBS Broadcasting and the YBR Group to the value of €1.4 billion, €2.1 billion and €1.375 respectively.

## Capital markets

### Recommended firms

#### Tier 1

Allen & Overy  
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Linklaters  
NautaDutilh  
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#### Tier 3

Freshfields Bruckhaus Deringer  
Lovells  
Loyens & Loeff  
Simmons & Simmons

#### Tier 4

Baker & McKenzie  
Boekel de Nerée  
Greenberg Traurig  
Houthoff Buruma

### Allen & Overy

"Allen & Overy is the top dog for capital markets in the Netherlands." Clearly market competitors have noticed that the firm has had another outstanding year in the capital markets arena, and this is why it has kept its top-tier placing. Allen & Overy has notoriously been seen as stronger in equity markets rather than debt markets in the Netherlands, but the firm is keen to shed itself of this tired notion. It would be fairer to say that it is getting closer to the fifty-fifty split that it desires.

The firm certainly has the players to achieve this goal in the coming years. Head of department Niels van de Vijver is described as "excellent" and "a leading lawyer due to his market presence and the sheer size of his practice." Annelies van der Pauw is also recognized for her strong work, and the "very smart" Tim Stevens is seen as "simply a very good lawyer." Overall, Allen & Overy is incredibly well-respected by peers, one of whom heralded the firm's "good combination of remaining very independent in the Dutch market with having the deal power from the UK when necessary".

Commentators have noticed that equity work has picked up as a result of the introduction of the EU Prospective Directive, and after a strong second half to 2005 it is predicted that "the trend will continue." Allen & Overy had the honour of being involved in one of the first post-Directive book-built equity transactions in the Netherlands when it advised USG People on its €345 million offering of new shares and subordinated convertible bonds. The firm also represented Royal Numico, the listed Dutch manufacturer of infant food products, on a €550 million accelerated book-built equity offer. Other equity transactions saw Allen & Overy counsel Buhrmann on a rights issue of €250 million, represent Van Lanschot Bankiers on a €140 million issue, and act for Draka on a €100 million convertible bond issue and tender offer. But the highlight of the year was when Stevens and Johan Kleyn acted as underwriter's counsel in connection with the SNS Reaal IPO, which was the first retail offer-

ing since World Online and which raised €1.3 billion from floating a 30% shareholding in May 2006.

In debt work, Allen & Overy proved its worth on a multitude of transactions. It advised Rabobank on Van Lanschot Bankier's issue of €150 million perpetual capital securities, counselled Citigroup on ING Group's issue of €500 million ING capital securities, adapted three MTN programmes to comply with the EU Prospective Directive, and updated Aegon's \$6 billion debt issuance programme. Most impressive of all was the firm's victory in an ABN Amro beauty parade, which meant that Niels van de Vijver teamed up with Roger Wedderburn-Day from the firm's London office to adapt all of the bank's euro MTN programmes to the new requirements of the EU Prospectus Directive.

Victor de Serière, Gerard Kastelein and Frankfurt partner Matthew Howard handled Allen & Overy's largest securitization mandate this year. They acted as transaction counsel and local counsel to ABN Amro in the SovRisc \$25 billion MTN programme that was backed up by export credit agency loans originated by the client. Another standout deal from the past 12 months saw the firm represent GMac RFC Nederland and E-Mac NL 2005-III on an €894.5 million residential mortgage-backed securities (RMBS) multi-servicer and multi-originator deal. Allen & Overy also acted as transaction counsel for ING Bank on the €747 million securitization of loans granted by DFM, a Volkswagen subsidiary, to dealers. The loans were secured by lease contracts and by the related vehicles.

#### Leading lawyers

Tim Stevens  
Annelies van der Pauw  
Niels van de Vijver

#### Key contact partners

Tim Stevens  
Annelies van der Pauw  
Niels van de Vijver

#### Clifford Chance

Clifford Chance has a highly respected 20-lawyer capital markets practice that has comfortably retained its position in the top tier of the rankings. Indeed, it was the strength of the department that went a long way towards securing Clifford Chance the *IFLR* Dutch law firm of the year title in March 2006.

The market is especially receptive to the work of two individuals at the Amsterdam office. Firstly, Tineke Kothe is seen as a lawyer who can "combine the knowledgeable part of her game with dealmaking skills." However, most of the praise is reserved for the "very competent" Frank Graaf. He is described as "one of the sharpest in the market," and one peer went as far to say that he is "the leading capital markets lawyer in the Netherlands."

The firm has played to its strengths by continuing to focus its efforts on debt and structured finance work this year – an approach that has once again served it extremely well. For example, in the past year it worked on the first-ever Dutch structured covered bond programme to come to the market. In this transaction, Kothe and Kees Westerman acted for ABN Amro in the structuring and execution of the €25 billion triple A-rated programme that was backed by residential mortgage loans. In a related transaction, the same pair advised the same client as arranger of an issue of €2 billion covered bonds due 2013 under the programme. Another highlight came in late 2005 when the firm represented ABN Amro and Credit Suisse in relation to the Smile 2005 synthetic issue, which consisted of €4.280 billion class A1, €2 billion class A2, €135 million class B, €100 million class C, €100 million class D and €100 million class E asset-backed credit-linked notes due 2015.

Clifford Chance's work in securitization continues to prosper. Without doubt, the year's highlight was advising ABN Amro as originator, CDS swap counterparty, arranger and sole lead manager on the largest synthetic RMBS of the decade. The €22 billion synthetic securitization used the bank's residential mortgage portfolio in the Netherlands as its reference portfolio for credit defaults. The firm also represented Moscow Narodny Bank and Greenwich Financial Services in the first true-sale securitization in Russia. Graaf teamed up with tax layer Frank de Vos to lead the team in this securitization of an auto-loan portfolio originated by Soyuz, a Russian bank.

Graaf also remains the firm's figurehead in the booming collateralized debt and loan obligations (CDO/CLO) market. This year has seen Clifford Chance work on CDO and CLO transactions in Russia. Graaf teamed up with tax layer Frank de Vos to lead the team in this securitization of an auto-loan portfolio originated by Soyuz, a Russian bank.

As previously noted, the firm "is not doing as much equity work". Nonetheless, Thijs Alexander has dipped the firm's toe into the equity waters a couple of times this year. First, he counselled Deutsche Bank and Rabo Securities as joint global coordinators and bookrunners of a €150 million convertible bond issue by Getronics. Alexander then represented ING Wholesale Bank and Rabo Securities on USG People's €200 million share issue and a €100 million convertible bond issue, both of which were listed on Euronext Amsterdam.

#### Leading lawyers

Frank Graaf  
Tineke Kothe

#### Key contact partner

Frank Graaf

#### De Brauw Blackstone Westbroek

Due to persistent calls from the market, De Brauw Blackstone Westbroek has been promoted to tier one this year. Seemingly, the whispers in recent years that suggested the firm had been slipping in capital markets have been silenced. "De Brauw should be tier one due to the knowledge and experience it has," said one client, another highlighted "the expertise at the firm," and a third noted that it is "always strong for issuers." However, despite such lavish praise for the domestic powerhouse, most of the compliments received were aimed at the team's individuals, and most notably Sjoerd Eisma and Jan Marten van Dijk, who are considered "the standout [capital markets] lawyers at De Brauw." Indeed, one client enthused that "Eisma can do almost anything ... he is a brilliant lawyer." In addition, the "bright and experienced" Francine Schlingmann is described as "a top notch figure," and Dirk Meerburg is seen as "very knowledgeable and good to work with." Jan Willem Hoevers and Joost Schutte were also regularly mentioned in a favourable light by competitors.

In the past 12 months, De Brauw has again proved its ability across all areas of capital markets work. After impressive work for Goldman Sachs and Lehman Brothers on the TomTom IPO last year, the firm once again provided excellent advice to the pairing in November 2005. Francine Schlingmann represented them (and Morgan Stanley and Fortis Bank) as underwriters on the €537 million IPO of TeleAtlas. 2005 also saw Dirk Meerburg act for Rabobank in relation to its €1 billion offering of Rabobank membership certificates.

Other impressive mandates have included the firm's role advising KPN on setting up its innovative second trading line and on its €1 billion share buyback structure from ABN Amro, Eisma's representation of Royal Dutch Shell and Royal Dutch

Petroleum on a proposed internal restructuring and innovative cash-out legal merger, and its advice to the Dutch state on its €900 million secondary offering of common shares in TNT. In addition, De Brauw worked for Royal Dutch Shell and Shell International Finance on its \$10 billion US SEC shelf registration of various equity and debt securities.

Most recently, De Brauw has been working on intended IPOs for Luchthaven Schipol, SNS Reaal and Akzo Nobel (with regard to Organon, its pharmaceutical business unit). Also, Niek Biegan handled Funcom's IPO on the Oslo Stock Exchange, and Joost Schutte advised STMicroelectronics on issues of \$974 million convertible and €500 million stand-alone bonds.

