

# The Netherlands

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## Developments in Dutch corporate finance legislation

**Hans Sachse & Caspar Kroeks**  
**Boekel De Nerée**  
**Amsterdam**

### Offer of shares in relation to a controlled auction exempted from obligation to publish a prospectus

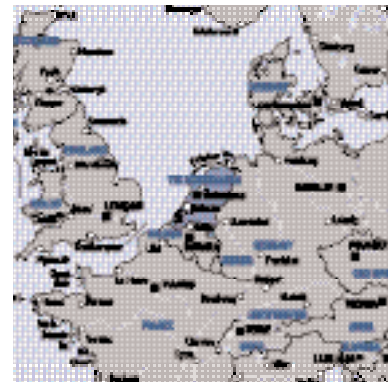
Article 3 of the Act on the Supervision of the Securities Trade 1995 (the ASST 1995) contains a prohibition to offer securities (such as shares) upon issue beyond a restricted circle in or from the Netherlands, or to announce such an offer by way of advertisements or documents, unless a full prospectus has been made available. The information memorandum often used in controlled auctions usually does not qualify as a prospectus. It was often mistakenly assumed that controlled auctions were exempt from the prospectus requirement because they were believed to be made within a restricted circle. Any proposal to two or more parties, however, qualifies for the prohibition. An offer in the Netherlands of securities that have traded abroad, but not yet in the Netherlands, falls under the same prohibition.

Before December 1 2003, a person or entity offering shares of a company in or from the Netherlands by way of a controlled auction had to apply for dispensation with the Authority for the Financial Markets (the AFM) to avoid the prospectus requirement and – perhaps even more importantly – the following and continuous future information requirements triggered by the offer. An amendment to the Exemption Regulation to the Act on the Supervision of the Securities Trade 1995 (the ERASST 1995) came into effect on December 1 2003. Pursuant to the amended ERASST 1995, an exemption to the above-mentioned prohibition automatically applies to offers of securities in a package for a purchase price of at least €50,000 (\$61,700) or the counter value of that amount in foreign currency.

Two requirements need to be satisfied in relation to such an offer. Firstly, the offeror must state in the offer or the prospectus in which the offer is made, and in advertisements and documents in which the offer is announced, that the securities are offered only as a package with a value of at least €50,000. Secondly, a copy of the prospectus and copies of the advertisements and documents in which the offer is announced (if any), must be submitted to the AFM before the distribution or publication of those documents.

If the above exemption applies, the offeror of the securities in a controlled auction situation is now also automatically exempt from the continuing information duties of issuers pursuant to the ASST 1995.

Once the Prospectus Directive (Directive 2003/71/EC) is implemented in Dutch national legislation, controlled auctions will suffer even less restrictions from regulatory laws. There will then be no obligation to make a prospectus available and there will be no other restrictions (such as the one described above under the ERASST 1995)



with respect to offers directed at 150 persons or less nationally, or 1,500 persons or less internationally. Implementation is expected to be completed midsummer 2005.

### Change to dispensation in relation to the AFM's policy on partnerships

Since the early 1990s, partnerships and limited partnerships investing in real estate or other registered property and qualifying as a collective investment scheme (*beleggingsinstelling*) as defined in the Act on the Supervision of Collective Investment Schemes (the ASCIS) may benefit from a temporary licence from the supervisor (the AFM). The licence is granted for the period during which the (limited) partnership solicits funds from the public. Once the funds are obtained and the AFM has established that funds will no longer be solicited, the licence is revoked and the (limited) partnership is no longer subject to supervision under the ASCIS. At the same time as the temporary licence is granted, the AFM grants exemption from certain ongoing information duties to collective investment schemes falling within the scope of the partnership policy.

In some cases the AFM no longer grants dispensation from all of the ongoing information duties. An update of the essential information in the prospectus is now also required during the (relatively short) period during which the units are being offered. The updated prospectus must be filed with the AFM.

Practical experience led the AFM to the conclusion that the investors in the (limited) partnership should also have the opportunity to, among other things, retrieve the corporate information filed at the Trade Register with respect to the collective investment scheme itself and the depositary, the terms and conditions of the collective investment scheme and the agreement regarding administration and safekeeping between the collective investment scheme and the depositary, if any.

Furthermore, the collective investment scheme should make available, or provide on request, a copy of its authorization to the unit holders. If the collective investment scheme's units are, at the request of the unit holders, freely purchased and sold, and the units have not been admitted to listing on the Euronext Stock Exchange, the collective investment scheme must, at anyone's request, communicate the net asset value calculated daily. Finally, the collective investment scheme must, within five working days, inform the AFM in writing of any change in the information concerning its business or the business of the depositary as entered in the Trade Register.

As a result of the recent change of policy, collective investment schemes falling within the scope of the AFM's policy on partnerships are now only exempt from the obligations regarding the publishing of yearly and half-yearly figures with explanatory notes and auditor's report and the obligation to make available monthly statements. For clarity's sake it is submitted that the other above-mentioned obligations only apply during the period that funds are solicited and units are being offered.

