Banking Regulation

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Introduction

As a result of the financial crises of 2008–2013, EU (and Dutch) regulatory law has undergone an historic overhaul unlike anything seen before. This has led to Dutch banks being subject to an extremely detailed, opaque and expansive set of regulatory requirements, and thus a significant increase of regulatory compliance costs. Slowly, however, over the past year, this crisis prevention legislation has seemed to reach its final stages.

Over the past few years, the Dutch legislator has proven to be critical of the banking sector. This resulted in some gold-plating rules above and beyond EU banking legislation. For instance, in the past few years, there has been a focus on stricter inducement, remuneration and ethical conduct regulations. For instance, the Netherlands introduced a 20% bonus cap applicable to all employees of Dutch banks, creating a lower cap than that of the EU, at 100%/200%.

In the past year, as a result of the Panama papers, the global geopolitical situation and the market access of new, often unregulated financial market players, the Dutch regulators are increasingly focusing on integrity of the banking sector. This includes a tightening of supervision on customer due diligence, anti-money laundering and sanctions rules.

The Dutch legislative regulatory strictness does seem to have halted, possibly under the prospect of attracting banks to the Netherlands after Brexit. Some non-EU banking groups have already decided to use the Netherlands as their EU hub. There are also some other developments in the Dutch banking landscape. In a historically non-competitive market, Dutch banks are experiencing increasing competition from specialised mortgage credit providers. Banks are now onboarding Fintech initiatives to counter new competitive financial services providers. Dutch regulators appear to be open to such new initiatives.

Regulatory architecture: overview of banking regulators and key regulations

Dutch financial regulatory framework

The largest part of the Dutch legislation on the financial services industry is derived from European legislation. The other part consists of specific national legislation. Regulatory rules are incorporated in the Dutch Financial Supervision Act (*Wet op het financieel toezicht* (**Wft**)) and further decrees and regulations. The Wft consists of, amongst others, provisions on market entry, the integrity and soundness of the business operations and internal procedures, governance requirements, capital requirements, the conduct of business, the offering of securities and prospectus requirements.

In addition to the Wft, many directly applicable EU regulations contain regulatory rules for Dutch financial institutions. We note that some of this EU legislation results from

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agreements within the Financial Stability Board or the Basel Committee on Banking Supervision, covering more jurisdictions than the EU.

As a result of the introduction of the Wft in 2007, the Dutch supervisory structure has changed from the traditional sectoral model to a functional model on a cross-sectoral basis. In line with this 'Twin Peaks' model, the Netherlands has a prudential supervisory authority and a conduct supervisory authority. The Dutch Ministry of Finance is currently exploring the options regarding a revision of the Wft in the near future in order to resolve several identified shortcomings in the structure of the Wft.

Dutch financial sector regulators

Prudential supervision in the Netherlands is primarily carried out by the Dutch Central Bank (*De Nederlandsche Bank* (**DNB**)). As a result of the EU Banking Union, prudential supervision on banks is also conducted by the European Central Bank (**ECB**). This is in addition to conduct supervision carried out by the Netherlands Authority for the Financial Markets (*Autoriteit Financiële Markten* (**AFM**)). The supervisory authorities cooperate in their supervision in order to avoid overlap and to promote the efficiency and effectiveness of their supervision. The responsibilities and powers of AFM and DNB are recorded in the Wft and the General Administrative Law Act (*Algemene wet bestuursrecht*).

AFM

The AFM is responsible for the conduct of business supervision for all financial undertakings that are active in the financial markets. Conduct supervision focuses on ensuring orderly and transparent financial market processes and the exercise of due care in dealing with clients by financial undertakings. The AFM is also responsible for the approval of prospectuses, market abuse supervision and matters regarding the trading infrastructure.

The AFM is a strict supervisory authority that is not reticent to impose formal measures such as fines or orders subject to a penalty when the proper treatment of consumers is at stake.

DNB

DNB is responsible for prudential supervision of financial undertakings. DNB also supervises compliance with the Anti-Money Laundering and Anti-Terrorist Financing Act (*Wet ter voorkoming van witwassen en financieren van terrorisme* (**Wwft**)) by financial undertakings under its prudential supervision. DNB assesses and enforces the adequacy of the procedures and measures implemented by financial undertakings to combat money laundering and terrorist financing. DNB is also the central bank of the Netherlands and is in this capacity responsible for systemic supervision.