#### Leading lawyers

Sjoerd Eisma  
Jan Willem Hoevers  
Dirk Meerburg  
Francine Schlingmann  
Joost Schutte

#### Key contact partners

Jan Marten van Dijk  
Jan Willem Hoevers

#### Linklaters

After last year's entry into the *IFLR1000* capital markets rankings, Linklaters will be happy to see that it has kept its tier two status. This is mainly down to the "good team of Richard Levy and Pim Horsten." Both of these partners head the department, which houses a further six associates. Naturally, this seems a rather small group in comparison to those of its rivals, but the market appreciates that "Linklaters is picking up" and admits that the firm "is often seen on the other side."

From among the team, Levy is seen as "fully dedicated to the practice," and the "excellent" Horsten comes across as "an experienced capital markets lawyer with a good reputation." The firm's ranking is given further weight by its "well-established links with banks" that help attract work.

Indeed, as reported last year, the firm structured ING Bank's €40 billion global issuance programme in compliance with the EU Prospectus Directive. Pim Horsten also led an Amsterdam team (in cooperation with London colleagues) in advising Rabobank, and other lead managers, on its €60 billion global MTN programme. The firm also provided Dutch financial regulatory and capital markets advice to KKR Private Equity Investors in relation to its groundbreaking global offering of \$5 billion-worth of common units.

In other notable equity work, Linklaters picked up a bank-side instruction when it advised Merrill Lynch International as global coordinator and lead bookrunner, ABN Amro Rothschild and Credit Suisse First Boston (Europe) as joint bookrunners and Banco Bilbao Vizcaya Argentaria, ING Bank, Lehman Brothers and Mediobanca as co-lead managers in relation to the €281.3 million IPO of Endemol. In addition, rising star Wim Hazeleger led the firm's representation of Eurocastle Investment in its delisting from the London Stock Exchange, listing on Euronext Amsterdam and subsequent €500 million share placement.

#### Leading lawyers

Pim Horsten  
Richard Levy

#### Key contact partners

Pim Horsten  
Richard Levy

#### NautaDutilh

Despite wobbles in other areas, NautaDutilh's medium-sized capital markets division is the ray of light for the firm this year.

Several interviewees maintained that the firm "definitely deserves a higher placing" and NautaDutilh has benefited from such opinion – this year it is promoted to the second tier for capital markets. In particular, market observers were impressed with the firm's advice to Endemol in its IPO in November 2005. From the team that acted on this transaction, Jan Paul Franx was highlighted for his leading role. In further equity work, NautaDutilh has been kept busy by plum roles on a slew of deals. Most notably, in November 2005 the firm gave advice to UBS Investment Bank and Alfa Capital Markets regarding the €250 million IPO of Amtel-Vredestein on the London Stock Exchange.

NautaDutilh has participated in some equally impressive work on the debt side. In January 2006 it acted for Nederlandse Waterschapsbank on its €1 billion debt issuance programme. Just before this, the firm advised on Kazkommerts Finance 2's KKB Tier I issue of \$100 million perpetual notes. In other work, NautaDutilh's "Tier I regulatory department" updated Bank Nederlandse Gemeenten's €70 billion debt issuance programme, and represented Rabobank in the revision of van Landschot's €5 billion debt issuance programme.

NautaDutilh also continues to get its fair share of mandates in the securitization arena. Among the highlights, it represented ABN Amro in the bank's innovative €25 billion covered bond programme, and Michaëla Ulrici and Harmen van den Hondel advised Credit Suisse and DBV in a €1.6 billion residential mortgage-backed deal by Holland Homes Oranje.

#### Leading lawyers

Jan Paul Franx  
Willem Ruys  
Michaëla Ulrici  
Petra Zijp

#### Key contact partners

Willem Ruys  
Walter Schellekens  
Petra Zijp

#### Stibbe

Stibbe has been "seen a lot recently" and is "very well established" in the capital markets scene, which is why it has secured a second tier placing again this year. The consensus in the market is that Stibbe now has a solid, well-placed capital markets operation that "could rival those that sit above it in the coming years". This is especially the case in equity capital markets, where the well-regarded Diana van Everdingen mostly focuses her practice. Peers describe van Everdingen as "correctly the leading lawyer at Stibbe."

On the equity and equity-linked sides, the firm was particularly busy in the second half of 2005. In August 2005 it advised ABN Amro Rothschild and other syndicate members on the €150 million equity and debt offerings by Draka. This was followed in November by its counselling of digital mapping company TeleAtlas on its €466 million listing and offering on Euronext Amsterdam, its representation of Goldman Sachs and ABN Amro on the €550 offering by Royal Numico, and its role acting for Kempen & Co on the €39 million accelerated book-build offering by Nieuwe Steen Investments. However, it was in December 2005 that van Everdingen operated in the highlight of the year, spearheading the firm's advice to the Dutch state on the €1.4 billion sale of an 8% stake in Koninklijke KPN.

Jaap Willeumier has kept Stibbe active in the debt markets too, and took the lead on all of the firm's major transactions this year. In the summer of 2005 he represented British American Tobacco Holding on its substitution (in place of BAT

International Finance) as issuer of a series 1 DM1 billion issue. This was followed in May 2006 by Willeumier's advice to the same client (and its parent company) on the update of its \$12.5 billion EMTN programme. Another high point saw Stibbe act for Peugeot Finance International on a €14 billion debt issuance programme, guaranteed by Banque PSA Finance.

Stibbe has also kept a steady flow of work in securitizations. For example, over the course of the year it counselled JM Huber on the securitization of trade receivables and advised Invista on the securitization of a number of its assets across Europe. Most impressively though, July 2005 saw the firm represent Vesteda Woningen on its €1.4 billion securitization of a portfolio of residential property, subsequent €400 million tap issue, and complete refinancing of its securitization transactions.

#### Leading lawyers

Diana van Everdingen  
Jaap Willeumier

#### Key contact partners

Diana van Everdingen  
Heleen Kersten  
Jaap Willeumier

### Freshfields Bruckhaus Deringer

Jeroen Thijssen and Richard Norbruis head the capital markets team at Freshfields' Dutch office. In total, there are seven partners and 12 associates in the department, but it is Pieter van Weltzen who is most recognized in the market. Observers say that he is "creating a name for himself" in an arena where Freshfields has not been as established as other international outfits in the Netherlands. This is proof that the firm's solid operation is gaining respect from those that deal with it, and it will be interesting to see if this will be used as a stepping stone to better things over the coming year.

As was the case last year, Freshfields has been most active in securitization work, which plays to the strengths of its global structured finance capabilities. Two transactions especially stood out. First, the firm counselled JP Morgan and Dresdner Bank as joint-lead managers of a €1.53 billion residential mortgage-backed securitization by SNS Bank through Holland Mortgage Backed Series. It also represented Deutsche Bank as the lead manager of a €1.3 billion issue by Vesteda Residential Funding II, that was secured by a Vesteda Woningen-owned residential property portfolio, and a bank syndicate comprising ABN Amro, Lehman Brothers, JP Morgan, Morgan Stanley, Bank of America, ING Bank and Rabobank selected the firm to advise it on a number of tax and regulatory arbitrage structured finance transactions.

Although a degree of market perception ran contrary to this, Freshfields has seen a return to equity work. For example, it advised Citigroup, Goldman Sachs International and Morgan Stanley as joint global coordinators and bookrunners for the \$5 billion IPO of KKR Private Equity Investors, which consisted of a global private placement and a listing of common units of KKR at Euronext Amsterdam. In addition, the firm acted for EM.TV Finance on the issue and listing of 15 million convertible notes on the Frankfurt Stock Exchange, and counselled Morgan Stanley on the relisting of Eurocastle Investment on Euronext Amsterdam.

#### Leading lawyer

Pieter van Weltzen

#### Key contact partners

Richard Norbruis  
Jeroen Thijssen  
Pieter van Weltzen

### Loyens & Loeff

Loyens & Loeff has followed up its inaugural entry into the capital markets rankings 12 months ago by retaining its position in tier three this year. The firm still struggles to match the international capabilities of other firms, however, it still boasts a strong team of lawyers that wins its fair share of mandates. Competitors are appreciative of this, and have noticed that Loyens & Loeff is still "trying hard" to make more of an impression.

In particular, Mariëtte van't Westeinde continues to lead the securitization and structured finance practice, and has had considerable success over the last year. From counselling Citigroup and Lehman Brothers in Uni-Invest's €1 billion commercial mortgage-backed securitization (CMBS) to advising Obvion on Storm 2005's €1.79 billion RMBS transaction, the firm has certainly been kept busy. This was especially the case in October 2005, when it guided NIBC Bank and NHG through Sound I's €2.25 billion RMBS.

