

**International
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Practical cross-border insights into public investment funds

**Public Investment Funds
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Contributing Editors:

Gregory S. Rowland & Sarah E. Kim
Davis Polk & Wardwell LLP

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1 Registration

1.1 Are funds that are offered to the public required to be registered under the securities laws of your jurisdiction? If so, what are the factors and criteria that determine whether a fund is required to be registered?

Yes. Alternative Investment Funds (“AIFs”) and Undertakings for Collective Investment in Transferable Securities (“UCITS”) that are offered to the public in the Netherlands must be registered.

Under the Dutch Financial Supervision Act (*Wet op het financieel toezicht* or “Wft”), offering means making a sufficiently specific proposal, either directly or indirectly, to act as the other party to a contract regarding a participation right in an AIF or UCITS, or to request or acquire, either directly or indirectly, funds or other goods from a client in order to hold participations in an AIF or UCITS.

If participation rights are offered at the request of a Dutch investor without any solicitation by the management company, no marketing is deemed to have taken place in the Netherlands.

AIFMs

Dutch Alternative Investment Fund Managers (“AIFMs”) must obtain a licence from the Dutch Authority for the Financial Markets (*Autoriteit Financiële Markten* or “AFM”) before they may start marketing the AIFs they manage in the Netherlands.

A *de minimis* exemption is available to AIFMs whose assets under management do not exceed EUR 100 million, or EUR 500 million in certain circumstances. AIFMs making use of this exemption do not need to obtain a licence but are subject to registration and reporting requirements.

EU AIFMs that are licensed under the Alternative Investment Fund Managers Directive (“AIFMD”) are allowed to market in the Netherlands with a marketing passport. AIFMs can obtain such a passport through its home state regulator. Non-EU AIFMs can make use of the Dutch private placement regime. They must submit a notification form and attestation to the AFM.

When marketing to retail investors in the Netherlands, the AIFM must comply with a top-up regime, comprising, among other things, additional disclosure obligations. Non-EU AIFMs may only market to professional investors, unless they comply with the designated state regime.

UCITS ManCos

UCITS management companies (“UCITS ManCos”) must obtain a licence from the AFM. EU management companies may market in the Netherlands with a marketing passport. As with AIFMs, UCITS ManCos can obtain such a passport through its home state regulator.

1.2 What does the fund registration process involve, e.g., what documents are required to be filed?

Licence application for AIFMs

AIFMs applying for a licence must submit an application form, together with the following documents, to the AFM. Please note that additional documents may be required depending on the specific facts and circumstances:

- extract from the trade register relating to the AIFM;
- business plan;
- description of the administrative organisation and internal control;
- structure chart, including day-to-day policymakers;
- outsourcing policy;
- remuneration policy;
- overview of AIFs and assets under management;
- financial statements and auditor’s report;
- regulation on inside information and trading;
- overview of risk takers, whose professional activities have a material impact on the risk profile of the AIFM or the AIF it manages, and employees receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers;
- integrity and suitability screening forms for (day-to-day) policymakers and supervisory directors of the AIFM;
- AIF notification form; and
- depositary notification form.

Article 42 notification

Non-EU AIFMs making use of the Dutch private placement regime must submit a notification form and attestation to the AFM.

Licence application for UCITS ManCos

UCITS ManCos applying for a licence must submit an application form, together with the following documents, to the AFM. Please note that additional documents may be required depending of the specific facts and circumstances:

- articles of associations of the UCITS ManCo, the UCITS and the depositary;
- extract from the trade register relating to the UCITS ManCo, the UCITS and the depositary;
- financial statements and auditor’s report;
- structure chart of the UCITS ManCo and depositary, including the names of policymakers and shareholders, and foreign branches (if applicable);
- (draft) prospectus;
- description of the administrative organisation and internal control of the UCITS ManCo and depositary;

- business plan of the UCITS ManCo;
- registration document; and
- integrity and suitability screening forms for (day-to-day) policymakers, co-policymakers and supervisory directors of the UCITS ManCo, the UCITS and the depositary.