DNB is also a strict supervisory authority, which focuses not on formalistic compliance with rules *per se*, but on effects that it deems undesirable. In comparison to other supervisory authorities, DNB is less data driven, and more governance/conduct driven.

ECB

As a result of the EU Banking Union, starting 4 November 2014 the ECB is the prudential supervisory authority of all banks with a seat within the euro currency area. This has changed the role of DNB significantly. The ECB now conducts direct prudential supervision with regard to significant Dutch banks, such as ABN AMRO Group N.V., ING Group N.V., Coöperatieve Rabobank U.A. and the Nederlandse Waterschapsbank N.V. With regard to the other, less significant, Dutch banks, DNB remains the direct prudential supervisory authority. However, the ECB will indirectly be of great influence due to the authorisation to adopt further regulations, guidelines, recommendations and decisions, which have to be

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followed by DNB. In addition, the ECB decides on approvals for banking licences and declarations of no-objection (regardless of whether the relevant bank is significant or not).

So far, it appears that the ECB is more formalistic and more data-driven than DNB.

Recent regulatory themes and key regulatory developments in the Netherlands

EU developments

As set out above, Dutch banking regulation is mainly EU-driven. The main reasons for the EU's interest in banking regulations are the recent financial crises over the past decade. After the credit crisis and the Euro crisis, the EU found that the effects of a failing bank could not be contained within national borders. Also, national EU Member States and their local banks held each other in a stronghold. Banks own a significant amount of sovereign debt on their balance sheet, whilst national governments would have to bail out these banks if they were to fail, resulting in a vicious cycle.

As a result, at the EU level there is a strong desire for one harmonised set of bank regulatory rules and methodologies, countering regulatory arbitrage and too close ties between banks and their national supervisory authorities. Those harmonised rules are laid down in the so-called Single Rulebook. The EU uses directly applicable regulations more often. In addition, through the EU Banking Union, the EU has created one institutional banking supervisory mechanism.

Since the worse parts of the crisis seem to be behind us, the EU is increasingly looking for a consolidation, and even clean-up of the regulatory framework for banks. The EU legislator is trying to perfect post-crisis regulations, and at the same time looking for rules that may even stimulate the economy. Below, we will list a number of current EU regulatory developments.

Brexit

The UK's vote to leave the EU has raised significant challenges for financial institutions operating in and from the UK. To prevent future possible EU market access limitations, UK banks are considering creating an EU continental subsidiary in another EU Member State.

Due to logistical reasons, financial services infrastructure, work force, language skills, tax structure and quality of living, the Netherlands is generally considered a suitable option for an EU-based regulated subsidiary. The Dutch 20% bonus cap is considered a big disadvantage, however, although there may be some exceptions to work around that (and DNB has given some favourable interpretations).

CRD V and CRR II

Although CRD IV and CRR entered into force only four years ago, the European Commission (**EC**) has already reviewed and revised CRD IV and CRR in 2016. The proposed measures aim to further reduce risk in the banking sector. It is expected that these proposals will not enter into force before 2020.

Some of the proposed measures that likely have the greatest impact on banks are:

1. Banks' capital requirements:
    - Some of the existing capital disclosure requirements will be set as mandatory minimum rules. For example, a binding leverage ratio of 3% will be introduced. Also, a liquidity requirement for long-term assets, the Net Stable Funding Ratio (NSFR), will be mandatory to comply with.
    - Certain existing capital requirements will be amended to further de-risk banks and to take account of systemic importance. For example, the quality of capital that can

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be taken into account to calculate the large exposures limit (only Tier 1 capital) will be improved.
- The conditions under which supervisory authorities may require Pillar 2 add-ons to a bank's capital buffer will be harmonised and enhanced.

2. Group structures:
   - The new rules introduce an authorisation requirement for the holding companies of banking groups and financial conglomerates. An EU intermediate holding company is required for non-EU significant bank groups with more than two EU entities.
3. Proportionality:
   - The new proposals contain measures aimed to apply a regulatory requirement on a proportionate basis, taking into account a bank's size and complexity. This includes proportionality with respect to remuneration. One of the amendments consists in exempting deferred variable remuneration and pay-out in instruments with respect to (i) banks with a balance sheet total of EUR 5 billion, or (ii) persons receiving variable remuneration of less than EUR 50,000 (being less than 25% of that person's annual salary).