## Banking

### Recommended firms

Allen & Overy

Clifford Chance

NautaDutilh

De Brauw Blackstone Westbroek

Freshfields Bruckhaus Deringer

Stibbe

Baker & McKenzie

Houthoff Buruma

Loyens & Loeff

Van Doorne

Boekel De Nerée

CMS Derks Star Busmann

DLA SchutGrosheide

Lovells

Norton Rose

Simmons & Simmons Treñité

### Allen & Overy

With a number of highly respected lawyers, Allen & Overy is seen as an excellent firm for banking advice, and dispenses legal guidance to high-profile domestic and international entities. In the words of one competitor, "working with A&O is usually a rewarding process". Victor de Serière and Bart Meesters are singled out for special mention.

The firm recently advised ABN AMRO, Goldman Sachs, JP Morgan and Rabobank on granting two credit facilities to Ahold – the first valued at \$2.2 billion and the second \$600 million. Allen & Overy also advised UPC on its financial and corporate reorganization, which consisted of simultaneous US Chapter 11 and suspension of payments proceedings in the Netherlands. This involved a paper issue, during which €5.2 billion-worth (\$6.32 billion) of high-yield debt was exchanged for an equity stake in a new US holding company.

In a deal valued at €1.56 billion, Allen & Overy advised HVB Real Estate Investment Banking in a secured real estate financing transaction for the Uni-Invest Group – the largest bank financing for a real estate portfolio in Europe. The team from A&O was led by partner Ian Powell, and included input from Bart Meesters, Herman Wamelink and Ben Fox. The firm also acted for 3i and

Veronis Suhler Stevenson on a €415 million financing deal, advised ING Bank on a €156 million senior facility and VendexKBB on a €550 million senior unsecured revolving credit facility. A&O has also provided banking advice to Randstad Holding, Draka Holding, CVC and KGHM Polska Miedz.

The firm has been active in the recent spate of Dutch PFI projects, and advised the winning consortium on the A59 road project. It also acted on the €1.2 billion HSL link south infrastructure project between Amsterdam, Rotterdam and the Belgian border, the first PFI project financed infrastructure in the Netherlands, and was involved in the first PFI schools project in the Netherlands. It has advised on various domestic power and waste facility deals.

A&O also advised the arrangers – one of which was the Royal Bank of Scotland – on the €170 million financing of the 1676MW wind farm project for the IVPC Group in Sicily and Sardinia.

#### Key contact partner

Victor de Serière

#### Leading lawyers

Victor de Serière

Bart Meesters

#### Clifford Chance

A firm that boasts “very experienced banking and finance teams,” Clifford Chance advises a host of highly regarded domestic and international firms. Attorney Alistair McGillivray comes highly recommended, as does Bas Borris Visser.

Though some competitors allege that Clifford Chance is strong on bulk but not detail, others disagree, and there is no denying the firm’s highly impressive list of clients, which includes ABN AMRO, ING and Bayerische HypoVereinsbank. The firm advised ING as arranger in the \$550 million (\$664.6 million) oil-backed credit facility for the Petroplus Group. It also oversaw the €635 million acquisition facility for Sanitec, and ABN AMRO’s \$2 billion financing of the Dutch supermarket chain Ahold. Clifford Chance advised ABN AMRO again on a €1.2 billion revolving backup facility, and on a €2 billion repo facility agreement, to Vereniging Aegon as part of Aegon’s balance sheet reconstruction.

#### Key contact partners

Alistair McGillivray

Bas Borris Visser

#### Leading lawyers

Alistair McGillivray

Bas Borris Visser

#### NautaDutilh

Sought out for the more complex deals, Nauta’s banking capacity is based in Amsterdam and Rotterdam. The head of banking at the Amsterdam office is Jan van Rijswijk. He oversees a team of 14 partners and 38 associates who have in the past year advised a list of companies that includes ABN AMRO, Rabobank, Dexia Bank Nederland, NIB Capital Bank and Fortis Bank.

A deal completed in late 2003 saw the firm advising Deutsche Bank as agent and security trustee on a €770 million (\$925.8 million) refinancing. Nauta also advised a consortium of banks including Crédit Lyonnais, Natexis Banques Populaires, BNP Paribas, on Pierre et Vacances’ acquisition for €330 million of the remaining 50% interest in CenterParcs in the Netherlands, Belgium, France and Spain, and acted on a €165 million loan finance arrangement, advising HSH Nordbank and NIB Capital Bank as arrangers, as well as the European Investment Bank.

Nauta recently advised Bain Capital in a deal worth €1.4 billion that involved financing Bain Capital’s acquisition of the Brenntag Group and the Interfer Group from Deutsche Bahn.

#### Key contact partners

Erik Geerling

Walter Schellekens

Erik M Vermeulen

#### Leading lawyer

Marc Blom

#### De Brauw Blackstone Westbroek

De Brauw Blackstone Westbroek’s banking group is headed by Jan Marten van Dijk, and has been involved in some extremely high-profile deals. Perhaps most notably, the firm worked with Allen & Overy on the Ahold deal. Other recent banking highlights have included working for Royal BAM on the €610 million (\$725 million) bridge financing for the acquisition of Hollandsche Beton Groep, and advising ABN AMRO as arranger of the acquisition financing of CVC’s takeover of six retail store chains from Vendex KBB. De Brauw also advised Barclays as Dutch counsel in the financing of the leveraged buyout of publisher Wolters Kluwer.