1.3 What are the consequences for failing to register a fund that is required to be registered in your jurisdiction?

In the event of a breach of the Wft, the AFM can take enforcement measures, such as: (i) making a formal information request; (ii) issuing a formal instruction (*aanwijzing*); (iii) imposing an incremental penalty for non-compliance (*last onder dwangsom*); and (iv) imposing an administrative fine (*bestuurlijke boete*); or (v) withdrawing a licence. Also, acting without a licence qualifies as an economic offence.

In addition, the AFM can impose an administrative fine on those individuals who: (1) exercise actual control (*feitelijk leiding-gewende*) at the time the financial undertaking is in breach of the applicable regulatory rules and regulations; or (2) give instructions to the financial undertaking to commit such a breach (individuals *de facto* in charge).

These administrative sanctions do not impact the enforceability of otherwise valid contracts. Civil claims can be filed when a breach has caused damage.

1.4 Are there local residency or other local qualification requirements that a fund must meet in order to register in your jurisdiction? Or are foreign funds permitted to register in your jurisdiction?

Yes. A Dutch AIFM must have its headquarters in the Netherlands. There is no similar requirement for UCITS ManCos. However, the policymakers of a Dutch UCITS ManCo and Dutch UCITS must carry out their activities in connection with these entities from the Netherlands.

(Day-to-day) policymakers and supervisory directors of the Dutch AIFM, Dutch AIF with legal personality, Dutch UCITS ManCo and Dutch UCITS with legal personality must be screened on integrity and suitability by the AFM.

2 Regulatory Framework

2.1 What are the main regulatory restrictions and requirements that a public fund must comply with in the following areas, if any? Are there other main areas of regulation that are imposed on public funds?

i. Governance

Dutch AIFMs and UCITS ManCos must have a clear and transparent governance structure. At least two private individuals must determine the day-to-day policy of a Dutch AIFM, Dutch UCITS ManCo or Dutch self-managed Fund. Subject to the principle of proportionality, a general requirement applies to AIFMs to have a risk management function hierarchically and functionally separate from other parts of the business, including the portfolio management function.

ii. Selection of investment adviser, and review and approval of investment advisory agreement

The Wft provides that the business activities of an AIFM or UCITS ManCo must be controlled and business processes and risks must be managed effectively. If an AIFM or UCITS ManCo decides to outsource activities and business processes, it must comply with specific rules.

In accordance with the Wft, “outsourcing” or “delegation” entails the instruction by the AIFM or UCITS ManCo to a third party (the “delegate” or “outsourcer”) to provide services that:

- are part of, or follow from the business undertaking of the AIFM or UCITS ManCo or the provision of financial services; or
- are part of the essential business procedures supporting such operations or the provision of financial services.

Note that a Dutch AIFM or UCITS ManCo is prohibited from delegating the determination of its investment policy.

Outsourcing (intragroup or to service providers outside the group) within the meaning of the Wft is subject to strict requirements. This means that if the appointment of an investment advisor by the AIFM or UCITS ManCo qualifies as outsourcing, the AFM may have to be notified, the written agreement between the AIFM or UCITS ManCo and the investment advisor must meet the Dutch outsourcing requirements, and the investment advisor will be responsible for the insourcing entity’s compliance with the relevant rules and regulations. Moreover, the specific outsourcing provisions set out in the AIFMD and UCITS Directive (each as implemented in Dutch law) will apply.

iii. Capital structure

AIFMs and UCITS ManCos must have an initial capital of at least EUR 125,000. A self-managed fund must have an initial capital of at least EUR 300,000. In specific circumstances, the AIFM or a self-managed AIF must provide additional equity capital (*eigen vermogen*) in accordance with the provisions of the AIFMD (as implemented in the Netherlands). AIFMs are also subject to the solvency requirements set out in the Wft and the underlying regulations.

iv. Limits on portfolio investments

AIFMs

For AIFs, no limits on portfolio investments apply. However, if an AIF acquires control over non-listed or listed companies, certain restrictions come into play. Moreover, related provisions on asset stripping would apply in such case.