In debt capital markets, Kitty Lieveise has kept the transactions ticking over. In July 2005 she acted for Pacific Life Funding on the update and approval of a base prospectus for an €8 billion debt issuance programme. This was followed at the turn of 2006 by the update of a €10 billion MTN programme for Dexia Funding. At a similar time, Lieveise handled Excelcomindo Finance's \$250 million issue of guaranteed notes.

Things have not been quite as busy on the equity side, with only the listing of MEI-Roemenië en Bulgarije Fonds and the participation by Paul Capital in the Pharming Group in February 2006 to mention. However, on the whole Loyens & Loeff has had another tidy year in capital markets, and will be looking to use the experience as a solid foundation on which to build a reputation over the coming 12 months.

#### Leading lawyer

Mariëtte van't Westeinde

#### Key contact partners

Hendrik van Druten  
Mariëtte van't Westeinde

### Simmons & Simmons

Simmons & Simmons has consolidated its position in the third tier for capital markets this year due to its visibility on a number of key transactions. Although the capacity of the firm does not match that of the top-tier firms, it is certainly strong. Harm van Berkum still heads the department, and he is, in the words of one peer, "very hands-on in his approach to transactions". Indeed, he has taken the reins on most of Simmons & Simmons' high-value instructions this year. Van Berkum also has a good reputation for advice on regulatory issues, and is a member of the Dutch Association for Securities Law. However, he is not the only recognised figure at the office – Bastiaan Siemers is a senior associate who is gaining credibility in his specialist areas of securities and financial services.

Much of Simmons & Simmons' work is of a confidential status, but there is one deal in particular that can be, and deserves to be, mentioned. In December 2005 the firm represented Barclays Bank on a synthetic securitization of a pool of SME loans with a value of €5 billion. Among the other highlights, van Berkum led advice to a major international bank as arranger and dealer of various private managed synthetic collateralized debt obligations throughout 2005, which were issued out of the bank's Dutch issuers.

Other capital markets clients of the firm include BBVA, Deutsche Bank, Eurocommercial Properties, Lehman Brothers and WestLB.

#### Leading lawyer

Harm van Berkum

#### Key contact partner

Harm van Berkum

#### Other notable firms

**Baker & McKenzie** has kept its hand in the capital markets this year, acting for Astarta Holding in connection with its IPO on the Warsaw stock exchange, and it looks as though Baker & McKenzie is looking to move into more areas over the next 12 months. In a perceived statement of intent, shortly before the *IFLR1000* went to press the firm announced that leading securitization and CDO specialist Philippe Steffens would be joining the firm from Clifford Chance in September 2006.

**Houthoff Buruma** has had another good year that sees it knocking on the door of tier three in capital markets. In August 2005, it advised Nell Bidco on the issue of \$615 million senior notes and €500 million senior notes in connection with the acquisition of Basell. More recently, the firm acted as Dutch counsel to Nanette Real Estate in its successful £10 million flotation on London's Alternative Investment Market.

### Insolvency and restructuring

#### Recommended firms

##### Tier 1

De Brauw Blackstone Westbroek  
Houthoff Buruma

##### Tier 2

AKD Prinsen Van Wijmen  
Allen & Overy  
Clifford Chance  
NautaDutilh  
Simmons & Simmons  
Stibbe

##### Tier 3

Loyens & Loeff  
Wijn & Stael

##### Tier 4

Baker & McKenzie  
CMS Derks Star Busmann  
Holland Van Gijzen  
Lovells  
Pels Rijcken & Droogleever Fortuijn  
Van Benthem & Keulen

##### Tier 5

DLA SchutGrosheide  
Van Doorne

#### De Brauw Blackstone Westbroek

The overwhelming consensus of interviewees "fully agrees with De Brauw Blackstone Westbroek being in tier one." This is primarily because the firm has an "absolutely excellent" insolvency and restructuring practice that is almost unrivalled in the Netherlands. Contrary to some reports that the operation is

downsizing, there are still two partners and 10 associates focusing their attentions in the insolvency and restructuring area. Naturally, the firm will have been disappointed to lose the services of Ilan Spinath last year, who is making an impact at his new firm Loyens & Loeff, but it seems De Brauw has successfully backfilled his position. More importantly, the department still houses two of the biggest names in the market. First, head of the team Sijmen de Ranitz is seen as "the most recognised insolvency and restructuring practitioner in the Netherlands," and observers rave about his "fairly unique balance of being a great lawyer and a great negotiator." The other well-respected lawyer is Jako van Hees, and comments received this year noted that "his technical knowledge is unrivalled", one peer claiming that he has "the strongest legal mind" he knows of.

Typically, De Brauw prefers to operate an advisory service rather than acting as a liquidator or bankruptcy trustee. This has remained the case, as the firm has continued its long-term advice on mandates that have run over into this year. For example, De Brauw has maintained its work as court-appointed counsel on miscellaneous issues relating to the worldwide Enron restructuring, and is advising the UK administrators of MG Rover Group in respect of a Dutch subsidiary.

However, the firm has also picked up some work in some new areas over the past 12 months. Most notably, it represented Philips in the multi-jurisdictional insolvency of LG.Philips Displays. The client was a 50% stakeholder in this failed joint venture, and De Brauw advised on pre-insolvency restructuring plans. However, insolvency was unavoidable, and De Brauw undertook an overview of risk in reviewing which steps Philips should take at a global level.

In other work, De Brauw remains trustee of Energy XS, and has advised one of the major pension funds in the Netherlands in relation to the restructuring of one of its investment vehicles.

#### Leading lawyers

Jako van Hees  
Sijmen de Ranitz

#### Key contact partner

Sijmen de Ranitz

#### Houthoff Buruma

Houthoff Buruma rounds off a domestic clean sweep in tier one for insolvency and restructuring in the Netherlands. It is clearly in this arena that the firm commands the most respect and enjoys the most success, although it does hold a solid presence in other areas of financial law. Despite market opinion that the firm mostly practices on the pure insolvency side of the equation, there is little doubt that the firm is a sure-fire tier one firm. The firm's success in the area is due largely to one individual, as one peer pointed out: "the firm is definitely tier one and Rutger Schimmelpenninck is the reason." Other commentators agreed, noting that "Houthoff Buruma has a leader in Schimmelpenninck" and that "courts love appointing him as trustee for bankruptcy cases."

This year has been another busy one for the practice, and Schimmelpenninck has been active on two fronts. First, along with Christiaan Zijdeveld, he remained involved in the €80 million bankruptcy of Zurich stock exchange-listed Jomed. These proceedings have seen bankruptcy and complex litigation work in 15 countries spill over into this year. Most importantly, the market heralded Schimmelpenninck's appointment as one of two trustees in the €160 million Van der Hoop Bankiers bankruptcy, the first Dutch commercial bank to fail in 20 years.

Despite the focus being on Schimmelpenninck, the market is not blind to the achievements of others in the four-partner, 12-associate department. Among the other practitioners, Eddie Meijer is “always seen” and Marcel Windt is “becoming more known” as he is “trying to make a name for himself.” Indeed, the pair led the firm’s actions as trustees in the bankruptcy of KPNQwest. This company was listed in the top 25 on Euronext and had a deficit of over €2.2 billion. Meijer and Windt also remain the Dutch counsel key contacts to Dr Bondi – the receiver of the Parmalat Group.

In other notable work, Wind and Bert Verburg act as counsel to Deloitte in its capacity as administrator of the Eurodis Group, in one of the first true cross-border EIR cases in the Netherlands.

#### Leading lawyer

Rutger Schimmelpenninck

#### Key contact partners

Eddie Meijer  
Rutger Schimmelpenninck  
Marcel Windt

### AKD Prinsen Van Wijmen

AKD Prinsen Van Wijmen is another domestic firm whose forté seems to be in insolvency and restructuring work. Like Houthoff Buruma, AKD Prinsen works in all areas of corporate and financial work, but it is here that it performs best. This adds further weight to the suggestion that local firms, rather than their international counterparts, continue to be the top choices for advice when Dutch companies run into trouble.

Some interviewees perceive the firm’s multiple offices as a way to “mop up work at the regional level” rather than choosing to focus on big-ticket work. However, the consensus sees this as a positive; in the words of one client, “AKD Prinsen supplies broad insolvency coverage across the Netherlands” and therefore “definitely deserves tier-two status.” Georg van Daal heads a nine-partner and 16 associate team that is dedicated to insolvency and restructuring and has been present in some tricky work this year. The department also plays host to the highly recommended Barend de Roy van Zuidewijn.