#### Key contact partner

Jan Marten van Dijk

#### Leading lawyer

Jan Marten van Dijk

## **Stibbe**

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Jaap Willeumier heads the banking practice at Stibbe, where he oversees a department of four partners and 10 associates. The firm's banking capacity attracts a host of high-powered institutions, including ING Bank, JP Morgan Chase, Wells Fargo Bank, Fortis Bank (Nederland), Rabobank and ABN AMRO.

Stibbe retains a reputation for dealing with large government projects, one of which was the €145 million (\$176.5 million) motorway finance deal involving ING Bank. From Stibbe, Jaap Willeumier represented ING in the deal, which also included input from Allen & Overy.

Willeumier also represented Wells Fargo Bank and the other lenders in Chapter 11 proceedings involving Global Crossing. Stibbe lawyer Bart Kraak was also involved, and the \$200 million deal was brought to completion in December 2003. Fortis Bank approached Stibbe for advice when it required assistance with the sale of Theodoor Gilissen Bankiers to KBL. Joost van Lanschot provided advice in the deal, valued at €170 million.

### **Key contact partners**

Allard Metzelaar  
Maurits van den Wall Bake  
Jaap Willeumier

### **Leading lawyer**

Jaap Willeumier

## **Baker & McKenzie**

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Baker & McKenzie's banking practice is headed by Karin Smit and consists of four partners and nine associates. From this number, one partner and one associate are US-qualified, bringing an international edge to the practice's capabilities.

Recent clients have included Argenta Spaarbank, which the firm advised in connection with a mortgage portfolio synthetic securitization and credit default swap. Karin Smit and Maarten van Luyn oversaw this deal. Smit also worked on a deal advising Fortis Bank (Nederland) where, along with Baker & McKenzie lawyers Fedor Tanke and Laurent Deckers, she advised on a number of financing transactions for corporate and real estate borrowers in The Netherlands. This included financing the delisting of a Dutch public limited liability company from Euronext, which was completed in December 2003.

Baker & McKenzie has also acted for One Equity Partner and Mauser Group, and Nederlandse Financierings-Maatschappij voor Ontwikkelings-landen. The firm conducts its business in Dutch, English, German and French.

### **Key contact partners**

Piet Schroeder  
Karin Smit  
Boris van Beek

## **Houthoff Buruma**

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The recent recruitment of Daphne Brinkhuis from Clifford Chance as a senior associate has brought the number of attorneys dedicated to banking at Houthoff Buruma to four partners and 12 associates. From the associates, two are US-qualified. The firm is one of the oldest in the Netherlands.

The firm has been active of late, recently advising Nagron and Van Herk-KNG, which were acting as arrangers on a financing deal valued at €480 million (\$584.3 million). The lawyers involved from Houthoff were Alexander Harmse, Jessica Terpstra and Marleen van Uchelen. Allen & Overy acted as counsel to the banks in this deal, which was completed in late 2003.

Jessica Terpstra and Frans Haak advised Van Oord ACZ on financing a joint-venture vehicle that combined the dredging capacities of Van Oord with those of Ballast Ham Dredging. The deal was closed in late 2003 and valued at €375 million. ABN AMRO acted as arranger on the deal, and was advised by Clifford Chance.

Matthieu van Sint Truiden acted on behalf of Citibank during the refinancing of Hayes Lemmerz. Citibank was the arranger of this deal, which was finally completed in 2004 and valued at \$550 million. The firm also advised the Amsterdam branch of Eurohypo during the financing of Rodamco Europe. Alexander Harmse and Aart Barkey Wolf steered the €100 million deal to a close in July 2003.

The firm carries out business in English, German, French, Portuguese and Spanish.

### **Leading lawyers**

Jan van der Horst  
Eddie Meijer  
Matthieu van Sint Truiden

## **Van Doorne**

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Van Doorne's banking practice is led by Roel Botter, who oversees a team of four partners and 10 associates. Over the past 12 months the firm has advised a rich seam of clients, including the senior and subordinated lenders on the acquisition financing and property refinancing of Vendex KBB. This deal was overseen by Evert Wiggers, who also advised the Bank of Scotland during the financing of a sale and lease-back transaction for Cannons.

Van Doorne also advised GE Commercial Finance on a portfolio acquisition, the Aareal Bank on various property financings, Citicorp on the acquisition financing for the DVD/CD replication business of AOL Time Warner and Deutsche/UBS on the refinancing of EVC International.

### **Key contact partners**

Roel Botter  
Evert Wiggers

## Capital markets

### Recommended firms

Allen & Overy

Clifford Chance

De Brauw Blackstone Westbroek

NautaDutilh

Freshfields Bruckhaus Deringer

Stibbe

Houthoff Buruma

Loyens & Loeff

Baker & McKenzie

Lovells

Norton Rose

Simmons & Simmons Trenité

Van Doorne

### Allen & Overy

Jan Louis Burggraaf heads A&O's Dutch capital markets practice, which numbers six partners and 15 associates. The team has many excellent lawyers whose reputations bring the firm some excellent clients, including 3i, Veronis Suhler & Stevenson, NeSBIC, the Carlyle Group and NIB.

Allen & Overy acted for Carlyle Group Providence Equity Partners and GMT Communications in the management buyout (MBO) of Dutch cable television operator Casema from France Télécom. A&O lawyer Annelies van der Pauw acted on the deal, which was valued at €665 million (\$801.31 million). Van der Pauw is greatly respected, and described by one market observer as a lawyer with "huge capital markets experience, who has worked on many of the major deals in the Netherlands".