UCITS ManCos

The provisions of the UCITS Directive as regards the investment restrictions have been implemented in the Wft and the regulations promulgated thereunder.

v. Conflicts of interest

AIFMs

Pursuant to the Wft, a Dutch AIFM must structure its operations in such manner that appropriate measures can be taken to identify, prevent, manage and control conflicts of interest. Moreover, the AIFM must take appropriate measures to preclude that the interests of the AIFs it manages, and the interests of the investors in such AIFs, will be prejudiced as a result of the materialisation of a conflict of interest. The rules promulgated under the Wft refer to the provisions on conflicts of interest set out in the AIFMD.

UCITS ManCos

Pursuant to the Wft, a UCITS ManCo must have an adequate policy to prevent conflicts of interest from materialising. The UCITS ManCo must also ensure that the UCITS managed by it and the investors in these UCITS will be treated fairly in case a conflict of interest materialises. The regulations promulgated under the Wft provide for detailed provisions in this respect.

vi. Reporting and recordkeeping

AIFMs

Within six months after the financial year has ended, a Dutch AIFM must file with the AFM the audited annual statements

and the management report for each EEA AIF it manages and for each AIF it offers in the EEA.

Within six months after the financial year has ended, a non-Dutch AIFM must file the audited annual statements and management report for each Dutch AIF it manages with the AFM. At the investor's request, these financial statements must be sent to such investor too.

In the event an AIF is closed-ended and listed on a regulated market operated in the Netherlands, these requirements do not apply. Listed closed-ended AIFs must make available their financial statements within four months after their financial year has ended.

UCITS ManCos

Within four months after the financial year has ended, a Dutch UCITS ManCo and Dutch UCITS must file the audited annual accounts, the management report and other information with the AFM, and make these publicly available. Half-year financials of a Dutch UCITS ManCo and Dutch UCITS must be filed with the AFM too. These must be made publicly available within nine weeks after the end of the first half of the financial year. At the investor's request, these financial statements must be sent to such investor. In the event a Dutch UCITS is closed-ended and listed on a regulated market operated in the Netherlands, these requirements do not apply. Listed closed-ended UCITS must make available their financial statements within four months after their financial year has ended.

vii. Other

In addition to the remuneration rules under the AIFMD and UCITS Directive, the Dutch Act on Remuneration Policies in Financial Undertakings (*Wet beloningsbeleid financiële ondernemingen* or "Wbfo") applies to AIFMs and UCITS ManCos with their corporate seat in the Netherlands. In addition, the Wbfo may also apply if an AIFM or UCITS ManCo with its corporate seat outside the Netherlands is a subsidiary of a financial undertaking with its corporate seat in the Netherlands, or is part of a group where the ultimate parent company has its corporate seat in the Netherlands, and where the main activities of such group consist of offering financial products or providing financial services.

In the Netherlands, the variable part of remuneration is not allowed to exceed 20% of the fixed remuneration. This is stricter than the 100% cap used elsewhere in the EU. This bonus cap does, however, not apply to AIFMs and UCITS ManCos.

2.2 Are investment advisers that advise public funds required to be registered and/or regulated in your jurisdiction? If so, what does the registration process involve?

MiFID II (as implemented in the Wft) and MiFIR apply to entities providing investment management and advisory services to public funds.

2.3 In addition to the requirements above, are there additional regulatory restrictions and requirements imposed on investment advisers that advise public funds?

No, we are not aware of any additional regulatory restrictions and requirements imposed on investment advisors that advise public funds.

2.4 Are there any requirements or restrictions in your jurisdiction for public funds investing in digital currencies?

No, we are not aware of any additional requirements or restrictions that apply in the Netherlands to funds investing in digital currencies.

Pursuant to Dutch AML legislation, an AIFM investing in digital currencies must conduct enhanced CDD on clients and correspondent relationships.

In the near future, the European Markets in Crypto Assets Regulation (MiCAR) will regulate the issue of crypto assets and the provision of services related to crypto assets.

2.5 Are there additional requirements in your jurisdiction for exchange-traded funds?

There is no specific regulatory regime for exchange-traded funds. They are subject to the same regulation as other funds. The AFM does pay particular attention to cost transparency, benchmarking and disclosure generally in relation to ETFs. Also, the AFM has issued specific recommendations that asset managers and investment advisers should follow when selecting or recommending ETFs for the portfolios of their clients.