Most recently, Anthony Terng led the firm’s advice to the Dutch Ministry of Finance in connection with the bankruptcies of KG Holding and Kliq Reïntegratie. These companies originated from the privatization of the Employment Bureau in 2000 that cost the state €500 million. AKD Prinsen was also hired by the Van Asselt Group to advise on acute restructuring proceedings and heated but successful litigation against Fiat. Van Asselt was the largest Dutch retailer for Fiat, Alfa Romeo and Lancia and AKD Prinsen succeeded to ensure the survival of the real estate department, although the car sales business did enter bankruptcy proceedings.

In another notable piece of work, van Daal represented the Bruil Group on its acquisition of the concrete and precast concrete elements production business from the bankrupt estate of the Van Oudenallen Group.

#### Leading lawyer

Barend de Roy van Zuidewijn

#### Key contact partners

Georg van Daal  
Barend de Roy van Zuidewijn

### Allen & Overy

“Allen & Overy are hard to rank... you just do not meet them day-to-day.” While Allen & Overy would probably be the first to admit that its insolvency and restructuring practice does not

quite have the same gloss as its fantastic finance work or its brilliant M&A mandates, the firm still houses a great team of three partners and eight associates who can draw from other specialties to provide excellent service. The majority of the market recognises this, and agrees that tier two is the correct placing for Allen & Overy. This is especially the case considering the department is run by the well-respected Rob Abenroth, who is described as “a jack of all trades” – a useful card to have in any hand.

Traditionally, the firm has faced criticism for focusing too much on the restructuring side of the equation, but purists tend to look to insolvency matters as an indicator of quality. This year, the arguments are quelled by Abenroth’s advice on two separate occasions. In the first, he counselled the Dutch liquidators of Daf on intra-group recourse issues. In the second, he represented the consortium of lenders (including ABN Amro, NIBC Bank, Rabobank and others) on the realization of collateral security in the high-profile bankruptcy of Van der Hoop.

Naturally though, due to Allen & Overy’s high-calibre finance work, it has been involved in more restructurings this year. Unfortunately, a lot of the work is of a confidential nature, however, of the deals that can be reported, three stand out. First, the firm advised ABN Amro and Rabobank on \$100 million-worth of term and revolving facilities for members of the Inve Group to refinance certain debts. This refinancing and restructuring transaction was provided on a full secured basis across multiple jurisdictions. The firm also represented the same clients (with the addition of ING Bank) on the debt restructuring of Laurus, the Dutch retail company.

Finally, Andrew Thomas must be congratulated on his actions for ING Bank in the refinancing and restructuring of PrimaCom, the German cable network operator. After refinancing several hundred million euros-worth of debt, the deal included the repayment of two facilities valued at €462 million and €375 million. In part, this was made possible by ING Bank’s €300 million senior credit facility, which included a €20 million overdraft facility.

#### Leading lawyer

Rob Abenroth

#### Key contact partner

Rob Abenroth

### Clifford Chance

Clifford Chance suffers from the same problem that faces its rival Allen & Overy. It is a firm that is “without doubt top of the league in banking” but faces criticism from some corners of the insolvency and restructuring market for not focusing on it enough. However, the fact remains that the six-partner, 14-associate team at Clifford Chance attracts corporates such as Singulus Technologies, Scotts Company and Cinven, and a range of banks including Barclays, HSBC, Citigroup, Bank of America, ABN Amro and Deutsche Bank. This is chiefly because the department marries the financial know-how of respected individuals like Alistair McGillivray, Jan ter Haar and Bas Boris Visser with litigation and dispute resolution specialists such as Duco Oranje and Jeroen Ouwehand. Clients are particularly receptive to this balance of skills.

On the restructuring side, Clifford Chance was kept busy on a number of fronts over the past 12 months. For example, it acted for Aircraft Financing and Trading on a corporate and financial restructuring of the AFT Group, and represented ING Bank in relation to the financial restructuring of the Bodycare Group. In

addition, Bas Boris Visser headed the firm's advice to a consortium of banks in connection with the post-LG.Philips insolvency and restructuring. In this work, Visser had to liaise closely with colleagues in London and in Hong Kong.

In more insolvency-weighted advice, Duco Oranje has been representing Citibank in potentially precedent-setting proceedings relating to the bankruptcy of Ceteco. Meanwhile, Kees Westermann has been counselling Rabobank regarding the acquisition of Van der Hoop's credit portfolio from the now-defunct bank's liquidators. Finally, the Amsterdam office has been working closely with Clifford Chance operations in London and Moscow in representing a Société Générale-led syndicate of banks in the high-profile recovery of \$500 million-worth of Yukos Oil debt. This has been executed by the liquidation of attachment on shares in a Dutch subsidiary, Yukos Finance, which is the indirect owner of Mazeikiu Nafta, Lithuania's largest company.

#### Key contact partners

Alistair McGillivray  
Duco Oranje  
Jeroen Ouwehand

#### NautaDutilh

The insolvency and restructuring department at NautaDutilh has not been immune to the firm's recent loss of lawyers. In Autumn 2005, Joost Vrancken Peeters left the firm to join a competitor and the market made note of this. The general feeling is that the two partners and six associates that are left are not focusing on insolvency and restructuring as much as in previous years. In particular, Robert van Galen is seen as "turning to banking more."

However, peers do still regard van Galen as "very good" at insolvency and restructuring work, and note that "what he does, he does well." In addition, the firm has been active in a number of cases over the last 12 months. It has continued to assist the Dutch subsidiaries in the restructuring of the TXU Corporation, and has represented the Yukos Oil Company and its Dutch subsidiaries in €1.8 billion cross-border reorganization proceedings with the Yukos Group. Another highlight saw NautaDutilh advise the Dutch Central Bank in the insolvency proceedings of Van der Hoop Bankiers.

Other clients of the firm include Promethean Investments, Emis, Regus and Qwest. In addition, NautaDutilh is often called upon by ABN Amro Bank to advise on various issues regarding its clients that are in financial difficulties.

#### Leading lawyers

Robert van Galen  
Dick van der Stelt

#### Key contact partners

Robert van Galen  
Dick van der Stelt

#### Simmons & Simmons

There was little doubt among peers and clients that Simmons & Simmons fully deserves to keep its tier-two status in the insolvency and restructuring rankings this year. Competitors and clients agree that the firm offers an excellent service across a range of subjects in the arena.

For example, over the past 12 months the firm has advised major creditors in bankruptcy proceedings and acted in a range of corporate restructurings, recovered bonds and rescued loans. Unfortunately, Simmons & Simmons operates a strictly confidential policy regarding the work it does for its clients, but the

deal list provided to the *IFLR1000* details impressive work for high-profile corporates and banks on a domestic and international level.

The main reason for the department's success is its head, Gerhard Gispen, who has taken the lead for the firm on every matter listed. His ubiquitous presence has been detected by the market, with many observers highlighting his key role in Simmons & Simmons' fortunes in this area. However, there is also praise for Olaf Trojan, who is seen as an "excellent" rising star.

#### Leading lawyer

Gerhard Gispen

#### Key contact partner

Gerhard Gispen

#### Stibbe

Stibbe's four-partner, 10-associate insolvency and restructuring team is studded with high-achieving performers that command great respect from the market. The "quality" Toni van Hees is perceived as "the top man," while Marius Josephus Jitta "pops up in major deals." Although Jitta "is more of a corporate guy", clients note him as being "excellent at insolvency and restructuring" because he has "a good commercial brain" and "you can strike deals with him." Commentators also underline the "great resolve" of Karen Harmsen. She is applauded for her ability to work as liquidator, advisor and trustee when required, but more importantly, she is "keen to learn, and passes help onto younger partners."

This year's highlight came at the end of 2005, when Stibbe acted for Van de Hoop Bankiers. The Dutch bank was declared bankrupt, and the firm handled the subsequent proceedings on its behalf. Stibbe followed this work by opening advice to the LG.Philips Displays Group regarding its restructuring. The joint venture of Philips and LG had run into financial difficulties due to a combination of market-driven factors as a result of the successful introduction of LCD monitors by rivals.

Finally, in June 2005 van Hees and Harmsen were hired to act on the long-term Van den Berg bankruptcy. This highly publicized case involved an individual with a debt of around €127 million.

#### Leading lawyers

Karen Harmsen  
Toni van Hees  
Marius Josephus Jitta

#### Key contact partners

Karen Harmsen  
Toni van Hees  
Marius Josephus Jitta

#### Loyens & Loeff

Loyens & Loeff has been promoted to tier three this year due to unanimous market opinion that it is "one for the future." Despite being comprised of only one partner and four associates, competitors note that "it has become quite a department in only one year." Principally, this is down to the head of the operation, the "excellent" former De Brauw lawyer Ilan Spinath. He is described as "an up-and-coming player" who "is doing very well" and who is "exceptional in dealing with matters entrusted to him".

Highlights this year have seen the firm advise the second secured lenders in PrimaCom's €515 million sale of Multikabel, and represent the administrators and the Dutch Collins & Aikman companies in the group's €120 million pan-European restructuring. Spinath also led a team that acted for Rabobank in the €30 million bankruptcy of Eurodis, and another team that

advised shareholders and trustees in the €30 million bankruptcy of Dutch airline, Holland Exel.