The firm has also acted in various matters for 3i Group, the first of which was the management buy-in of the Dutch directories business of TeleMedia from Royal KPN. During the deal, A&O undertook the corporate and leveraged financing work for both 3i Group and Veronis Suhler Stevenson (VSS). The deal was valued at €550 million and involved input from Loyens & Loeff and Clifford Chance. The second deal, involving 3i, was the €110 million secondary MBO of drinks company Refresco from a consortium that included Hay Hill, ISIS and the NeSBIC Investment Fund. From Allen & Overy, corporate expert Karine Kodde and banking specialist Ian Powell oversaw both of these deals.

At the time of writing, the firm was still advising Wolters Kluwer on its proposed €2 billion notes issue. Allen & Overy is advising the Dutch information services company on its announced public offer for its outstanding bonds as well as its intended public offer on its outstanding 1.00% convertible unsubordinated bonds 2001 due 2006. Jan Louis Burggraaf is leading the Allen & Overy team, assisted by senior associates Joyce Winnubst and Peter Voorhees.

### Key contact partners

Jan Louis Burggraaf

Karine Kodde

Annelies van der Pauw

### Leading lawyer

Annelies van der Pauw

### Clifford Chance

Clifford Chance is a widely respected firm for capital markets, and in Frank Graaf has a hugely respected partner, described in turn as a "guru" of capital markets work and "a capital markets guy with an established name". Also regarded as excellent for capital markets advice is Tineke Kothe, who was described by one client as "especially knowledgeable".

Recently, the firm has been advising ABN AMRO regarding Credibe, providing advice on UK, Dutch and Belgian law. The deal was valued at €2.1 billion (\$2.53 billion) and saw ABN AMRO acting as arranger in connection with the securitization of mortgages held by Credibe, a Belgian government mortgage provider. This securitization was the largest ever seen in Belgium and involved input from Tineke Kothe, Frank de Vos and Yves Herinckx in Brussels, as well as Chris Oakley in London. It was completed in December 2003.

### Key contact partner

Frank Graaf

### Leading lawyers

Frank Graaf

Tineke Kothe

### De Brauw Blackstone Westbroek

Despite the occasional suggestion that De Brauw has "lost some ground" over the last year, it is still regarded as a firm with a "fantastic client base" for capital markets, and retains seven partners and 16 associates dedicated to capital markets work. The firm's client list includes firms such as Goldman Sachs, JP Morgan, Lehman Brothers, Merrill Lynch, Morgan Stanley, Citigroup, ABN AMRO, Barclays, BNP Paribas, Deutsche Bank, HSBC, ING Bank, and Royal Bank of Scotland. Domestic clients include Royal Ahold, Unilever and Royal Dutch Shell.

The firm acted for Rabobank on its €1.75 billion (\$2.1 billion) issue of Tier I capital in the US, as well as Royal Ahold on its \$3 billion rights issue and related rump offering. Corus benefitted from the firm's advice on its £307 million (\$557.8 million) issue, as did ING in respect of its issue of perpetual debt securities.

De Brauw has experience of some highly innovative securitizations, for example the \$400 million leveraged lease transaction for COGAS, a deal that involved managing complex privatization rules. The firm also advised on a \$663 million synthetic securitization of a shipping loan portfolio for Latitude, the first of its kind in the Netherlands.

In 2003 De Brauw advised the Royal BAN Groep on its combined equity offerings of €247 million. It was one of the most complex equity transactions in a relatively slow year, and involved tricky disclosure matters, as well as corporate law questions arising from the conversion element of the cumulative preference shares.

#### Key contact partner

Francyna Schlingmann

#### Leading lawyer

Francyna Schlingmann

#### NautaDutilh

Headed by Frits Oldenburg and Chris Fonteijn, Nauta's capital markets capacity consists of eight partners and 10 associates. The team is highly regarded in the marketplace – especially Michaëla Ulrici and Willem Ruys, who are both praised by their peers. Clients of the firm include ABN AMRO Rothschild, Aegon, Bank Nederlandse Gemeenten (BNG), Impress and JP Morgan.

A team from Nauta recently advised Societé Air France as Dutch counsel on the public offering and listing of Air France shares and warrants on Euronext and the New York Stock Exchange in connection with Air France's share exchange offer for shares in KLM. At the time of writing the deal had not yet been completed, but the total value was estimated at some €784 million (\$943.1 million).

Nauta also advised Barclays Capital, Citigroup, CSFB and JP Morgan on a €1.1 billion bond issue by Heineken. The deal was overseen by Nauta's Petra Zijp, and was brought to a close in late 2003. Kleis Broekhuizen and Nico Blom also advised Bank Nederlandse Gemeenten, who sought the firm's advice on setting up a €10 billion commercial paper programme.

On the securitization side, the firm has acted for NIB Capital Bank on two securitizations. The first was completed in November 2003, valued at €1 billion, and was completed under the Provide programme set up by Kreditanstalt für Wiederaufbau. It was the first synthetic securitization in the Netherlands to be effected under this programme. The second, a €108.5 million residential mortgage-backed securitization, involved receivables from EU properties in

Brussels and input from Michaëla Ulrici and Dirk van Gerven in the Brussels office.