Markets in Financial Instruments Directive II

The Markets in Financial Instruments Directive (**MiFID**) has been reviewed and amended, resulting in "MiFID II" and its regulation "MiFIR". The MiFID II legislative package will enter into force in all EU Member States as of January 2018.

Some MiFID II highlights are:
- introduction of a new regulated trading platform – Organised Trading Facility (OTF) – to capture trades that currently are executed on non-regulated platforms (such as certain derivatives and bonds trades);
- strengthened pre/post-trade transparency requirements;
- stricter governance requirements and more accountability on an investment firm's senior management;
- new and stricter rules for commodity derivatives trading;
- new rules relating to the increased use of technology performed electronically at very high speed (e.g. high-frequency trading firms); and
- investor protection to safeguard clients' interests by providing the client with increased information on products and services. This also includes among other things enhanced product governance and inducement rules.

BRRD/SRMR

The Bank Recovery and Resolution Directive (**BRRD**) and the Single Resolution Mechanism Regulation (**SRMR**) provide for regulations relating to the recovery and resolution of failing banks.

Provisions of the BRRD and the SRMR include, *inter alia*, resolution powers and instruments, like the bail-in tool. If the resolution authority deploys the bail-in, certain types of debt of a bank can be written off or converted into share capital. In addition, banks must draw up recovery plans in line with the BRRD/SRMR. The resolution authority will draw up a resolution plan for every bank involved. The bank can be asked to assist draw up the plan. Also, banks are subject to a capital requirement relating to their capital that can be bailed in, the Minimum Requirements for own funds and Eligible Liabilities (**MREL**).

In order to properly apply these resolution tools, BRRD/SRMR grants resolution authorities the right to impose temporary restrictions on termination rights of any party to a financial

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contract with a bank under resolution. The suspension of termination rights is only allowed when the bank continues to perform its delivery and payment obligations and lasts temporarily.

Under the Banking Union, the SRMR sets out a single resolution framework for significant banks, and has introduced a common resolution authority for such banks, the Single Resolution Board (**SRB**).

The current developments in resolution planning intend to further strengthen, harmonise and specify the BRRD/SRMR resolution frameworks. Some of these developments are:

- The SRB and national resolution authorities will further work on setting the MREL-level for banks.
- The SRB will build an oversight function for less significant banks in 2017, in order to further harmonise resolution mechanisms across Member States.
- The EC has proposed to amend BRRD and the SRMR. These proposals, *inter alia*, concern:
  - The introduction of the Total Loss Absorbing Capacity (**TLAC**) requirement for Global Systemically Important Institutions (**G-SIIs**). G-SIIs are required to hold a minimum level of capital and other instruments that can bear losses in case of resolution of the G-SII. This requirement will be integrated in the existing MREL requirement.
  - The proposals include a moratorium tool that can be applied by the supervisory authority in respect of a bank's payment obligations in the early intervention phase. These payment obligations can be suspended for a maximum of five days.
  - The ranking of debt instruments is currently determined on Member States' national level. The EU proposes a harmonised national insolvency ranking of unsecured debt instruments (senior debt) to facilitate banks' issuance of such loss absorbing debt instruments. As a result of this proposal, this senior debt will rank between subordinated capital instruments and regular unsecured claims. The EC's aim is that these rules enter into force in the course of 2017.

Capital Markets Union

In September 2015, the EC presented its action plan on building a Capital Markets Union. With this action plan, the EC is trying to stimulate the economic growth potential of Europe by strengthening and diversifying financing sources for European companies and long-term investment projects. The subsequent CMU proposals are plenty and cover a broad area.

Current CMU proposals that try to accomplish these themes relate to, for instance:

- Proposed CRR measures intended to increase banks' lending capacity to provide loans to small and medium-sized enterprises (**SMEs**) and fund infrastructure projects. One of the proposed measures is a capital reduction for banks in respect of SME loans.
- Proposed measures to promote a safe and liquid market for securitisation.
- The development of principles on the feedback to be given by banks to SMEs with declined credit applications by EU banking associations. Currently, the principles need to be formalised.

<u>Developments in the Netherlands</u>

Over the past few years, the Netherlands government has been very critical of the banking sector. As a result, it has introduced a number of rules that are stricter than the EU rules or that are in addition to these EU rules. For instance, in recent years, the Dutch Act on the Remuneration Policy of Financial Undertakings introduced a 20% bonus cap applicable to all employees of Dutch financial undertakings. This created a broader and more stringent

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bonus cap than the cap imposed under the EU's CRD IV. Also, the Dutch legislator has focused on the banking sector's integrity. It has, for instance, introduced a bankers' oath applicable to all bank staff. Such oath has been linked to a code of conduct with disciplinary rules applicable to all employees in the Dutch banking industry. If such employees violate their oath, they can be sanctioned by a disciplinary board.