Loyens & Loeff has the makings of a fantastic insolvency and restructuring department, and it will be interesting to see how Spinath develops the practice over the coming year.

#### Leading lawyer

Ilan Spinath

#### Key contact partner

Ilan Spinath

#### Other notable firms

The “small, but very good” **Wijn & Stael** completes the pair of firms in tier three. The firm’s ranking is mainly because the market holds the “very active and successful” Willem Jan van Anandel in such high regard. He is described as “a pitbull in the good sense of the word ... if he thinks he has a point he will not let go. He advises, litigates and acts as a trustee, which adds value to the firm’s presence on the market.”

**Baker & McKenzie** has a small insolvency and restructuring operation that has nonetheless been involved in two notable cases this year. First, in May 2006 the firm advised the US liquidator of Renaissance Cruises with regard to overseas assets. Baker & McKenzie also had a hand in the PrimaCom restructuring, advising the client in relation to its refinancing and settlement of over €1 billion-worth of debt through the sale of Multikabel as well as through loans of €280 million-worth senior debt and €69 million-worth of senior secured notes. Other clients have included Productschap Tuinbouw, Stealce, Scientific Atlanta and Embrear.

Market sources believe that **Holland Van Gijzen** deserves to be congratulated due to the “good reputation” of Louis Deterink, one of its long-serving partners. In particular, one observer applauded Deterink’s appointment as trustee on the LG.Philips Displays Group restructuring.

## Mergers and acquisitions

### Recommended firms

#### Tier 1

Allen & Overy

De Brauw Blackstone Westbroek

#### Tier 2

Clifford Chance

Freshfields Bruckhaus Deringer

NautaDutilh

Stibbe

#### Tier 3

Houthoff Buruma

Loyens & Loeff

Simmons & Simmons

#### Tier 4

AKD Prinsen Van Wijmen

Baker & McKenzie

Greenberg Traurig

Linklaters

Lovells

#### Tier 5

DLA SchutGrosheide

Van Doorne

### Allen & Overy

The Dutch M&A market is extremely strong at the moment, and it is interesting to see that big clients, especially from the US, are looking to it for due diligence work. The emphasis seems to be on listed companies, and the top law firms in the Netherlands predict a rise in activity in the coming months. Due to Allen & Overy’s fantastic track record in recent years, it is more than likely that such clients will make the firm’s Amsterdam office one their first ports of call. Even competitors have to admit that Allen & Overy “has a great M&A practice.” After another year at the top of its game, the department is described as “very strong” by commentators, who can see that “it is well represented in corporate and private equity work.”

The M&A department consists of almost 90 lawyers and is co-headed by the “powerful” Jan Louis Burggraaf and capital markets expert Annelies van der Pauw. There is particular praise for Burggraaf from peers, who herald his “strong reputation”, his ability to be “typically present on large transactions” and his moniker as “one of the most active M&A lawyers in the Netherlands.” There are whispers that he is less hands-on now, although the fact remains that the firm retains a healthy deal flow that is maintained by a wealth of talent. From the rest of the team, Maarten Muller is considered “a renowned name” in the market, peers continue to “hear good things about Tim Stevens,” and Karin Kodde is described as “a very bright, practical and fast lawyer.”

It is reasonable to expect that Allen & Overy receives a lot of referral work from the London office. This was seen in August 2005 when the two departments teamed up to advise Shell Chemicals in relation to the €4.4 billion sale of its joint venture with BASF, Dutch polyolefins manufacturer Basell, to Nell Acquisition. However, it to suggest that such referrals are the only

source of work for the Dutch M&A practice would be jumping the gun. The firm's reputation among domestic corporates, and the sheer amount of quality work handled by the firm, put pay to such a suggestion.

October 2005 saw the the firm advise one of Europe's largest media groups, SBS Broadcasting, on the \$2.5 billion acquisition of its business by Permira and Kohlberg Kravis Roberts & Co. It also represented the client on its subsequent delisting from Euronext Amsterdam. In the same month, Burggraaf was involved in the counselling of Tele2 on its public bid for all ordinary shares and convertible notes of Versatel for €1.34 billion, an innovative deal that required the team to implement a novel legal method to delist Versatel even though the Dutch threshold for a squeeze-out (95%) had not been reached. Allen & Overy was then hired by the Swedish telecommunications operator to sell the German activities of Versatel to private equity house Apax for €565 million.

Burggraaf also teamed up with van der Pauw and Gerbrand Visser to advise Royal Numico on the €1.2 billion acquisition of EAC Nutrition by means of controlled auction in November 2005. This baby food business purchase completed the firm's work on three major deals in quick succession, proving that there is more than sufficient capacity and strength in depth at Allen & Overy to deal with such hectic schedules.

Market observers have noticed that Kodde is "becoming increasingly prominent" in her own deals, exemplified by her leading role in two transactions over the past 12 months. First, she advised Mecom on its €200 million acquisition of 100% of the share capital of Media Groep Limburg. Kodde then represented 3i on all aspects of the €461 million sale of its interest in Refresco Holding to a consortium of Icelandic companies.

Most recently, in August 2006, Allen & Overy was busy advising ABN Amro on its proposed divestiture of Bouwfonds to SNS Reaal and Rabobank. At €1.7 billion, this stands to be one of the Netherlands' largest-ever real estate deals.

#### Leading lawyers

Jan Louis Burggraaf  
Karin Kodde  
Maarten Muller  
Tim Stevens

#### Key contact partners

Jan Louis Burggraaf  
Annelies van der Pauw

### De Brauw Blackstone Westbroek

The consensus of those connected to M&A activities in the Netherlands is that De Brauw Blackstone Westbroek is "correctly ranked" in *IFLR1000's* top tier. 2005 saw the firm retain its position at the top of *Mergermarket's* league table of the legal advisors on large M&A transactions in the Netherlands. With 57 deals valued at over €5 million, the firm beat last year's total by seven, and 2006 looks to be following in the same vein. The half-year tables had been announced shortly before going to press, and De Brauw was leading the Benelux region with 20 transactions totalling €57 billion.

The firm's domestic reputation is second-to-none, with "a very strong corporate client base" that gives it an equally "strong foothold" in the marketplace. This is backed up by a talented team that is headed by Lodewijk Hijmans van den Bergh. In particular, corporate advisor Sjoerd Eisma is considered "outstanding" by peers and Jan Willem de Boer is described as "a dedicated M&A lawyer" who is "practical, fast and difficult to deal with as he stands firm for his client's interests." Special mention should

be reserved for Arne Grimme, whose experience splits opinion in the market. Some see him as "a very promising rising star" who is "already taking responsibility for serious deals", while others perceive him as more established and "a dealmaker." Either way, Grimme is an asset to the firm, and all agree that "he is a bright lawyer."

Grimme's talents were evident on his spearheading several of the firm's more juicy instructions over the past 12 months. From advising KKR on its consortium bid (with ONG and CVC) of €1.4 billion for AVR to representing Royal BAM on its €1.25 billion acquisition of AM Group, Grimme has been present frequently at the top-end of the market. Unfortunately, November 2005 saw a hat-trick of impressive deals cruelly denied, when VNU decided to withdraw its €5.8 billion public offer for IMS Health.

Elsewhere, the firm completed its counsel to Stichting Pensioenfonds on its €2.1 billion divestment of NIB Capital to New NIB Partners and NIB Capital, represented Equant's special committee on a €1.23 billion offer by France Télécom, and advised Eureko/Achmea and Rabobank Netherlands on their merger of Achmea and Interpolis. The latter of these transactions may be the first step to a complete merger between the two leading Dutch financial institutions involved.

Finally, as part of the €148.9 billion restructuring for Royal Dutch Shell, Eisma led a team that acted on the acquisition of the remaining minority shareholder's stake (1.5%) in Royal Dutch Petroleum for €1.5 billion without having to get into squeeze-out proceedings.

#### Leading lawyers

Jan Willem de Boer  
Arne Grimme  
Martin van Olffen  
Bernhard Roelvink

### Clifford Chance

It is suggested by some that Clifford Chance's M&A operation is hidden by the achievements of the firm's brilliant reputation for finance work. However, the firm continues to land roles on a wide range of large transactions, and threatens to step out of the shadows of its finance practice. Market pundits have noticed this, and especially reserve praise for two of the firm's corporate lawyers. The head of the department, Joachim Fleury, is congratulated for his "excellent leadership," and Thijs Alexander is applauded for being "very technical" in his work. However, the M&A talent at Clifford Chance is not restricted to this pairing; partners Hector de Beaufort and Charles Eijssbouts are "extremely experienced" and well-respected in field.