The firm conducts business in Dutch, English, French German and Italian.

#### Key contact partners

Gaike Dalenoord  
Willem Ruys  
Walter Schellekens  
Petra Zijp

#### Leading lawyers

Willem Ruys  
Michaëla Ulrici

#### Freshfields Bruckhaus Deringer

With some sound lawyers, Freshfields has a solid reputation for capital markets work. Despite being involved in less equity work than its larger competitors in the Dutch market, the firm's excellent capacity for debt and structured finance work goes a long way to compensate for this.

Freshfields worked on Vesteda's €1.4 billion (\$1.6 billion) securitization of its residential portfolio, which constituted one of the largest ever Dutch securitizations and the first by a Dutch mutual fund. Deutsche Bank also instructed the firm in connection with a deal involving the securitization of daily receivables, a \$1.1 billion deal for Buhrmann that involved daily electronic reports on its own sales.

The firm has advised Fortis on a debt issue, a deal that saw the Dutch office work in conjunction with the London office advising arrangers JP Morgan. According to JP Morgan, this equity-linked bond structure succeeded in achieving the holy grail of convertibles – a security that was treated as equity by the regulators but as debt by the tax authorities.

At Freshfields, Pieter van Welzen is particularly admired for his work, and is described as a lawyer "becoming more and more visible both in transactions and also in literature".

#### Key contact partner

Pieter van Welzen

#### Leading lawyer

Pieter van Welzen

#### Stibbe

Stibbe acted on Hagemeyer's issue of €670 million (\$806.26 million) ordinary shares and €150 million 5.75% subordinated convertible bonds due 2009, listed on Euronext Amsterdam. The deal involved input from Stibbe lawyers Fons Leijten, Egbert Vroom, Heleen Kersten and Derk Lemstra and was completed in early 2004. The firm also acted for Getronics as it issued €100 million worth of 5.5% unsubordinated convertible bonds due 2008. The deal again

involved input from Derk Lemstra, this time in conjunction with Jaap Willeumier, and was completed in late 2003.

Stibbe also advised on the KLM Air France merger, advising the Dutch state, which was the principal shareholder in KLM. From Stibbe, lawyers Joost van Lanschot, Diana van Everdingen, Christof Swaak and Stef van Weeghel acted on the deal, which was closed in late 2003 and valued at some €5 billion. Also closed in late 2003 was a €7 billion deal that involved the restructuring of United Pan-Europe Communications' debt obligations. Marius Josephus Jitta, Derk Lemstra and Rudolf de Vries worked on the deal.

Stibbe has a capital markets practice consisting of four partners and 11 associates.

#### Key contact partners

Diana van Everdingen  
Heleen Kersten  
Tom van Wijngaarden

#### Leading lawyer

Derk Lemstra

## Insolvency and restructuring

### Recommended firms

De Brauw Blackstone Westbroek

Houthoff Buruma

AKD Prinsen Van Wijmen

Allen & Overy

Holland Van Gijzen

NautaDutilh

Simmons & Simmons Trenité

Stibbe

CMS Derks Star Busmann

DLA SchutGrosheide

Loyens & Loeff

Pels Rijcken & Droogleever Fortuijn

Van Doorne

Borsboom & Hamm Advocaten

Van Benthem & Keulen

### De Brauw Blackstone Westbroek

Headed by the highly recommended Sijmen De Ranitz, De Brauw's insolvency practice is extremely capable and respected. It boasts some of the country's top individuals, and has a head count of two partners and 13 associates.

The firm has advised clients on corporate recovery, security rights and insolvency for the past 20 years. De Brauw has also worked for banks, including Commerzbank and the ING Group, which has recently placed De Brauw on its list of preferred law firms. Other firms that De Brauw has been involved with include Ahold, Enron, Hagemeyer, Netia, Pasmenco and UPC.

#### Key contact partner

Sijmen De Ranitz

#### Leading lawyer

Sijmen De Ranitz

### Houthoff Buruma

Houthoff Buruma counts IFCO Systems, Duke Energy International, NIB Capital and Kendrion amongst its insolvency clients, who value the quality advice provided by the firm's four partners and 12 associates. Seen by some observers as out-and-out leaders for Dutch insolvency work, this reputation secures the firm a good market share.

Headed by Rutger Schimmelpenninck, the insolvency practice has recently been advising Jomed, the medical equipment manufacturer. The firm acted as bankruptcy trustees, and Matthieu van Sint Truiden and Rutger Schimmelpenninck advised on the deal, which was valued at €156 million (\$187.9 million) and completed by July 2003. The firm also advised plastics and electronics manufacturer Kendrion, and Hagemeyer, the business-to-business distribution services group, listed on Euronext Amsterdam. In this deal, Houthoff acted as counsel for the creditor, and oversaw a €460 million rights issue, a €150 million subordinated convertible bonds issue and the establishment of a €905 million credit facility.

Houthoff was also involved as restructuring counsel during the Parmalat collapse, one of Europe's biggest corporate scandals of recent times. Eddie Meijer and Marcel Windt advised on the deal, which was worth around €6.5 billion. The deal was ongoing at the time of writing.