3 Marketing of Public Funds

3.1 What regulatory frameworks apply to the marketing of public funds?

The marketing of public funds to professional investors and retail investors is regulated by the Wft. As mentioned under section 1 above, AIFMs and UCITS ManCos must obtain a licence or be able to make use of a specific regime or exemption before they can start marketing in the Netherlands. Whether or not marketing in the context of the AIFMD or the UCITS Directive takes place depends on whether the marketing activities qualify as an "offer" as defined in question 1.1 above.

The definition of "offer" in the Wft is broad. This definition may already be relevant in the early stages of contact with proposed investors, depending on whether the information provided to investors is sufficiently specific to enter into a contract with a fund. It is possible, for example, that draft documentation such as information memoranda or presentations qualify as an offer regardless of whether disclaimers are included to the effect that the document does not constitute an offer. This depends on the specific information included in the documentation.

Pre-marketing of AIFs is also regulated. Pre-marketing is defined as "the provision of information or communication on investment strategies or investment ideas, by an AIFM or its delegate performing pre-marketing activities on its behalf, to prospective professional investors domiciled or with their registered office in the EU, to test their interest in an EU AIF which is not yet established or not yet notified for marketing under the AIFMD marketing passport in the EU member state of the prospective investor". AIFMs are required to follow a notification procedure in order to notify their competent regulator of their intention to pre-market in the EU.

In the context of marketing a fund in the Netherlands, it is also necessary to consider whether the offering qualifies as an investment service or investment advice and is therefore regulated by MiFID II. MiFID II may trigger additional licensing requirements.

As mentioned in question 1.1 above, if participation rights are offered at the request of a Dutch investor without any

solicitation by a management company, no marketing is deemed to take place in the Netherlands. The AFM applies the “initiative test” in determining whether active or passive marketing has taken place.

3.2 Is licensure with a regulatory authority required of persons (whether entities or natural persons) engaged in marketing activities? If so: (i) are there commonly available exceptions that may be relied on?; and (ii) describe the level of substantive regulation applied to licensed persons.

Marketing of AIFs or UCITS may qualify as the provision of investment management or investment advisory services within the meaning of MiFID II, as implemented in the Wft. Entities or natural persons providing these MiFID services must obtain a licence prior to providing the services, unless they are able to make use of an exemption.

Various exemptions are available; for example, if the services are provided to a group company or as an ancillary service. Also note that AIFMs or UCITS ManCos may perform certain MiFID services without obtaining a full MiFID licence.

Depending on the entity that performs the marketing activities, a licence must be obtained under one of the following regimes: MiFID II; UCITS Directive; or AIFMD. Alternatively, no licence would be required if the entity is able to make use of its European passport as long as it has already obtained a licence to provide investment management or advisory services in another EEA Member State.

3.3 What are the main regulatory restrictions and requirements in the following areas, if any, that must be complied with by entities that are involved in marketing public funds?

i. Distribution fees or other charges

Strict rules apply in the Netherlands to inducements for investment services (receiving and transmission of orders, order execution, asset management, investment advice and placing or underwriting of financial instruments) provided to retail or professional clients. Inducements include all fees, commissions and non-monetary payments received or paid that relate to the provision of investment services.

Exemptions generally apply to investment firms providing investment services in case the inducements are paid directly by the client, are necessary to provide the service (necessary means such as custody costs, settlement and exchange fees, regulatory levies or legal fees), or relate to small non-monetary inducements or other minor non-monetary benefits capable of enhancing the quality of the service. All of these must be reasonable and proportionate and of such a scale that they are unlikely to influence the investment firm’s behaviour in any way that is detrimental to the interests of the relevant client.

ii. Advertising

Advertisements are subject to general conduct rules prescribed by the Wft. Advertisements must be accurate, clear and not misleading. The commercial objective of the advertisement must be recognisable as such. Depending on the type of fund and the type of investors, specific disclaimers and warning signs must be included in the advertisement (or in the offering documentation).

iii. Investor suitability

MiFID II rules as implemented in the Wft require entities or persons that market participation rights in the funds to assess

whether the product is suitable for the client. This suitability assessment is required for individual portfolio management or advice regarding the participation rights and requires the investment firm to obtain information from the client before it provides the investment services.

iv. Custody of investor funds or securities

If funds or securities are held in custody as part of the provision of investment services, the custodian must have a licence. If funds or securities are held in custody and no investment services are provided, it does not qualify as a regulated activity.