It seems that currently the Dutch legislator has somewhat loosened its regulatory strictness. For instance, investigations by the regulator into taking protective measures for professional one-man businesses and SME companies, have ended in the conclusion that the banking sector's self-regulatory measures may be sufficient. An example of such recent self-regulation is that the Dutch banking sector has prepared a code of conduct for SME loans.

New financial markets rules

Nevertheless, the Dutch legislator proposed for consultation a set of new regulatory rules in July 2016. It is the intention that these rules as set out in the Dutch Financial Markets (Amendment) Act 2018 (*Wijzigingswet financiële markten 2018*) and Financial Markets (Amendment) Decree 2017 (*Wijzigingsbesluit financiële markten 2017*) will enter into force in the course of 2017 and 2018. In relation to banks, these proposals include, among other things:

- Approval for joint and several liability guarantees. Based on the proposal, prior approval of the competent authority will be required for issuing a joint and several liability guarantee by banks, insurance companies or certain investment firms for debts and liabilities following from all, or nearly all actions of third parties. An example of this would be a letter of comfort in respect of affiliates (*403-verklaring*). This approval requirement is also applicable to guarantees issued by holding companies of those financial institutions or by their group entities who provide critical services.
- Providing inducements from an investment account falls within the scope of the Dutch inducement ban. Certain investment firm banks offer financial service providers the option to receive inducements from the customer from the investment account of the customer, which is managed by them. As a consequence of the new rules, this is in violation of the inducement ban.

Bank governance and internal controls

Dutch banks are subject to a large number of detailed requirements for governance and internal control. This section describes the key requirements. We note that a very important source of governance requirements for Dutch banks are the EBA's Guidelines on Internal Governance. The governance of a bank should be set on the basis of the principle of proportionality. Some governance provisions only apply to significant banks, given their size, internal organisation, scale and the complexity of their operations.

Suitability and integrity screening

All managing directors and supervisory board members of a bank are required to be assessed on suitability and integrity, and have to pass both assessments. For banks, the screenings are conducted by DNB.

As of 1 April 2015, the suitability and integrity screening is extended to staff members who are hierarchically positioned directly below the management board and who might influence the risk profile of the bank. This is called the 'second echelon' and usually includes senior management, such as heads of departments within the bank. The bank itself must determine which staff members fall into this category, and must have the relevant testing procedures in place.

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Furthermore, parties seeking a declaration of no-objection for holding or acquiring a qualifying holding in a bank will also be screened for integrity. A participation in a bank can be described as a "qualifying holding" when it represents a direct or indirect stake of at least 10% or more of the shares and/or voting rights in the bank.

Dutch suitability testing especially is very thorough and based on the supervisor's assessment of many (subjective) competences of a candidate. This has attracted a lot of criticism from the financial sector. The integrity and suitability screening processes have recently been examined by an independent commission. Further to the recommendations of the commission, DNB has made several improvements in the process of suitability and integrity screening.

Supervisory board committees

A Dutch bank must have a supervisory board. The supervisory boards of banks are required to establish certain committees. The following committees may be required, depending on a bank's significance:

- a nominating committee;
- a risk committee;
- a remuneration committee; and
- an audit committee.

Internal control environment

Banks are required to ensure controlled and sound business operations. Banks are required to have a clear and adequate organisational structure and clear reporting lines. According to the Wft, the internal organisation should include:

- a three lines of defence model, which has:
  (i) an organisational unit that monitors compliance by the business line with legal regulations and internal rules of the bank (compliance function, second line of defence); and
  (ii) an organisational unit that assesses independently, at least annually, whether the organisational structure is effective (audit function, third line of defence);
- a risk management department, that should assess and manage risk – such as credit risks, market risks and operational risks;
- a customer due diligence process;
- a systematic integrity risk analysis;
- a procedure on the prevention of conflicts of interest;
- a procedure on the administration and reporting of incidents; and
- a recovery plan in case of financial difficulties.

Significant banks are, in addition, required to have an independent risk management function that is subject to additional rules. This function should operate on an independent basis from other operational functions. The risk management function has direct access to the management and supervisory board. The risk management function should have the authority to report directly to the supervisory board, if necessary.