#### Key contact partners

Eddie Meijer  
Rutger Schimmelpenninck  
Marcel Windt

#### Leading lawyers

Eddie Meijer  
Rutger Schimmelpenninck  
Marcel Windt

## AKD Prinsen Van Wijmen

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Georg van Daal heads the insolvency practice at AKD Prinsen Van Wijmen, where he oversees a team of 11 partners and 22 associates.

The firm recently advised Euronext and Nasdaq-listed KPN Qwest Finance, which has estimated debt of around €3 billion (\$3.61 billion). It also acted as legal adviser to Song Networks, a Nordic data, internet and telecommunications operator listed in Stockholm, Luxembourg and New York. Song's €600 million debt was successfully restructured through a bonds-for-equity swap.

AKD Prinsen also advised AIG Europe (Netherlands) and NeSBIC, a stakeholder in the insolvency of Netagco. Georg van Daal oversaw this deal.

### Key contact partners

Michael Bouma  
Barend de Roy van Zuidewijn

## Holland Van Gijzen

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With offices in Amsterdam, Rotterdam, Utrecht, Eindhoven and The Hague, Holland Van Gijzen's insolvency practice comprises three partners and 20 associates. The firm also has two offices in the US, as well as an alliance through its tax work with accountants Ernst & Young, an arrangement that provides access to international clients and allows the firm to offer cross-border and interdisciplinary services.

Johan Westerhof heads the insolvency practice, which in the last 12 months assisted UPC (in respect of which the firm was appointed by the courts as administrator) and acted as receiver and liquidator for Aino.

### Key contact partners

Louis Deterink  
Reyn Snouckaert van Schauburg  
Johan Westerhof

## NautaDutilh

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An influx of junior associates has brought Nauta's count of insolvency specialists up to four partners and seven associates. One interviewee dubbed Nauta a "strong player" in the insolvency market. The firm's practice is overseen by Chris Fonteijn in the Rotterdam office, and Frits Oldenburg in Amsterdam.

Clients have included InterComm Holdings, Song Networks Holding, TXU Europe Energy Trading, Cargill Financial Markets and Netagco Holding. Nauta advised InterComm Holdings on a deal completed at the end of 2003, involving legal Supreme Court proceedings concerning the restructuring of United Pan-Europe Communications. From Nauta, Joost Vrancken Peeters and Joost den Engelsman oversaw the deal, which was worth more than €200 million (\$240.67 million).

At the time of writing, Nauta was advising a consortium including Cargill Financial Markets, Merrill Lynch, Pierce Fenner & Smith, Elliot Associates and Värde Partners on a €1 billion tax claim matter. Robert van Galen, Wladi Rabiej and Joost den Engelsman were involved in the negotiations.

Nauta was also advising Netherlands TXU, its subsidiaries and directors on its €1 billion suspension of payments, and acting for Promethan regarding Jomed's suspension of payments and bankruptcy proceedings.

### Key contact partners

Robert van Galen  
Dick van der Stelt  
Joost Vrancken Peeters

## CMS Derks Star Busmann

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CMS Derks Star Busmann is the product of mergers in the Dutch market, having merged eight times in 10 years before eventually joining the CMS network of law firms. Five partners and 12 associates work in the firm's insolvency practice, which is headed by Jan Willem Bouman. The firm has attracted clients such as Amstel Lease Maatschappij, NMB-Heller, ABN AMRO, ING Bank and Rabobank Nederland.

The firm conducts its business in English, French, German, Italian, Spanish, Greek, Hebrew and Russian.

### Key contact partners

Jan Willem Bouman  
Marcel Groenewegen  
Piet Gunning

## Mergers and acquisitions

### Recommended firms

Allen & Overy

De Brauw Blackstone Westbroek

Clifford Chance

Houthoff Buruma

NautaDutilh

Stibbe

Freshfields Bruckhaus Deringer

Loyens & Loeff

AKD Prinsen Van Wijmen

Baker & McKenzie

Boekel De Nerée

CMS Derks Star Busmann

DLA SchutGrosheide

Lovells

Simmons & Simmons Trenité

Van Doorne

### Allen & Overy

Research revealed a universal approval of A&O's position in the top tier for mergers and acquisitions. Jan Louis Burggraaf attracts plaudits for his work, and was described by one market observer as "technically very good, serious and trustworthy". New partner Gerard van Solinge joins an M&A practice that consists of 17 partners and 75 associates. Of the partners, one is US-qualified and eight are UK-qualified. There are three UK-qualified associates.

A&O managed to secure what is perhaps the flagship M&A deal of last few years, as it advised Royal KLM on its merger with Air France. From Allen & Overy, Jan Louis Burggraaf, Tim Stevens and Sietze Hepkema provided advice in the deal, which was especially complicated due to specific airline industry considerations, including air traffic rights. The deal was further complicated by the need to accommodate the interests of various stakeholders, including the French and Dutch states, Schiphol Airport and its employees. The team from A&O was led by Burggraaf and Stevens.

Allen & Overy also advised 3i on its €125 million (\$150.15 million) management buyout of Hyva Investments. The deal involved input from partner Ian Powell and was overseen by Karine Kodde, a partner described as having "an

excellent reputation". Associates Mirne Derks, Hugo Bijleveld, Max Mayer and Robert Hartog assisted on the deal, which involved input from A&O's offices in the Czech Republic, Poland, Belgium, France, Germany and Spain. This constituted one in a string of deals during which A&O provided advice to the 3i group. Another involved drinks manufacturer the Refresco Group, which was acquired by 3i. A&O advised 3i, as well as some of its funds, in the €240 million deal, which was again led by Karine Kodde.