Under Dutch law, AIFMs and UCITS ManCos must appoint a depositary for the safekeeping of assets. Certain exemptions and light regimes are available.

3.4 Are there restrictions on to whom public funds may be marketed or sold?

Different requirements apply to the marketing of funds to professional and retail investors; however, there are no generic restrictions on to whom funds may be marketed or sold.

3.5 Are there other main areas of regulation that are imposed with respect to the marketing of public funds?

The EU Sustainable Finance Disclosure Regulation (“SFDR”) sets rules on transparency with a view to promoting both the integration of sustainability risks into investment processes and disclosures to investors. For example, all financial products must: (i) specify in pre-contractual documents how sustainability risks are integrated into investment decisions; and (ii) identify the possible impact on an investment’s profitability. The SFDR applies to many financial market participants and financial advisers, including AIFMs and UCITS ManCos.

Marketing activities must comply with the requirements of the Dutch Act on Unfair Commercial Practices (*Wet oneerlijke handelspraktijken* or “AUCP”). Pursuant to the AUCP, retail investors must not be provided with misleading information, and essential information – such as the key features of the offered investment funds – must not be withheld.

A key investor information document (“KIID”) must be prepared in accordance with Article 5 of the PRIIPs Regulation and provided to retail investors.

4 Tax Treatment

4.1 What are the types of entities that can be public funds in your jurisdiction?

The most commonly used Dutch entities for public funds are:

- The public limited liability company (*naamloze vennootschap* or “NV”). An NV is a legal entity and as such can hold the legal title to the fund assets. An NV is incorporated by having a notarial deed of incorporation executed in front of a Dutch civil law notary.
- The fund for joint account (*fonds voor gemene rekening* or “FGR”). An FGR is not a legal entity and therefore cannot hold the legal title to the fund assets. Instead, an FGR is a contractual arrangement between one or more investors, a fund manager and a legal titleholder (typically a Dutch foundation). The legal titleholder holds the legal title to the fund assets for the risk and account of the participants.

An FGR can be structured as a taxable entity or as tax-transparent. In order for an FGR to be tax-transparent, the transfer

of participations has to be subject to certain statutorily described limitations. For sake of completeness, it is noted that the statutorily described limitations that currently apply may be subject to change as a result of a legislative proposal that is expected to be published in Q3 2023.

4.2 What is the tax treatment of each such entity (both entity-level tax and taxation of investors in respect of allocations of income or distributions, as the case may be)?

Taxation at entity level

NV or taxable FGR

An NV or taxable FGR is subject to Dutch corporate income tax (“CIT”) at the regular statutory rates. Distributions by an NV or taxable FGR are, in principle, subject to 15% Dutch dividend withholding tax (“DWT”). However, Dutch public funds in the form of an NV or taxable FGR often apply the fiscal investment institution regime (*fiscale beleggingsinstelling* or “FII”) or the exempt investment institution regime (*vrijgestelde beleggingsinstelling* or “EII”). See question 4.3 for a description of these regimes.

Tax-transparent FGR

A fund in the form of a tax-transparent FGR is not subject to Dutch CIT. The assets and liabilities of a tax-transparent FGR (including income and capital gains from underlying investments) are attributed to the participants on a *pro rata* basis and are taxed accordingly. Distributions by a tax-transparent FGR are, in principle, not subject to Dutch DWT.

However, a tax-transparent FGR that qualifies as a reverse hybrid entity may, under certain circumstances, become subject to Dutch CIT pursuant to the Dutch reverse hybrid rules. A reverse hybrid entity is an entity that for tax purposes is considered tax-transparent in its jurisdiction of incorporation or establishment, but as a taxable entity in the jurisdiction of one or more participants in such entity. In short, the Dutch reverse hybrid rules may apply in respect of a tax-transparent FGR if 50% or more of the voting rights, capital interests or profit rights in such FGR are directly or indirectly held by one or more related entities or individuals located in a jurisdiction that consider the FGR as a taxable entity for CIT purposes. In addition, distributions from FGR that qualifies as a reverse hybrid entity, can, under certain circumstances, be subject to Dutch DWT.