Sound remuneration policies

The financial crisis has led to national and international scrutiny on whether incentives generated by bank executives' compensation programmes led to excessive risk-taking. This has led to remuneration rules for banks, set out in CRD IV (implemented into the Dutch Regulation on Sound Remuneration). These rules are applicable to senior management and risk-taking staff, also called 'identified staff'. The CRD IV remuneration rules contain, for

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instance, requirements to defer part of a bonus payment over a period of three to five years, and to pay-out part of the bonus in share-like instruments.

As stated in Part 2 above, the EC has proposed proportionality thresholds for these requirements. The Dutch cabinet has already indicated that it considers these thresholds to be too high.

At a domestic level, the Remuneration Policy (Financial Enterprises) Act (**the Dutch Remuneration Act**) entered into force on 7 February 2015. The Dutch Remuneration Act contains stricter rules than the remuneration rules in CRD IV. The most important rule in the Dutch Remuneration Act is the bonus cap of 20% of the fixed remuneration component of the total remuneration. Also, the Dutch Remuneration Act is applicable to all types of regulated financial undertakings, and their subsidiaries. The bonus cap applies to each person working under the responsibility of the bank. Certain higher caps may apply to Dutch banks, or group companies of those banks, that mainly have staff working outside of the Netherlands.

Outsourcing of functions

Outsourcing by banks of certain functions is permitted but is subject to strict conditions. One of these conditions is that an outsourcing agreement should be in place. The bank itself remains responsible for the performance of outsourced functions.

Bank capital requirements

Dutch banks are subject to a very detailed set of capital requirements regulations, set out in CRD IV, CRR, and a very large number of underlying binding technical standards and guidelines. CRR contains the European implementation of the Basel III Framework. As an EU regulation, CRR is directly applicable in the Netherlands. As an EU Directive, CRR has been implemented in the Netherlands via the Wft. CRR and CRD IV became fully effective on 1 January 2014.

Most importantly, the CRD IV/CRR framework contain the following capital requirements:

- Minimum own funds: a bank must maintain a buffer of own funds in relation to the risk-weighted exposure on its assets. The risk-weighted amount will be determined by taking into account a bank's risks relating to its assets, such as credit risk, operational risk, market risk, etc. The capital buffer must be at least 8% and may be much larger, adding additional buffers such as a capital conservation buffer, a counter-cyclical buffer and a buffer for systemic importance. In addition, the bank's supervisor may impose higher 'Pillar II'-buffers. The buffers must be met with strong capital that meet a number of requirements. These capital forms consist of equity (Common Equity Tier 1), subordinated perpetual capital instruments that are contingently convertible into equity (Additional Tier 1) and subordinated loans with a maturity of more than five years (Tier 2).
- Liquidity Coverage Ratio (**LCR**): a bank must have a liquidity buffer that consists of sufficient liquid assets to cover a bank's net out-flows in a stressed period of 30 days. The buffer must be higher than the out-flows. The relevant assets are weighted based on their liquidity. For instance, notes and coins are highly liquid, and thus have a 100% weighting. Liquidity outflows are also weighted. A retail deposit falling under the deposit guarantee scheme is not likely to be withdrawn, and will thus have an outflow weighting of 5%.
- Net stable funding ratio (**NSFR**): a bank must currently only disclose its NSFR ratio, which reflects the bank's stable funding in relation to its long-term assets (such as

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mortgage loans). In accordance with the CRR 2 proposals set out in Part 2 above, the NSFR will be a mandatory requirement. As a result, a bank's stable funding must be higher than its long-term assets.

- Leverage ratio: The minimum own funds requirement is based on risk-weighting. After the financial crisis, an unweighted capital requirements was introduced; the leverage ratio. The leverage ratio is determined by dividing a bank's total Tier 1 capital by that bank's unweighted exposure (consisting of the bank's assets plus off-balance items). Currently, a bank only has to disclose its leverage ratio. In accordance with the CRR 2 proposals set out in Part 2 above, a leverage ratio of at least 3% will be mandatory. Again, the Netherlands government has expressed its intentions to be stricter than the EU, and wishes to impose a 4% minimum. It remains to be seen whether the Netherlands has the degree of discretion to be able to continue to pursue efforts to a leverage ratio of 4%. The Dutch legislator has indicated that it will continue to pursue efforts to a leverage ratio of 4% at an international level – at least for systemically important banks.