Despite occasional market rumblings that the firm is over-dependant on referrals from the London office, the fact remains that the 43-strong team wins a lot of its own work and participates at the big-ticket end of the scale. For example, Clifford Chance represented Møller-Maersk in relation to the recommended public offer for the entire ordinary share capital in Royal P&O Nedlloyd for €2.3 billion. Similarly, August 2005 saw the firm advise a JG Flowers-led consortium in its €1.8 billion bid for all the outstanding shares in NIBCapital. In March 2006, Alexander and Fleury led the department in a particularly large private equity deal, counselled the consortium owners of Valcon (Alpinvest Partners, the Blackstone Group, the Carlyle Group, Hellman & Friedman, Kohlberg Kravis Roberts and Thomas H

Lee Partners) in the €7.5 billion offer for VNU, a leading global information and media company.

Over the past 12 months Clifford Chance also advised Dutch property group AM on the Royal Bam Group's €952 million public offer for the entire issued ordinary share capital of AM, acted for Vendex KBB in the sale of its property portfolio through a controlled auction, and represented ING Corporate Investments Participles on the €190 million acquisition of Sky Radio by News International's Telegraaf Media Groep consortium. And in July 2005, de Beaufort advised the supervisory board of Versatel Telecom in relation to Tele2's €1.34 billion public bid for all of the company's outstanding ordinary shares and convertible notes.

#### Leading lawyers

Thijs Alexander  
Hector de Beaufort  
Charles Eijbsbouts

#### Key contact partner

Hector de Beaufort

### Freshfields Bruckhaus Deringer

It is well reported that the corporate department of Freshfields Bruckhaus Deringer is not as large as that of its top-end competitors. However, the firm is proving that it is what you do with what you have that counts. Indeed, two Freshfields partners, Jan Willem van der Staay and Richard Norbruis, recently found themselves in a list that looks at Dutch domestic transaction flow, appearing in the top five Dutch lawyers in an *Overfusies* report that measures deal volume. More importantly, the department now stands at 30 lawyers in total – a 20% increase on last year. This is further proof that the firm is determined to make its presence felt.

Freshfields' Amsterdam office houses some respected names. The aforementioned Norbruis "really makes an impact on the market" according to peers, van der Staay is seen as "a specialist in deals with a litigious angle," and Steven Perrick is described as "very knowledgeable, clever and trustworthy." In addition, the firm will be hoping that the election of Shawn der Kinderen to partner level in May 2006 produces another star practitioner akin to Robert ten Have, whom it recruited from NautaDutilh last year.

In M&A work, commentators have noticed that Freshfields has been involved in some "interesting deals" over the past year. For example, it advised General Motors regarding the divestment of its shareholding in Fiat, as well as with regard to the termination of a Dutch joint venture holding joint production operations. As part of the arrangement, General Motors paid €1.55 billion to Fiat. The firm also represented the ING Group on the combined divestment/investment arrangements with its joint venture partner, GE Commercial Finance, in the factoring group NMB-Heller. This involved ING selling its 50% stake in NMB-Heller (Germany) while simultaneously acquiring GE's 50% stake in NMB-Heller (Netherlands). In other notable transactions, Freshfields counselled Talpa Media regarding the subscription by Rabobank for a 20% interest in the client.

On the private equity side, meanwhile, the highlight this year was the firm's role advising Permira and KKR on their joint €2.1 billion acquisition of SBS Broadcasting through an asset transaction. Close behind this was the representation of CVC Capital Partners and Cinven as joint 80% shareholders of Kappa Packaging in the merger with the Jefferson Smurfit Group. Freshfields also advised Industri Kapital on its acquisition of

Wehkamp from Gus for €390 million, as well as landing roles on a number of other similar transactions.

#### Leading lawyers

Richard Norbruis  
Steven Perrick  
Robert ten Have

#### Key contact partner

Jan Willem van der Staay

### NautaDutilh

NautaDutilh holds onto its tier two ranking this year despite mixed opinion of the firm from interviewees stemming from the departure of three key partners. Chris Fonteijn left the firm at the end of 2005 to become the chairman of the Dutch telecom regulator, and in May 2006 Freek Jonkhart moved over to Loyens & Loeff. Most importantly, however, former NautaDutilh corporate star Peter Goes defected to Linklaters in October 2005. Despite these setbacks, the department's 14 partners and 20 associates are still confidently led by Robert van Galen and Bert Fibbe, and have welcomed senior associate Christiaan de Brauw from De Brauw Blackstone Westbroek.

Despite these personnel setbacks, NautaDutilh has kept up its tradition of handling some high-profile, high-value transactions, thus maintaining its ranking. The largest of these came in July 2005, when the firm advised the Dutch state in the €2.78 billion acquisition of the 50% shareholding in Gasunie that it did not already hold from Shell and Exxon Mobil. The following month, NautaDutilh represented Royal P&O Nedlloyd in Møller-Maersk's recommended ex-dividend cash offer of €2.3 billion for the client's outstanding capital.

In other transactions, the firm handled the €2.1 billion auction sale of NIB Capital by ABP and PGGM, advised Telfort Beheer in its sale to KPN for €1.15 billion, and represented Axalto in relation to its €1.6 billion merger with Gem Plus. NautaDutilh was also hired by Intergen in Shell Gerating and Bechtel Enterprises Energy's sale of the company for \$1.75 billion.

The firm continues to house a wealth of respected talent, such as Hein Hooghoudt and Erik Hammerstein, and is nurturing young talent, such as Leo Groothuis. It will be interesting to chart the firm's progress over the coming year.

#### Leading lawyer

Hein Hooghoudt

#### Key contact partners

Erik Hammerstein  
Hein Hooghoudt  
Jeroen Preller

### Stibbe

The past year has been a period of consolidation and stability for Stibbe. There have been no exits or arrivals, and as a result the department is still made up of 14 partners and 22 associates. Charles Honée remains the head of the M&A group and Heleen Kersten runs the corporate group. According to the market, "Stibbe has always been a very strong firm," and its recent performance lives up to this reputation. The firm's reputation is chiefly down to the "quality individuals" that make up the team. In particular, Marius Josephus Jitta and Fons Leijten are described as having "quite a market reputation." The work of younger associates does not go unnoticed by commentators either; the "bright, dedicated and sympathetic" Mathijs van den Broek has "had leading roles in high-profile transactions." Such strength in depth certainly bodes well for the future.

The second half of 2005 proved to be an extremely profitable period for Stibbe. In July 2005 it advised Versatel on the €1.34 billion takeover bid by Tele2, and September 2005 saw it represent the Safra Group on the \$1.345 billion sale of its stake in Cellcom to Discount Investment. In the same month, the firm completed its counselling of the Jefferson Smurfit Group with regard to its merger with Kappa Packaging.

This frenetic end to the year was rounded off by Stibbe's advice to SES Global on the \$1.16 billion acquisition of New Skies Satellites, and Diana van Everdingen's handling of the Dutch state's €1.4 billion sale of 8% of its stake in Royal KPN to ABN Amro. The latter of these deals was completed alongside Herbert Smith – with whom Stibbe shares an alliance – and proves how successful referral work can be for the firm. Stibbe is also allied to German firm Gleiss Lutz.

The turn of 2006 provided little relief for the firm. In January 2006 it represented Fortune Brands on the conclusion of the £2.6 billion Allied Domecq acquisition. Kersten quickly followed this by advising Laurus on its intended sale of Edah and Konmar Superstores in February. Most recently, Allard Metzelaar and Honée were called upon by the target on the €580 million public offer by De Lage Landen International for Athlon Holding, and in April 2006, Björn van der Klip represented Applus Servicios on its €193 acquisition of Röntgen Technische Dienst.

#### Leading lawyers

Marius Josephus Jitta  
Fons Leijten  
Allard Metzelaar

#### Key contact partners

Charles Honée  
Marius Josephus Jitta  
Heleen Kersten

### Houthoff Buruma

The nine partners and 33 associates that comprise Houthoff Buruma's M&A department have developed a reputation for being sturdy in mid-market transactions. This is once again the case this year, and the firm maintains a healthy combination of attracting private equity and public M&A mandates. Jan van der Horst is the head of the department, but it is the well-respected Eddie Meijer that gets the most praise from the market. The majority of those interviewed indicated that he is "the leading M&A lawyer" at the firm, and most agree that his work remains at an impressively high level.

At the mid-market level that Houthoff is renowned for, the firm has excelled yet again. In September 2005 it advised Bidvest in connection with the €140 million acquisition of DeliXL from Ahold. Soon after this, it represented Wehkamp on Industri Kapital's €326 million management buyout of Wehkamp and Transafair from Gus, and counselled Ad van Geloven/Egeria Capital on the acquisition of snack producer Mora. This success rolled over into 2006, where April saw Houthoff act for TMG on the €200 sale of Media Groep Limburg, Grafisch Bedrijf Media Groep Limburg and Uitgeversmaatschappij De Trompetter to private equity house the Mecom Group.