The firm also advised Nuon on the €1.95 billion takeover of Reliant, DSM on the €1.1 billion takeover of Roche Vitamins, and Burhmann on the sale of its Paper Mechancing Business to Paperlinx. Maarten Muller provided advice on the €700 million Burhmann deal.

### Key contact partners

Jan Louis Burggraaf

Maarten Muller

Tim Stevens

### Leading lawyers

Jan Louis Burggraaf

Karine Kodde

### De Brauw Blackstone Westbroek

De Brauw has a highly impressive staff of well-respected lawyers, who receive generous praise from clients and competitors alike. Cornelius Peijster, for example, was described by one client as a "pragmatic, quick lawyer," and a peer commented that "there is always a good feeling when you work with him". Arne Grimme, meanwhile, is described as a "smart guy," and Lodewijk Hijmans van den Bergh as a lawyer who has "an open eye for the interests of the other party". Despite this wealth of human capital, the firm has no doubt suffered a setback with the departure of Peter Wakkie. Described as "very respected in the legal market," Wakkie has recently left De Brauw to take a place on the board of Ahold.

In past years, the firm has advised Casino on its Laurus investment, HBG in the €756 million (\$911.7 million) offer by Grupo Dragados and communications company Wegener in its sale of a stake in Interlanden Spreij Groep to Deutsche Post.

### Leading lawyers

Arne Grimme

Lodewijk Hijmans van den Bergh

Cornelius Peijster

### Clifford Chance

Over the past year, Clifford Chance has acted on a considerable amount of high-profile mergers, working for clients such as Cinven and Candover Partners, Fugro, Pon, Eneco and Reliant Resources. Lawyers at the firm are well respected, and received many positive comments during the

research process. These add to the picture of Clifford Chance as a firm that is generally considered to be “very strong in financing”. Individuals such as Hector De Beaufort, Thijs Alexander and Charles Eijdsdouts are singled out as sound lawyers.

The Cinven and Candover Investments deal was valued at €600 million (\$724.8 million). During the deal, Clifford Chance provided advice on the acquisition of Kluwer Academic Publishers from its Dutch parent company Wolters Kluwer, followed by the acquisition of BertelsmannSpringer for €1.05 billion. During the deal, senior, mezzanine and working capital facilities were arranged and underwritten by Barclays Capital. The total value of the debt facilities provided by Barclays Capital for these deals amounted to €1.075 billion.

Clifford Chance also advised ABN AMRO as it financed 3i and Veronis Suhler's acquisition of Telemedia from KPN Telecom. The deal was valued at €500 million and included input from NautaDutilh and Allen & Overy. In another deal, Clifford Chance partners Hector de Beaufort and Geert van der Klis advised Fugro during its €147.5 million acquisition of the Thales Geosolutions Group, from Thales.

#### **Key contact partner**

Hector de Beaufort

#### **Leading lawyer**

Hector de Beaufort

#### **Houthoff Buruma**

Houthoff Buruma has offices in Rotterdam, Amsterdam and the Hague. The M&A practice is headed by Eddie Meijer and Jan van der Horst. Over the last 12 months the team has seen the arrival of three new lawyers, one of whom – Pieter van der Korst – joins as a partner. Ingmar Wassenaar and André de Neve join as associates. These new arrivals bring the firm's count of lawyers dedicated to M&A work up to nine partners and 36 associates.

Houthoff counts among its clients companies such as Royal Volker Wessels Stevin, Atos Origin, Van Oord, Siemens and T-Mobile. The Volker Wessels deal involved a public offer by the Wessels family of the shares of VolkerWessels, worth €724 million (\$895.7 million). The deal was completed in July 2003 and was overseen by Houthoff lawyers Eddy Meijer and Michiel Pannekoek.

The firm also advised on the merger between Van Oord and the dredging activities of Royal BAM. During the €427 million deal, Houthoff advised Van Oord's shareholders, Merweoord and NPM Capital. Also completed in 2003, the firm provided advice to Bridgepoint Capital on a €63 million deal concerning a management buy-in. At the beginning of 2004 Houthoff advised a group of companies concerning the sale of shares in Hyva Group to a company controlled by 3i, followed by reinvestment by part of the selling shareholders. Michiel Wesseling and Sander Derksen oversaw the €125 million deal.

#### **Key contact partners**

Jan van der Horst

Eddie Meijer

Michiel Wesseling

#### **NautaDutilh**

Nauta's M&A practice is headed by Frits Oldenburg and Chris Fonteijn, who oversee a team of 37 partners and 90 associates. The firm's clients include ABN AMRO, Air France, Fortis Bank, Zürich Financial Services and Eureko.

The firm advised Zurich Financial Services on the sale by Zürich Insurance Company and Zürich Life Insurance of their Dutch insurance branches to SNS Reaal Groep. The team from Nauta working on the deal included Jaap Jan Trommel, Lieke van der Velden and Marnix Ritmeester. NautaDutilh also represented Societé Air France as Dutch counsel during the merger between Air France and KLM. The deal was structured by way of a share exchange offer issued by Air France for the shares in KLM. The deal was valued at €784 million (\$944.5 million) and involved Nauta lawyers Erik Hammerstein, Lieke van der Velden, Wijnand Bossenbroek, Roderik Bouwman, Rogier Dahmen, Lonneke de Beer and Paul Deloo.