The competent supervisory authorities (ECB for significant Dutch banks and DNB for less significant Dutch banks) will annually assess the banks' capital position. Such assessment is called a Supervisory Review and Examination Process (SREP). The ECB has determined a harmonised approach for all national supervisory authorities for conducting the SREP. Depending on the outcome of the SREP, the authorities may impose additional 'Pillar II' capital requirements on a bank.

Rules governing banks' relationships with their customers and other third parties

Duty of care

The Wft contains various provisions regarding the duty of care of banks in relation to its clients. Generally speaking, the degree of protection depends on the degree of professionality of the client. Professional clients need less protection than retail clients.

The duty of care also differs per financial service provided by banks. Consumer protection rules apply for instance to the provision of loans (consumer loans and mortgage loans) and regular banking activities, such as deposits. If banks provide these services to parties acting in the course of their business, the protection requirements do not apply. However, when it comes to investment services (under MiFID), professional investors are also protected.

The duty of care requirements largely consist of providing detailed information before entering into any agreement with the client and also during the contractual relationship (for instance when a transaction is executed). Banks are also often required to verify whether the specific financial service is suitable for the client, based on its personal situation.

Integrity (anti-money laundering, etc.)

The European Anti-Money Laundering Directives are implemented in the Dutch Anti-Money Laundering and Anti-Terrorist Financing Act (*Wet ter voorkoming van witwassen en financieren van terrorisme* (**Wwft**)). The purpose of the Wwft is to combat money-laundering and the financing of terrorism. The Fourth Anti-Money Laundering Directive will be incorporated in the Wwft in 2017. The new directive is amongst others more prescriptive regarding the CDD-requirement and the ongoing monitoring. Also, Member States are obliged to create central registers containing information on the beneficial ownership of clients of corporations.

The adequacy and effectiveness of the procedures and measures implemented by financial institutions to combat terrorist financing and money laundering will be assessed and enforced

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by DNB. Banks must conduct client due diligence research when on-boarding a client. The intricacy of such due diligence must be risk-based (low, medium, high), depending on (for instance) the client type, jurisdiction type, service type, distribution channel type, etc.

The monitoring of integrity risks in relation to, for instance, money laundering, continues to be a high DNB supervision priority. For instance, DNB requires that each bank has a systematic integrity risk analysis (SIRA). The SIRA is a cyclical process, which consists of i) the identification of risks, ii) the analysis of the likelihood of a specific risk occurring, iii) determination of the most important risks, and iv) decisions on control measures to be taken. This process should be reviewed on a regular basis.

Deposit Guarantee Scheme and Investor Compensation Scheme

If a bank is bankrupt and is thus no longer able to meet its obligations, clients are able to make a claim on the basis of the Deposit Guarantee Scheme or the Investor Compensation Scheme. The Dutch Deposit Guarantee Scheme and the Investor Compensation Scheme are based on EU Directives. Whether the claim will be sustained depends on whether the relevant conditions are met.

The Deposit Guarantee Scheme guarantees an amount of EUR 100,000 per person per bank, regardless of the number of accounts held. The Deposit Guarantee Scheme is pre-funded. In other words, Dutch banks must contribute to a Dutch Deposit Guarantee Fund, on the basis of the size of their activities. We note that, in view of the EU Banking Union, at an EU level there are currently proposals of a European Deposit Insurance Scheme. However, these plans are politically controversial, and it is not clear whether they will be finalised.

Retail investors who are granted an investment service or ancillary service or who put their financial instruments under the care of a bank will be compensated if the bank is no longer able to meet its obligations under these investment services. The maximum amount compensated is EUR 20,000 per person.

Alternative dispute resolution regarding financial services

In the Netherlands, basically all financial services providers must be affiliated with the Dutch Financial Services Complaints Tribunal (*Klachteninstituut Financiële Dienstverlening* (**KiFiD**)). KiFiD is a form of alternative dispute resolution. The aim of KiFiD is to provide an accessible facility for consumers who have a dispute with their financial services provider. KiFiD offers mediation facilities in the form of an ombudsman function. KiFiD also offers an alternative judicial procedure. KiFiD is only able to give a binding judgment if both parties agree thereto.

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Bart is recommended in both *Chambers 2017 Europe* and *The Legal 500 2017 Europe* in the category Banking & Finance: Regulatory. *The Legal 500* states: "Bart Bierman combines 'accuracy' and 'good knowledge of the industry'."
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