However, market opinion that Houthoff is purely a mid-market operator is not doing the firm justice, as it has picked up roles on big-ticket work too. Three deals in particular stood out over the past year. First, it advised one of the shareholders in Telesystem International Wireless on the €4.4 billion sale to Vodafone. It was also hired by Discount Investment Corp on its acquisition of 70% of Cellcom Israel's share capital from BellSouth and the Saafra Group for \$1.3 billion. And finally, Houthoff represented

Telecom Italia on matters of Dutch law on the sale of its controlling stake in TIM Hellas Telecommunications for \$1.1 billion.

#### Leading lawyer

Eddie Meijer

#### Key contact partners

Jan van der Horst  
Eddie Meijer  
Michiel Wesseling

### Loyens & Loeff

According to one commentator, "Loyens & Loeff is a reputable firm and should be in tier three." Thankfully for the firm, the rest of the market agreed with this opinion, so tier three is where the *IFLR1000* places Loyens & Loeff this year. This promotion is not only because of peer judgement though; the 41-strong M&A team has been involved in some important transactions over the past 12 months, and has "a good deal flow." It has also been noted by many that head of department Niek Zaman has pulled off something of a coup by luring Freek Jonkhart as a partner from NautaDutilh. Zaman will hope for Jonkhart to strengthen an already developed department that houses respected names, such as Herman Kaemingk, who peers state is "particularly active in private equity" and "a nice guy to work with."

In July 2005, Loyens & Loeff advised Apax Partners on the acquisition by Tele2 and Apax of Versatel Telecom International, a Dutch telecommunications company which is publicly traded on Euronext Amsterdam. The deal was valued at €1.34 billion and included Apax's subsequent of Versatel's German operations from Tele2 for €565 million. Another large transaction saw the firm represent an international consortium led by CVC Capital Partners and Kohlberg Kravis Roberts in buying Afvalverwerking Rijnmond (AVR) for an enterprise value of €1.4 billion.

The firm has also been active in mid market deals. In March 2006, it counselled ABN Amro Capital on the €210 million buy out of a selection of key liqueurs and spirits from Rémy Cointreau. Loyens & Loeff followed this by advising the same client in the divestment of RTD by controlled auction for €193 million in April 2006.

#### Leading lawyer

Herman Kaemingk

#### Key contact partners

Herman Kaemingk  
Ewout Stumphius  
Philip van Verschuer  
Bas Vletter

### Simmons & Simmons

Simmons & Simmons has definitely benefited from the reignition of the Dutch M&A market this year. The firm has enjoyed a lot of private equity work, and the past 12 months have seen it act for national and international buyers and sellers in a wide range of transactions with a total value of over €3 billion. It is for these reasons that the majority opinion of the market was to push Simmons & Simmons into tier three. Peers have also noticed that the firm has been "looking for corporate partners, which indicates growth." The firm will be hoping that this leads to a larger share of the Netherlands' M&A activity. The fact that the M&A department will be moving to the firm's new Amsterdam office in 2006 will go a long way towards achieving this goal.

The largest transaction Simmons & Simmons handled in the past year was the €1.4 billion sale of AVR. Willem de Nijs Bik advised AVR and the Municipality of Rotterdam in the purchase by CVC, KKR and Oranje Nassau. De Nijs Bik was also the

lynchpin in the firm's representation of Rabo Private Equity when it acquired a 20% stake in John de Mol's Talpa Media.

Other highlights saw Leo Verhoeff counsel KKR in the \$180 million sale of industrial paper business to Mondi Packaging, and Jean-Pierre van Leeuwe represent Lyreco in the acquisition of the office supply and reprographics activities of Royal Ahrend. Finally, at the time of writing Frank Roos and Roel Veugelers were advising Procter & Gamble in the multi-billion cross-border integration of the Gillette organizations.

#### Key contact partner

Jean-Pierre van Leeuwe

#### Other notable firms

AKD Prinsen Van Wijmen's M&A department has seen a fair amount of change over the past 12 months. Kris Ruijters now heads the operation, and there are now 29 partners and 26 associates dedicated to M&A across the firm's offices. This continues year-on-year growth for AKD Prinsen, which remains renowned for its focus on domestic work but which also picks up work on cross-border matters. This year, for example, the firm advised Burg Industries in relation to its €110 million joint venture with China International Marine Containers, represented Springer Science and Business Media in their acquisition of Axioma Communicatie, and counselled Samskip on its takeover of Geest North Sea Line. Finally, Ruijters led advice to Retail Network in its €140 million disposal of retail chain Scapino to Euronext listed company Macintosh.

Fellow tier three firm Baker & McKenzie has also seen some changes in the ranks this year, following Ruth Brands' departure and the arrival of three associates. Mike Jansen heads the department that over the past 12 months has advised Germanos as joint seller (with the European Bank for Reconstruction and Development) in the \$200 million sale of Silkway Holding, represented Xantic in relation to its €191 million acquisition by Statos Global, and acted for SHV in its €80 million investment in a 23.3% stake in Econcern. Other notable deals saw the firm counsel the Body Shop in the €3 million buyback of its Benelux head franchisee, and represent Sony Computer Entertainment Europe in the acquisition of game development studio Guerilla.

"Linklaters are new on the market... they need a few years to develop." This seems to be the general market opinion of Linklaters' M&A department, although the hiring of Peter Goes from NautaDutilh in November 2005 has speeded up the firm's arrival on the scene. At the moment, the market places the two-partner, 20-associate firm in tier four, but is aware of Linklaters' potential to compete in the coming years. Understandably, it is obvious that the firm is doing "a lot of referral work at the moment," but it has been successful in picking up roles on large domestic deals too. Over the past year, two instructions stand above the rest. First, Linklaters advised Morgan Stanley as deal manager of Tele2's €1.34 billion cash offer for Versatel Telecom, and secondly the firm represented the Telegraph Media Group and SPV Sienna Holding on the €190 million acquisition of Sky Radio.

Van Doorne was also present on the Silkway Holding deal, advising Vimpel Communications as purchaser of all of Silkway's shares. In 2006, Van Doorne has been kept busy with mandates on three notable deals. It advised the Toeca Fashion Groep in the €120 million public offer for all of the McGrigor Fashion

Group's shares, represented Whitney & Co, a US private equity house, in its €40 million acquisition of Power Plate, and acted for Grupo SOS in its €52 million takeover of Sara Lee's rice activities.

## Project finance

### Recommended firms

#### Tier 1

Allen & Overy  
De Brauw Blackstone Westbroek

#### Tier 2

Freshfields Bruckhaus Deringer  
Houthoff Buruma  
NautaDutilh  
Stibbe

#### Tier 3

Baker & McKenzie  
Clifford Chance  
Loyens & Loeff  
Pels Rijcken & Droogleever Fortuijn

#### Tier 4

Boekel de Nerée  
Norton Rose  
Simmons & Simmons  
Van Doorne

### Allen & Overy

"If they are available, Allen & Overy is the logical choice" in project finance according to one observer. Others agree, stating that the firm is "strong domestically" and that it has many talented lawyers working for it. The pick of the bunch is the "knowledgeable and intelligent Bart Meesters, who is seen as an "all rounder" with "very strong negotiating skills." In addition, Werner Runge is applauded for his "practical approach" and is frequently mentioned as one of the best lawyers to turn to in project finance. The market has also noticed Allen & Overy's new partner Arent van Wassenauer, who moved over from Norton Rose. There is little doubt that he will strengthen the team, and commentators are interested to see the effect he will have over the coming months.

Indeed, van Wassenauer has not wasted any time. After joining the firm in May 2006 he has already acted for private consortium Lago Wirense in negotiations with the Noord-Holland province and two municipalities for the innovative regional development of the Wieringerrandmeer. He is also acting for the Dutch Ministry of Finance on the development of the concession agreement for a toll tunnel concession for the Westerscheldetunnel. In other areas, Meesters advised the Talent Consortium on its winning bid for the first PFI school project (Montaigne Schools), and is representing the Safire Consortium on the PFI project for the renovation and facility management of the Ministry of Finance building in The Hague.

Other impressive work saw Runge represent ING Bank on the €70 million non-recourse financing of the development of a CO2 distribution network in the Netherlands in December 2005. The firm has also been advising ABN Amro in relation to its possible participation in the project financing of the Zuidas

project, which will tunnel 1.2km of the A10 road, and acting for ING Bank in relation to the financing of the expansion of the Tag Gas pipeline.

#### Leading lawyers

Bart Meesters  
Werner Runge  
Arent van Wassenaer

#### Key contact partner

Bart Meesters

### De Brauw Blackstone Westbroek

De Brauw Blackstone Westbroek has a strong pedigree in project finance and has been involved in the majority of the large mandates to reach the Dutch market over the past few years. There are small murmurs that De Brauw has not been quite as prominent in the market finance recently, although the overwhelming majority believed that it still fully deserves to retain its tier one ranking.