Taxation at investor level

Dutch resident individuals

A Dutch resident individual is generally subject to Dutch personal income tax (“PIT”) with respect to an investment in a public fund under the regime for savings and investments (*sparen en beleggen*, box 3). Currently, transitional legislation applies to

determine the income from savings and investments based on a deemed return, until a new system will be implemented based on the actual return (currently envisaged to enter into force as of 2026). Under this transitional regime, the taxable income from savings and investments is calculated by multiplying the individual’s deemed return percentage (*effectieve rendementsperscentage*) by the individual’s yield basis (*rendementsgrondslag*) exceeding a personal threshold (*heffingsvrij vermogen*) of EUR 57,000 (2023) (*grondslag sparen en beleggen*). The individual’s deemed return percentage is calculated on the basis of the actual composition of the individual’s yield basis as of 1 January of the relevant year (subject to certain rules against reference date arbitration; *peildatumarbitrage*), with different (periodically announced) deemed return percentages applying for bank deposits (*banktegoeden*), other investments (*overige bezittingen*) and debts (*schulden*). The taxable income from savings and investments is taxed at a rate of 32% (rate for 2023).

Dutch resident individuals are generally able to offset Dutch DWT withheld on distributions received from an NV or taxable FGR against Dutch PIT due (or claim a refund), subject to certain limitations.

Dutch resident entities

A Dutch resident entity is generally subject to Dutch CIT with respect to income and capital gains derived from an investment in a public fund that is an NV or taxable FGR at the regular statutory CIT rates (certain exceptions apply). Dutch resident entities may generally offset Dutch DWT withheld on distributions received from an NV or taxable FGR against Dutch CIT due, subject to certain limitations. Dutch DWT withheld but not credited in a certain year can, in principle, be carried forward indefinitely and can be credited against Dutch CIT due in future financial years (albeit that limitations can apply).

In respect of an investment in a public fund that is a tax-transparent FGR, a Dutch resident entity is generally subject to Dutch CIT with respect to income and capital gains derived from the underlying investment.

4.3 If a public fund, or a type of entity that may be a public fund, qualifies for a special tax regime, what are the requirements necessary to permit the entity to qualify for this special tax regime?

Please refer to the table below.

For the sake of completeness, it is noted that the below requirements of the FII regime assume that the public fund is considered to be regulated or listed, which is the case if the public fund or its manager holds a licence from the AFM within the meaning of the Wft (or is exempted therefrom) or if its shares or participations are admitted to trading on a market for financial instruments within the meaning of the Wft. If the public fund is not considered regulated or listed, the requirements of the FII regime are slightly different.

	Fiscal Investment Institution	Exempt Investment Institution
Legal form	NV, BV or taxable FGR.	NV or taxable FGR.
Shareholder restrictions	<p>Yes, in brief:</p> <ul style="list-style-type: none"> ■ no single individual person may own an interest of 25% or more; ■ no taxable entity (or whose beneficiaries are taxable entities) may, alone, or together with affiliated entities, own or control an interest of 45% or more; and ■ no single Dutch resident entity may own an interest of 25% or more through a non-Dutch resident FGR or entity with a capital divided into shares. 	No, but there should be more than one participant.