The firm has also recently advised newspaper owner PCM Uitgevers and its shareholders on the auction of PCM, and assisted Royal Nedlloyd with the acquisition of a 50% interest in the joint venture P&O Nedlloyd Container Line. The deal was valued at €214 million.

#### **Key contact partners**

Chris Fonteijn

Frits Oldenburg

## Project finance

### Recommended firms

Allen & Overy

Freshfields Bruckhaus Deringer

Clifford Chance

De Brauw Blackstone Westbroek

Houthoff Buruma

Stibbe

Baker & McKenzie

Loyens & Loeff

NautaDutilh

Norton Rose

Simmons & Simmons Trenité

Van Doorne

### Allen & Overy

Partner Werner Runge is seen by his contemporaries as especially strong for project finance work. Bart Meesters is also highly regarded, and is described as a lawyer who has “done a lot of deals”. From a strong team of lawyers, Meesters is regarded as a “star in his field” at Allen & Overy, a firm that is seen as excellent for project finance.

Recent successes for the firm have included securing work on the largest ever public-private partnership seen in the Netherlands. This consisted of the €1.2 billion (\$1.4 billion) construction and operation of the high-speed rail system in the Netherlands, on which A&O advised the lenders. The firm also advised on the bidding for the A59 road project, the first road finance deal in the Netherlands, and advised the Defluent consortium on its bid for the AHR waste water treatment project in the Hague.

#### Key contact partner

Bart Meesters

#### Leading lawyers

Bart Meesters

Werner Runge

### Freshfields Bruckhaus Deringer

Freshfields has recently been involved in the €400 million (\$482.1 million) Delfland project, the first wastewater PFI in the Netherlands. The project involved the construction of a new treatment facility in The Hague region with the commercial facilities for the project provided by Rabobank and

Dexia. The deal included a guarantee facility from the European Investment Bank. Delfluent was the borrower.

The firm boasts some excellent individuals for project finance work, but singled out in particular is Jeroen Thijssen, a partner described in turn as “excellent – a very good lawyer” and also as being the individual who “pushes Freshfields into the first tier”.

#### Key contact partner

Jeroen Thijssen

#### Leading lawyer

Jeroen Thijssen

### Clifford Chance

Clifford Chance recently advised ABN AMRO on a structured project export finance deal. ABN AMRO was the lender on the deal, which was valued at around €100 million (\$120.4 million). Other projects include the Rijnmond Energie Centre, which was the largest power project in Europe in 2002.

Frank Graaf heads the firm’s project finance department in Amsterdam, and he retains an excellent reputation. One client commented of him that it was “very satisfied with his performance”.

#### Key contact partner

Frank Graaf

### Houthoff Buruma

With offices in both Rotterdam and Amsterdam, Houthoff’s project finance capacity is built upon a team of three partners and eight associates and headed by Jaap Koster. Recent deals have included advising the Ministry of Finance on a pilot school PFI deal. A team headed by Koster worked on the €20 million (\$24.19 million) deal. Houthoff has also worked on the Westerschelde Tunnel Project, and the €100 million N-31 road project.

#### Key contact partner

Jaap Koster

#### Leading lawyers

Albert Dreese

Jan van der Horst

Jaap Koster

### Stibbe

With six partners and four associates, Stibbe is successful in attracting work on large deals. For example, it advised a syndicate of banks on financing the A59 motorway project, and acted for the Ministry of Transport on two separate matters. The first was the development of the €80 million (\$96.1 million) contract for the N-31 motorway, and the

second was the €6 billion high-speed rail connection to the north of the country. Joop Janssen advised on both deals. The firm also acted for Fibroned during the development of a bio-mass fuelled co-generation plant, and for Delfland in the development of a €420 million wastewater treatment plant. Jaap Willeumier, Joop Janssen and David Orobio de Castro provided advice on the €100 million (\$120.9 million) deal.

**Key contact partner**

Joop Janssen

**Baker & McKenzie**

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Baker & McKenzie's projects practice counts NIB Capital Bank, Fortis Bank, ING, Rabobank and Argenta Spaarbank among its clients. Headed by Karin Smit, the project finance department has recently advised One Equity Partner in connection with the acquisition financing and restructuring of the Mauser Group. The Bank of Scotland was also involved in the deal that was completed in December 2003.

The group conducts business in Dutch, English, German and French.

**Key contact partner**

Karin Smit

**NautaDutilh**

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Nauta has 10 partners and four associates that advise on project finance work based in offices in Rotterdam and Amsterdam. The firm has recently advised Intergen on the construction and financing of an 800MW CHP power plant. Intergen was the sponsor in this €500 million (\$601.6 million) deal, that also included input from Société Générale and Banque BNP Paribas.

Nauta has also advised Delta Energy on the construction of two combined cycle gas turbines with a capacity of 400MW each, as well as Alcatel Afghanistan and the Ministry of Finance on an office redevelopment programme, due for completion in 2005.

**Key contact partners**

Erik Geerling  
Joanne Kellermann  
Thijs Lommen