The current team contains a wealth of talent, including Menno Stoffer and Nick Biegman. But sources are unanimous in pinpointing the leading lawyer; Berend Crans. It is agreed that he is “vastly experienced” due to “knowledge acquired from years of practice on the largest and most intricate projects”.

Unfortunately, much of the work completed by De Brauw this year has been classified as confidential. However, from those that can be mentioned, three pieces of work stand out. In the first, Crans is leading the firm’s advice to one of the syndicates tendering for the second Coentunnel project (estimates in value range from €500 million to €1 billion), which is one of the largest projects in a Dutch market that still has not come back to life after a lull in mandates. Stoffer and Biegman, meanwhile, have been representing two tendering syndicates in the Westerschelde tunnel project, and the firm has also been acting for ISS, one of the participants in the first Dutch school public-private partnership (PPP).

#### Leading lawyer

Berend Crans

#### Key contact partner

Berend Crans

### Freshfields Bruckhaus Deringer

The market sees “absolute quality” in Freshfields Bruckhaus Deringer’s two-partner, six-associate project finance team. In particular, one client noted that “the Jeroen Thijssen and Andrew Petry combination is a good partnership to work with ... you need a full-service capability to cover all aspects of the transactions, and they set up bankable deals.”

Freshfields has a reputation for doing excellent work on the international stage, and this year has been no exception. For example, it has been advising BBT SE, the entity incorporated by the Austrian and Italian governments, to procure a new 64km rail tunnel under the Brenner Pass. However, the firm has mostly focused on international work for ABB Equity Ventures over the last 12 months. It represented the client in respect of the Neyveli power project in India, the Termobahia power project in Brazil and the JLEC-Jorf Lasfar power project in Morocco.

That is not to say that Freshfields has not been active on the domestic front, however. Highlights of the year have been the firm’s counselling of Infraspedit regarding the HSL Zuid project, its advice to a bidding consortium for the second Coentunnel, and its representation of Rabobank in the Zuidas zoning and infrastructure project. The latter of these will have a major affect on Amsterdam’s main transport corridor.

#### Leading lawyers

Andrew Petry  
Jeroen Thijssen

#### Key contact partner

Andrew Petry

### Houthoff Buruma

In this year’s research, Houthoff Buruma has been seen to be “doing well.” This is principally because practice head Jaap Koster “has clearly been involved in most of the country’s PPP deals at one stage or the other.” It is for these reasons that a resounding majority of the market has called for the firm’s promotion to the second tier in project finance.

In total there are three partners and nine associates in the project finance department, and the team has attracted juicy mandates from some major clients recently. Houthoff Buruma has been heavily involved in the design-build-finance-maintain and operate (DBFMO) contract for the €190 million refurbishment of the Dutch Ministry of Finance building. It advised the Heijmans consortium until it dropped out of the running, after which time it represented the NIB Capital consortium in the same process.

Ongoing work has also seen Koster lead a team in the firm’s advice to the Municipality of The Hague and the Knowledge Centre on the milestone pilot project for educational PPP in the Netherlands, and advising on the construction of the second Coentunnel for a consortium comprising of Vinci, Besix, Dredging International, Dura Vermeer, TBI and Arcadis.

Most recently, the firm has been called upon by NIBC, Heijmans and Burgers Ergon to provide advice regarding the Ministry of Defence PPP to reconstruct the Kromhout Kazerne.

#### Leading lawyer

Jaap Koster

#### Key contact partners

Jan van der Horst  
Jaap Koster  
Jessica Terpstra

### NautaDutilh

Last year’s loss of Joanne Kellerman seems to have had slightly more of an effect on NautaDutilh than initially feared. Market opinion lends itself to the idea that despite a promising improvement in recent years, the firm’s project finance department has plateaued somewhat over the past 12 months.

That said, the 10-lawyer team started the last *IFLR1000* year riding high on its advice to Tokyo Gas International in the financing of a \$1 billion project of pipelines in Brazil, and this experience continues to stand the firm in good stead. The firm provided ongoing advice to Westerscheldetunnel in relation to the concession agreement and privatization of the Westerscheldetunnel, valued at €1.3 billion. In addition, NautaDutilh has continued to represent the Dutch Ministry of Finance on the extensive DBFMO contract for the €190 million renovation of Ministry buildings. It is the firm’s presence in these transactions that convinced the majority of interviewees to suggest that the firm retain its tier-two ranking.

PPPs are widely expected to pick up after this year’s promising start, and it will be interesting to see if the firm competes in this growing market over the next year. If NautaDutilh manages to get leading roles on some of these upcoming projects, then it will be back to the sort of form expected of the firm in recent times.

**Key contact partners**

Vanessa van Baasbank  
Erik Geerling  
Elizabeth van Schilfgaarde

**Stibbe**

Stibbe's project finance department has seen a three-associate increase on last year's figures, and there are now seven partners and seven associates in a team that continues to command respect from the market. David Orobio de Castro and Jaap Willeumier are particularly highlighted by competitors, but there is also a favourable opinion of Joop Janssen, who is the head of the department. Janssen is seen as "specifically skilled on the public-sector side, which is rare and very useful."

Most of the firm's work this year has been a continuation of previous mandates. For example, it continued its role as lead counsel to the Dutch state and the Amsterdam municipality regarding the Zuidas development, a PPF/PFI infrastructure and office development with a value of over €3 billion. It also provided advice to one of the sponsors in the €300 million Nord Sea Windmill electricity generation project, and is still the lead counsel for the procurement and contracting of the €100 million Lelystad Energy concession.

As far as new instructions are concerned, though, Stibbe has been approached to advise on two standout projects. First, in consultation with German alliance partner Gleiss Lutz, it is representing the developer of the €350 Reitzenstein-Kaserne redevelopment project. And secondly, the firm is acting for one of the bidding consortia on the €1 billion second Coentunnel project.

**Leading lawyers**

David Orobio de Castro  
Joop Janssen  
Jaap Willeumier

**Key contact partners**

David Orobio de Castro  
Joop Janssen  
Aaldert ten Veen  
Jaap Willeumier

**Other notable firms**

Loyens & Loeff has had a solid year in project finance, with the department's two partners and eight associates busy on some impressive mid-market mandates. In November 2005 it advised Linde and Hoek Loos on the €75 million financing for the construction and operation of a CO<sub>2</sub> pipeline linking Shell's operations in Rotterdam and the greenhouse farmers in the Westland. The same month saw the firm represent Tokyo Electric Power in connection with the refinancing of the Paiton project, a power plant in West-Java, Indonesia. Another highlight saw the firm act for NIBC Bank in the €129 million project financing for the construction and operation of the first Dutch biomass fuel plant located at Moerdijk. Finally, at the time of writing leading lawyer Willem Jarigsmas was continuing to advise Harvest Biofuels in the €90 million construction of the first bio-ethanol plant in the port of Amsterdam.

The four partners and four associates of Pels Rijcken & Droogleeve Fortuijn's project finance department cause a split of opinion in the market. Some argue that due to the fact that the large majority of its work is advising the Dutch state, the firm operates in "a different sort of market" and therefore should not be rewarded with a ranking. But most of the market feel that Pels Rijcken is "fairly placed," and can see the value of its work. Recent activity has seen the firm represent its number-one client

in the second Coentunnel, the A4 Delft-Schiedam road and the A15 Maasvlakte-Vaanplein road PPPs.

Last year's prediction that Boekel de Nerée would benefit from the arrival of Angelique Thiele has been proven correct by her involvement in some hefty transactions this year. For example, in March 2006, the firms advised Evans Rendall and HSH Nordbank on the €220 million refinancing of ING's Dutch headquarters at Haagse Poort. This was followed in June 2006 by the firm's representation of JP Morgan and Eurohypo in relation to the €89 million refinancing of the Philips headquarters in Eindhoven and KPN's offices in Groningen.

Norton Rose's loss of procurement specialist Arent van Wassenaer to Allen & Overy was a blow to the firm's project finance operation in the Netherlands. However, the 13-lawyer department has remained active over the past 12 months. Highlights have seen it assist the Ministry of Transport in the second Coentunnel tender, prepare a feasibility study regarding four rail PPPs for Infrabel and Deloitte, and advise the project company on the development of the first Dutch offshore wind farm.

Van Doorne has also developed an effective presence in the Dutch project finance market. Recently, Mark Moolhuizen led the firm's advice to the Dutch Ministry of Defence on a PPP, which was the Ministry's first PPP commission and involved the reconstruction of the Kromhout Kazerne. The firm also represented Forits Lease on the sale and leaseback of a windpark, and counselled a tax investor on its investment in an offshore windpark.