Directors' requirements	No managing director and no more than half of the supervisory directors may at the same time be a managing director or supervisory director, respectively, or employee of a participant that, alone, or together with affiliated entities, owns an interest of 25% or more.	No.
Restriction on activities	The aim and the actual activities must solely consist of passive investment activities. It is announced that as of 1 January 2025, an FII will no longer be allowed to directly invest in real estate (investing in a taxable entity that invests in real estate would, in principle, still be allowed).	The aim and the actual activities must solely consist of passive investments in financial instruments (e.g. equities and bonds) or bank deposits, whereby the principle of risk spreading needs to be applied.
Distribution obligation	Yes, an FII must distribute its profit within eight months after the end of the book year (exceptions may apply).	No.
Dutch CIT position of public fund entity	An NV, BV or taxable FGR is, in principle, subject to Dutch CIT. However, under the FII regime the applicable Dutch CIT rate is 0%.	An NV or taxable FGR is, in principle, subject to Dutch CIT. However, under the EII regime an exemption from Dutch CIT applies.
Dutch DWT on distributions from the public fund entity	Yes, subject to 15% Dutch DWT. However, an FII may claim a DWT remittance rebate with regard to the Dutch DWT and foreign withholding taxes withheld on income received by an FII.	No, exempt.
Eligibility of the public fund entity for tax treaties	Yes, based on current Dutch tax treaty policy, the aim of the Dutch government is that an FII is eligible for tax treaty benefits. However, whether benefits may be obtained is ultimately determined by the source state.	No.
Advance request required	No. It is, however, advisable to request the Dutch tax authorities for advance confirmation that the FII regime applies.	Yes, the EII regime is applied upon request. The request should be filed with the Dutch tax authorities ultimately in the year in which the NV or taxable FGR wants to apply the EII regime (the EII regime can only be applied as from the beginning of a book year).
Miscellaneous requirements	The debt financing may not exceed: (i) 60% of the tax book value of real estate investments; and (ii) 20% of the tax book value of other investments. It has been announced that requirement (i), which stipulates that the debt financing may not exceed 60% of the tax book value of real estate investments will be abolished; this is expected to become effective as of 1 January 2025.	In order to qualify for the EII regime, the participations in the public fund should be repurchased or redeemed directly or indirectly out of the fund assets if the participants request so. It is announced that, as of 1 January 2024, the EII regime will only be available to public funds that hold a licence from and are supervised by the AFM and the Dutch Central Bank.



Jeroen Smits specialises in Dutch domestic and international taxation with a focus on M&A and private equity transactions, structured finance, capital markets transactions and investment fund structuring. His clients include large multinational companies, financial institutions and private equity firms.

Jeroen is a member of Stibbe's investment funds practice. Jeroen joined Stibbe in 2001 and spent three years in the London office (2005–2008). He has (co-)authored several publications on Dutch international taxation. Professional Memberships include Dutch Bar Association, IFA, Dutch Association for Tax Law.

Stibbe
Beethovenplein 10
1077 WM
Netherlands

Tel: +31 20 546 01 48
Email: jeroen.smits@stibbe.com
URL: www.stibbe.com



Rogier Raas creates a different approach to each issue ensuring his solutions are both highly tailored and effective, as each case and client is unique. Rogier acts as counsel to financial institutions in connection with a broad range of regulatory and compliance matters. In addition, he represents listed companies, financial institutions and institutional investors on the negotiation, documentation and settlement of securities transactions and investment management mandates.

He also represents financial institutions in connection with internal or external investigations, or enforcement action taken by the Netherlands Authority for the Financial Markets (*Autoriteit Financiële Markten*) or the Dutch Central Bank (*De Nederlandsche Bank*).

Rogier graduated from Leiden University in 1998 and subsequently achieved a PhD in intellectual property law (2000) from the same university. In 2004, Rogier was seconded to the New York office of a leading US law firm. In 2006, he was appointed as part-time professor in Netherlands and European banking and securities law at Leiden University.

Stibbe
Beethovenplein 10
1077 WM
Netherlands

Tel: +31 20 546 05 90
Email: rogier.raas@stibbe.com
URL: www.stibbe.com

Our investment funds practice provides a full range of legal services to asset managers, investors and other professionals active in the investment funds and asset management industries. As an integrated team, combining the expertise of our investment funds, tax law, financial and corporate law specialists, we provide expert advice on all legal, regulatory and tax aspects of asset management on a domestic and cross-border basis, and deliver comprehensive services to a broad range of clients.

We assist asset managers on all legal, tax and regulatory aspects relating to the structuring, marketing, distribution, formation, administration and management of investment funds, such as UCITS and regulated or unregulated AIFs, as well as other investment vehicles not qualifying as AIFs.

In the context of the launch of investment funds, our specialists provide valuable assistance in the negotiation of investment terms with investors, including large international institutional investors, such as development finance institutions.

We also advise investors, including institutional investors, insurance companies, and pension funds, on matters relating to due diligence on target investment structures and negotiations of their investment's terms.

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